



## **HOUSING: REASONABLE ACCOMMODATION WHEN RENTING**

### **SCENARIO:**

Jane Smith lives on the third floor of Riverwalk Apartments. This is an apartment building with 20 units that is financed by state funding, but not federal funding.

Jane was diagnosed with multiple sclerosis years ago. When she moved into her apartment she did not have a problem using the stairs. Now she has more trouble using the stairs. She is worried that she soon will not be able to use the stairs. She would then be stuck in her apartment or need to move out.

A friend suggested she ask her landlord for a first-floor apartment. Jane decided to call Michigan Protection & Advocacy Service, Inc. (MPAS) to see if she should approach her landlord.

### ***What laws apply to rental housing?***

There are three federal laws that prohibit housing discrimination against people with disabilities - the **Fair Housing Act (FHA), Section 504 of the Rehabilitation Act of 1973**, and **Title II of the Americans with Disabilities Act (ADA)**. There is also the **Michigan Persons with Disabilities Civil Rights Act (PWDCRA)**. These laws provide protection from housing discrimination for housing applicants, tenants, and buyers with any kind of disability, mental or physical.

## ***Is Jane covered by these laws?***

There are two questions to be answered here to determine whether Jane is covered under any of these laws:

First, Jane must be a person with a disability.

The FHA, ADA, Section 504, and PWDCRA definition is “any person who (1) has a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.”

So, in order for Jane to be protected under these laws, she would have to show that her multiple sclerosis substantially limits her in, for example, walking, speaking, caring for herself, or performing tasks.

Second, it must be determined if any of these laws apply to Jane's housing unit.

In this situation, the FHA, ADA, and PWDCRA would apply to Jane's housing unit. The ADA applies to housing programs funded by state and local governments and their agencies, including public housing authorities. The FHA applies to most privately-owned housing and housing subsidized by federal or state funds, such as low-income public housing, Section 8 or vouchers.

The PWDCRA applies to a much broader range of people. The only exceptions under PWDCRA are apartment buildings with no more than two units or rooms in a single house, when the owner or an immediate family member of the owner lives there also.

Section 504 applies only to landlords that receive federal funds (including public housing authorities and subsidized landlords).

## ***What is housing discrimination?***

The laws all generally protect against housing discrimination, but define it differently. The FHA states it is illegal to discriminate in the sale or rental,

or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability or because the person associates with someone who has a disability.

The PWDCRA states that people with disabilities should be given the opportunity to buy or rent housing without discrimination because of a disability.

The ADA states that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

Section 504's definition is similar to the ADA, but it is limited to any program or activity receiving federal financial assistance.

***Could Jane request to be moved to the first floor?***

Yes, Jane's request would be considered a request for a "reasonable accommodation." She is entitled to make this request under FHA, ADA, and PWDCRA (and under Section 504 if it applies). The landlord must grant her request unless it would cause an undue financial or administrative burden.

A "reasonable accommodation" means that a landlord is required to make changes to its rules, policies, practices, and procedures, or to modify the way it provides its services, if necessary, to allow a person with a disability an equal opportunity to use and enjoy a dwelling. This includes any of the public areas, such as a community room or laundry service.

An accommodation is reasonable if it does not create an "undue financial burden" or administrative burden on the landlord, or a fundamental alteration in the nature of the housing program. "Undue financial burden" means it would cost too much.

### ***How does Jane make this request?***

Jane has the responsibility to request an accommodation. She should make this request in writing and keep a copy. That way, she has proof she did make the request. Go to the end of this document for a sample letter.

Once the request is made; the landlord must work with Jane to create an accommodation that suits her needs and is reasonable for the landlord.

### ***What if the landlord wants proof of a disability?***

If she requests a reasonable accommodation, a landlord has a right to ask her to prove that she needs it. Usually, it would be enough for Jane's doctor to write a note saying that this doctor has treated Jane for years, she has a disabling condition that limits her ability to climb stairs and the doctor believes the accommodation would meet her needs.

It is not necessary to tell the landlord the specifics of her disability or give the landlord a full copy of her medical records.

The landlord can require proof from a qualified professional, but that does not mean only a medical doctor. A qualified professional could be a case manager, counselor, other service provider or anyone who is reliable and familiar with Jane and her needs.

### ***Who would have to pay for the expenses of the move?***

It depends upon the type of housing. Under only the FHA, a landlord would not have to pay for the expenses of a reasonable accommodation.

If the landlord receives federal funds, then the landlord would be required to pay for the accommodations under Section 504 and ADA Title II unless there was an undue financial burden.

## ***What if the landlord denies the request?***

### **Under the FHA:**

Jane may file a complaint with the **US Department of Housing & Urban Development (HUD)**. This must be filed within one year after the discrimination occurred.

To file a complaint, she may call **HUD** at 1-**800-669-9777** or the **Fair Housing Act Enforcement Center** at 1-**800-765-9372**.

She may also file her complaint in writing or by using the complaint form on the HUD website

<https://portal.hud.gov/FHEO903/Form903/Form903Start.action>.

### **Under Section 504 and ADA Title II:**

a complaint may also be filed with HUD within 180 days.

### **Under PWDCRA:**

Jane may file a complaint with the **Michigan Department of Civil Rights** by calling 1-800-482-3604. Again, the complaint must be filed within 180 days.

Jane could also bring a private action in either federal or state circuit court at the same time. She has up to two years to do this. She cannot do this if her complaint with HUD is already in litigation, or she signed a conciliation agreement. She may want to contact a lawyer to help file this. If she cannot afford a lawyer, one can be appointed.

***This is a summary of the current laws. It is not a substitute for legal advice. For more information, talk with one of the offices above, your lawyer, or call Michigan Protection & Advocacy Service, Inc. at 1-800-288-5923 toll free or 0-517-487-1755 collect.***

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**SAMPLE LETTER Requesting a  
Reasonable Accommodation in Housing**

Date

Jane Smith  
Address

Landlord's name  
Riverview Apartments  
Address

Dear (Landlord):

I have a disability and am requesting a reasonable accommodation under the Federal Fair Housing Act of 1988 and the Michigan Persons with Disabilities Civil Rights Act, MCL 37.1100 et. seq.

Because of my disability, I have problems (DESCRIBE - walking, lifting, social anxiety, memory, etc.). As an accommodation, I am asking that (INCLUDE – what accommodation(s) you need to live in your apartment).

I am including with this letter verification from (NAME) who knows me and the limitations I have.

Please contact me within the next ten days to discuss this. If you have any questions, please do not hesitate to call me. (Phone number and best time to call).

Thank you.

(etc)