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A collaborative program between the
**Southwest ADA Center, Great Lakes ADA Center and members of the
ADA National Network**

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We will be testing sound quality periodically**

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3



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4



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5



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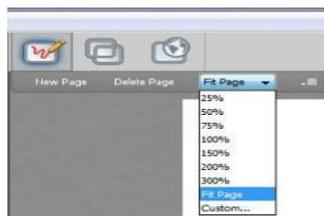
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6

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7

Customize Your View *continued*



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8



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9



Fair Housing and Access For People with Disabilities

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Southwest  Center

TIRR
MEMORIAL
HERMANN
Rehabilitation & Research





This presentation is intended to be informal guidance and not legal advice

- I'm a lawyer but not your lawyer



11

Housing and Access

- Rights of those with disabilities in housing
- Housing providers' duties
 - Reasonable accommodations
 - Reasonable modifications
 - Assistance animals

12

Anderson v. City of Blue Ash

- Miniature horse that provided equine or hippotherapy to a child with disabilities at her home
- City zoning prohibited horses
- Neighbors complained of smell and waste
- City sought to have the animal removed
- FHA and Title II of the ADA applies

13

The Fair Housing Act

- “Protects people from discrimination when they are renting, buying, or securing financing for any housing.”
 - Renting: relationship between landlord and tenant
 - People with disabilities

14

The Fair Housing Act

- What does it apply to?
- Single family homes
 - Exemption:
 - Seller or landlord does not own more than three houses at one time
 - And does not use a real estate broker or use discriminatory advertising

15

The Fair Housing Act

- Multifamily dwellings
 - Exemption:
 - Seller or landlord lives in a building with four or fewer units

16

The Fair Housing Act

- Accessibility design requirements for new multifamily buildings
 - In buildings with four or more units that were first occupied after March 13, 1991
 - Fair Housing Design Manual
 - www.huduser.org/portal/publications/destech/fairhousing.html
 - No “readily achievable barrier removal” standard or equivalent

17

Fair Housing Rights Center in Southeastern Pennsylvania v. Post Goldtex GP

- Developer converted a 1912 factory into apartments
- Did not comply with the FHA design requirements
- Do the design requirements apply?

18

Questions

19

Reasonable Modifications

- Changes to the built environment/physical structure
 - Must be necessary for full and equal use and enjoyment of the housing
 - Must have a connection to person's disability
- Tenant is responsible for cost

20

Reasonable Modifications

- Usually comes up in multifamily dwellings (apartments, condos)
- Changes to inside and outside of dwelling
- Changes to common and public use areas
 - Gym, pool, mailbox area, laundry room...
- Upkeep/maintenance cost
- Restoration after moving out

21

Reasonable Modifications

- Single family homes
 - Homeowners association
 - Aesthetics vs utility/access
- Builders
 - Purchaser is responsible for additional cost

22

Reasonable Modifications

- Security Deposit
 - NO

23

Questions

24

Reasonable Accommodations

- Change to rules or policies
 - Must be necessary for a person to have full and equal enjoyment of the housing
 - Must have a connection to the disability
- Tenant is NOT responsible for cost
 - No deposit

25

Reasonable Accommodations

- Must be made by or on behalf of person with disability
- Must be REASONABLE
 - Is it an undue burden or a fundamental alteration?

26

Dempsey v. Housing Operations Management

- Tenant had alcoholism
 - Family member passed away and he relapsed
- Missed rent payments
- Argued that landlord failed to accommodate
- Was the request reasonable?



Reasonable Accommodation or Modification?

- Tenant that uses wheelchair wants carpet to be removed inside the apartment

Parking

- Subject to FHA design requirements
 - 2% must be accessible and on accessible route
- Not subject to FHA design requirements
 - No duty to restripe parking lot

29

Parking

- Reasonable accommodation
 - Tenant's with a disability related need for a parking space can request a reserved space
 - NO fee
 - Van accessible? Access aisle?

30

Questions

31

Assistance Animals

- Considered a reasonable accommodation
- Service animals (ADA) vs Assistance animals(FHA)
 - Dogs
 - Trained
 - Emotional support or therapy
 - Identification?

32

Chavez v. Aber

- Emotional Support Animal
 - Pit bull
- No pet policy
- Landlord tried to have her evicted
- Higher rent



33

Assistance Animals

- Fees and deposits
 - Cannot charge a pet deposit or fee
 - Damage to property
- Tenant is responsible for animal
 - Care of animal, keeping it under control and cleaning up after it

34

Service Dogs in Training

- FHA does not require that assistance animals be trained, so service dogs in training are permitted
 - The accommodation must be for the tenant with a disability

35

SERVICE ANIMALS, EMOTIONAL SUPPORT ANIMALS, PETS AND THE LAW

36

Assistance Animals

- Is there a limit to the number of assistance animals?
 - REASONABLE

37

Questions

38

Requesting Accommodations/Modifications

- No formalities required
 - Writing recommended
- Landlord must respond within a reasonable amount of time

39

Requesting Accommodations/Modifications

- What information can the landlord request from a tenant?
 - Only if a request is made
 - Is the disability or disability related need for the accommodation or modification obvious?

40

Enforcement

- U.S. Department of Housing and Urban Development
 - http://portal.hud.gov/hudportal/HUD?src=/complaints_home
- State Protection and Advocacy Group
- Local Housing Authority

41

Resources

- Joint Statement on Reasonable Modifications
 - http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf
- Joint Statement on Reasonable Accommodations
 - http://www.hud.gov/offices/fheo/library/huddojs_tatement.pdf

42

Resources

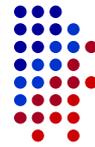
- Guidance on Assistance Animals
 - https://portal.hud.gov/hudportal/documents/hudoc?id=servanimals_ntcfheo2013-01.pdf
- Fair Housing Accessibility First
 - <http://www.fairhousingfirst.org/faq/parkingspaces.html>

43

Questions



44



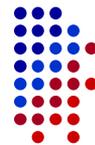
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45



Next ADA Legal Webinar Session

Top 10 ADA Legal Cases in 2016

January 18, 2017

Barry Taylor and Rachel Weisberg, Equip for Equality



46