

## Accommodations Under Fair Housing Law

The Fair Housing Amendments Act of 1988 (FHAA), in part, establishes equal opportunity and housing for handicapped individuals.

The act says it is unlawful "to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person."

Discriminatory conduct includes "a refusal to make reasonable accommodations in the rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling."

Consequently, whether a landlord must make a reasonable accommodation for a handicapped resident would depend on a close analysis of the facts and circumstances of the request by the individual.

### *Test Case*

In a recent case, *Shapiro v. Cadman Towers*, a federal court had to decide whether to order an apartment community to provide a ground floor parking space for a handicapped renter.

The 400-unit development, located in Brooklyn, N.Y., had very limited parking available in and around the property.

Shapiro lived in her apartment for approximately two years before purchasing a vehicle. She initially used a "handicapped" sticker to park on the street in one of the very few handicapped zones. Consequently, Shapiro made a request to the apartment manager to rent a ground floor parking space in one of the development's two garages. Management adhered to a first come, first-served policy when allocating parking spaces, and it had a long waiting list for such spaces. However, management would make exceptions for certain residents, so its parking policy was not entirely consistent.

Management denied Shapiro's request and placed her on the waiting list. She filed a complaint with the Department of Housing and Urban Development (HUD), which issued a discrimination charge. Shapiro then brought suit against the apartment community.

The court first reviewed management's contention that, based on comments from other residents, Shapiro appeared to walk normally and did not have any restrictions in her mobility.

The court rejected this argument. Shapiro presented evidence from her attending physician that she had multiple sclerosis and eventually would be confined to a wheelchair.

The apartment manager then argued that Shapiro did not need a space at the community because she could use handicapped parking on the street.

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The court again found this alternative not acceptable. It said many of those parking spots were too far away from her apartment. Given the difficulties she was beginning to experience in walking because of her illness, the court felt this was not a reasonable solution.

Management then argued that reasonable accommodations required only equal treatment. The court analyzed the requirements of the Fair Housing Act. It relied upon interpretations of reasonable accommodations developed under another law, Section 504 of the Rehabilitation Act of 1973.

It concluded that reasonable accommodations can require an expenditure of funds to meet a resident's handicap as long as those modifications do not pose an undue hardship or a substantial burden upon the landlord. The court felt that, in this instance, making reasonable accommodations to management's parking rules and practices was necessary to allow Shapiro to "use and enjoy (her) dwelling".

As this decision illustrates, the law pertaining to reasonable accommodations is generally interpreted to require the landlord to accommodate a handicapped resident's request if verified through medical testimony. Merely because an apartment community has a long-standing rule or policy does not exempt it from the requirements of making reasonable accommodations is under FHAA.

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