# **Fair Housing Law Reference Guide – Reasonable Accommodations**

# **Statutes**

* Fair Housing Act. 42 U.S.C. § 3601 et seq.
* Pennsylvania Human Relations Act, 43 Pa.C.S.A. §951 et seq.
* Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 701 et seq. (Section related to nondiscrimination on the basis of disability in federally-funded housing is 29 U.S.C. § 794)

**Selected Case Law**

Definition of Dwelling under Fair Housing Act

* *United States v. Columbus Country Club*, 915 F.2d 877 (3d Cir. 1990) (summer homes included in definition of dwelling under FHA)
* *Lakeside Resort Enterprises, LP v. Board of Supervisors of Palmyra Township*, 455 F.3d 154 (3d Cir. 2006) (residential drug & alcohol treatment facilities included in definition of dwelling under FHA)
* *Hovsons, Inc. v. Township of Brick*, 89 F.3d 1096 (3d Cir. 1996) (nursing homes included in definition of dwelling under FHA)
* *New Jersey Coalition of Rooming and Boarding House Owners v. Mayor and Council of City of Asbury Park*, 152 F.3d 217 (3d Cir. 1998) (boarding and rooming houses included in definition of dwelling under FHA
* *Cohen v. Township of Cheltenham*, 174 F. Supp. 2d 307 (E.D. Pa. 2001) (group homes included in definition of dwelling under FHA)

# Reasonable Accommodations

* *Lebanon County Housing Authority v. Landeck,* 967 A.2d 1009 (Pa. Super. 2009) (enumerating the elements of a reasonable accommodations defense and holding that the trial court should have considered evidence of tenant’s request for reasonable accommodation and Housing Authority’s knowledge of tenant’s disability up to time of trial and that lay persons may testify regarding mental illness for purposes of demonstrating the need for a reasonable accommodation).
* *Lapid Laurel LLC v. Zoning Board of Adjustments of the Township of Scotch Plains et al.*, 284 F.3d 442 (3rd Cir. 2002) (setting out burden-shifting framework for a Fair Housing Act violation claim for failure to grant a reasonable accommodation, specifically the municipality zoning board’s decision to deny a variance for a nursing home to be built).
* *McKivitz v. Township of Stowe*, 769 F. Supp.2d 803 (W.D. Pa. 2010) (explaining plaintiff’s burden to show a nexus between the reasonable accommodation request and the plaintiff’s equal opportunity to enjoy the housing).

# Reasonable Accommodations & Tenant as Direct Threat

* *Boston Housing Authority v. Bridgewaters*, 898 N.E.2d 848 (Mass. 2009) (holding that Housing Authority violated the Fair Housing Act by evicting the tenant without conducting an “individualized assessment” to determine if the tenant posed a direct threat to the health or safety of other residents and Housing Authority staff after tenant requested reasonable accommodation of staying eviction action).
* *Cornwell and Taylor LLP v. Moore*, 2000 Minn. App. LEXIS 1317 (Minn. Ct. App. Dec 22, 2000) (determining that a mobile home park operator did not meet its burden of showing that there was no reasonable accommodation that would eliminate or reduce the risk that the tenant posed a direct threat to the other residents, even though tenant, while in a delusional state, had previously assaulted his wife in their mobile home and had taken a loaded rifle to a public area adjoining the mobile home park).
* *Roe v. Sugar Mills Associates*, 820 F. Supp. 636 (D. N.H. 1993).
* *Roe v. Housing Authority of the City of Boulder*, 909 F. Supp. 814 (D. Colo. 1995).

# Service and Emotional Support Animals

* *Fulciniti v. Village of Shadyside Condominium Association*, 1998 U.S. Dist. LEXIS 23450 (W.D. Pa. November 20, 1998) (finding that Condominium Association violated the Fair Housing Act by refusing to grant a reasonable accommodation of allowing a service animal for a condominium owner with a disability).
* *Overlook Mutual Homes v. Vickie Spencer*, 666 F. Supp. 2d 850 (S.D. Ohio 2009) (holding that emotional support animals do not have to be individually trained).
* *Green v. Housing Authority of Clackamas County*, 994 F. Supp. 1253 (D. Ore. 1998) (holding that an assistance animal is not required to be trained by a certified trainer).

**Administrative Agency Materials**

Reasonable Accommodations - General

* Joint Statement of the Department of Justice & Department of Housing and Urban Development, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004) http://www.hud.gov/offices/fheo/library/huddojstatement.pdf

Reasonable Accommodations – Service Animals & Emotional Support Animals

* Department of Housing And Urban Development, New ADA Regulations and Assistance Animals as Reasonable Accommodations under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 (February 17, 2011) http://www.fairhousing.com/include/media/pdf/serviceanimalmemo.pdf
* Department of Housing And Urban Development, Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs (April 25, 2013) (FHEO-2013-01), available at

http://portal.hud.gov/hudportal/HUD?src=/program\_offices/administration/hudclips/notices/fheo

* Department of Housing And Urban Development (Bryan Green), Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation (June 12, 2006) available at http://www.fairhousing.com/include/media/pdf/insuranceguidance.pdf

Reasonable Modifications

* Joint Statement of the Department of Justice & Department of Housing and Urban Development, Reasonable Modifications Under the Fair Housing Act (March 5, 2008) http://www.hud.gov/offices/fheo/disabilities/reasonable\_modifications\_mar08.pdf

Accessible Construction & Design Requirements

* Joint Statement of the Department of Justice & Department of Housing and Urban Development, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013) http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF

FHA & Low Income Housing Tax Credit Properties

* Memorandum Of Understanding Among The Department Of The Treasury, The Department Of Housing And Urban Development, and The Department Of Justice regarding Low Income Housing Tax Credit Properties’ Compliance with the Fair Housing Act (August 11, 2000) http://portal.hud.gov/hudportal/HUD?src=/program\_offices/fair\_housing\_equal\_opp/lihtcmou

Section 504 of the Rehabilitation Act of 1973

* Department of Housing and Urban Development, Section 504 Frequently Asked Questions

http://portal.hud.gov/hudportal/HUD?src=/program\_offices/fair\_housing\_equal\_opp/disabilities/sect504faq

* Department Of Housing And Urban Development, New ADA Regulations and Assistance Animals as Reasonable Accommodations under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 (February 17, 2011)

http://www.fairhousing.com/include/media/pdf/serviceanimalmemo.pdf