

Know The Legal Definitions Of "Handicap"

When the Fair Housing Amendment Act of 1988 became law, it defined "handicap" as follows:

- 1) A physical or mental impairment that substantially limits one or more of a person's major life activities;
- 2) A record of having such an impairment; or
- 3) Being regarded as having such an impairment.

As the definition implies, it is extremely broad and can cover a significant number of Americans - approximately one in six citizens.

It only contains two exceptions. It does not apply to an individual who is a transvestite. Secondly it does not cover the "current, illegal use of or addiction to a controlled substance."

Since the enactment of the 1988 act, the courts have applied different interpretations to the definitions of "handicap."

The first section covers all physical and mental impairments that substantially limit a major life activity, which is defined as "caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

This is important because it clearly applies to persons with limitations far beyond those of being wheelchair-bound or having a visual impairment. It would include individuals suffering from alcoholism, high blood pressure, emotional problems, mental illness or retardation, learning disabilities and many of the various problems associated with old age.

Moreover, such an impairment would apply to those with certain diseases, including cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease and diabetes.

The regulations further make it clear that coverage includes those persons afflicted with communicable diseases, including AIDS, and infected with the HIV virus. Even included are drug addicts who are not currently using illegally controlled substances.

The second part of the definition includes those individuals who have had a covered impairment. Examples are people who were previously handicapped, a former drug addict and those incorrectly considered handicapped. The intent of this section is to cover anyone who had the "stigma" of being a handicapped individual.

The third part of the definition covers those persons having an impairment that does not substantially limit their major life activities. Included here are people supposedly discriminated against because they are elderly, former drug addicts or lost an arm or leg but are not limited in their activities.

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The fair housing law also covers those persons "who reside with or are associated with handicapped people." if an applicant to an apartment community is discriminated against because they have "children, parents, friends, spouses, roommates, patients, subtenants, or other associates who have disabilities," then the provisions of the fair housing law would apply to that individual.

It is imperative that the multihousing industry be cognizant of this broad definition of "handicap" and that our policies and practices reflect this awareness.

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