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Fair Housing Disability Issues

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What is Fair Housing?

Fair housing means every person should have the opportunity to prove he or she is qualified to rent or buy housing free from discrimination. Federal and state law provide protections for individuals who may face housing discrimination. A housing provider may not discriminate based on your disability status.

Examples of Fair Housing Discrimination:

“Steps are what we have. We can’t accommodate a walker.”

“My insurance won’t cover a ramp if you get hurt.”

“Pets are not allowed, it doesn’t matter if it is an emotional support animal.”

How do I know if I’ve been discriminated against?

Often, when someone is renting or selling a property, they will not explicitly say: “I don’t want to rent to you because you have a disability.” Instead, they may try to discourage you from renting or buying the apartment or house, or direct you to different housing. Landlords may say things like the quotes listed above. If you feel that you were treated differently than other people applying for the same housing, or you weren’t treated fairly, or if something “just doesn’t feel right” you may have a “fair housing” issue.

How does the law define “Disabled”?

1. Anyone who has a disability (for example; hearing, mobility and visual impairments, cancer, chronic mental illness, AIDS, and developmental disabilities) that substantially limits one or more major life activities.
2. Anyone who has a record of disability.
3. Anyone regarded as having a disability.

Can I make changes to my apartment for my disability?

If you are a person with a disability a landlord may not:

1. Refuse to let you make reasonable modifications (physical changes) to your home or common areas, that you may have to pay for, if necessary. (Where reasonable, the landlord may allow you to make changes only if you agree to change the property to its original condition when you move.)
2. Refuse to make reasonable accommodations in rules, policies, practices or services, if necessary, for the disabled person.

For example: A building with a “no pets policy” must allow a visually impaired tenant to keep a guide dog.

Does my building need to have accommodations for wheelchair users?

Your building may or may not be required to be accessible. This has to do with when the building was built and ready for people to move in.

1. Buildings that were ready for people to move in after March 13, 1991 with an elevator and four or more units in the building must have:
 - accessible public areas and common areas;
 - accessible doors, hallways, and routes into and through the unit;
 - environmental controls;
 - reinforced bathroom walls (for grab bar installation);
 - accessible kitchens and bathrooms.
2. For buildings of the same size, built after March 13, 1991 but without an elevator, these standards only apply to ground floors.

What if my landlord doesn't allow pets, but I need a support animal?

While it is legal for private landlords to have a “no pet” policy in rental housing, landlords must waive the “no pet” policy in certain situations involving people with disabilities, who have animals for reasons related to their disabilities, such as:

- A blind person who uses a seeing eye-dog.
- A deaf person who uses a “hearing” dog to alert them to noises, such as the door-bell or a fire alarm.
- A person using a wheelchair who uses a dog to help them with tasks, such as opening doors and retrieving objects.
- A person who has an anxiety disorder, depression, post-traumatic stress disorder (PTSD), or any other psychiatric condition and who uses an animal for emotional support and to relieve symptoms of the disability.

What proof do I need to show my support animal is necessary?

If you are a person with a disability who has a disability-related pet, and you want to live in housing that has a “no pets” policy, you should ask your doctor or health care provider to write a letter stating the nature of your disability and explaining how the support animal will relieve the symptoms of your disability. Take a copy of the letter to the landlord and ask for permission to have the disability-related pet. You do not have to make the request in a certain way, but it is better if you make this request in writing, and keep a copy of the letter for yourself as proof.

What if my landlord refuses to allow my pet?

If the landlord refuses to grant permission, you can contact the Fair Housing Enforcement Project at 1-866-671-FAIR (1-866-671-3247) and ask for free legal assistance for your case.

You should not be asked to turn over your medical records to your landlord, provided your doctor has already supplied you with a letter.

The landlord cannot charge you an extra security deposit, pet fee or extra rent because of your support animal. The landlord may require that your support animal be licensed and that you take good care of the animal, including cleaning up after its waste.

What housing is covered?

The Fair Housing Act covers most housing. If you believe you have a fair housing issue, or feel that you have been discriminated against, contact our Fair Housing Enforcement Project at 1-866-671-FAIR (1-866-671-3247). Even in some circumstances where your housing is not covered by the Fair Housing Act, you may be protected by other federal and/or state laws. Discrimination against a person based on his or her race is illegal in all circumstances.

What actions may be discriminatory?

In the sale or rental of housing, state and federal law prevents housing providers and/or landlords from taking any of the following actions against the protected classes:

1. Refuse to rent or sell housing.
2. Set different terms, conditions or privileges, for sale or rental of a dwelling (charging different rents or security deposits).
3. Provide different housing services or facilities.
4. Falsely deny that housing is available for inspection, sale, or rent.
5. Engage in blockbusting or “steer” people to different housing opportunities.
6. Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right.
7. Advertise or make any statement that indicates a limitation or preference based on the protected classes.

What laws protect me from being discriminated against?

The Fair Housing Act is a federal law passed by Congress in 1968 and amended in 1988 that prohibits housing discrimination on the basis of these protected classes:

- Race
- Color
- Religion
- National Origin
- Familial Status
- Sex
- Disability

In New York State, there are additional protections covered under Human Rights Law. They are:

- Age
- Marital Status
- Sexual Orientation
- Military Status
- Lawful Source of Income (individuals who use funds from sources other than employment to partially or entirely pay for their housing)
 - Examples - Section 8 vouchers, SSD/SSI or Veteran's Benefits
- Gender Identity or Expression

What does LawNY® do for these issues?

LawNY's Fair Housing Enforcement Project consists of attorneys and fair housing specialists who educate the community and advocate for the rights of those that have been discriminated against in a housing matter.

When you call, our trained staff can:

- Listen and collect important information.
- Thoroughly investigate the complaint.
- Review the results of the investigation with you.
- Provide free legal representation in an enforcement action for cases that have sufficient merit.
- Provide all services at no expense to the client.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

Last Review Date: March 2023

Last updated on September 17, 2025.

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