

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

Accessible Parking at Apartment Complexes

The Fair Housing Act and Accessible Parking

The Fair Housing Act (FHA) prohibits housing providers from discriminating against individuals with disabilities when obtaining and renting housing.¹ Courts have applied the FHA to "individuals, corporations, associations and others involved in the provision of housing and residential lending, including property owners, housing managers, homeowners and condominium associations..."² The FHA requires these entities to meet certain guidelines including guidelines surrounding parking.

Under the FHA, apartment complexes are required to make at least two percent of the parking spaces serving covered dwellings accessible.³ These designated accessible spaces must be located on an accessible route to wheelchair users.⁴ Additionally, if a resident requests an additional accessible parking space, an additional accessible parking space would need to be added if the two percent are already reserved.⁵

Reasonable Accommodations under the Fair Housing Act

A request for additional accessible spaces would be considered a **reasonable accommodation**. A reasonable accommodation "is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common

¹ 42 U.S.C §3601, et seq.

² U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, *Joint Statement of The Department of Housing and Urban Development and The Department of Justice Reasonable Accommodations under the Fair Housing Act* (May 14,2004) available at: <https://www.justice.gov/crt/us-department-housing-and-urban-development>

³ U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, 24 CFR Ch.1 [Docket No. N-94-;FR-2665-N-08) *Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines* (June 28,1994) available at: https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/fhefhasp#req1

⁴ *Id.*

⁵ *Id.*

use spaces.”⁶ It is unlawful to refuse to make a reasonable accommodation when it is necessary “to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.”⁷ Such a denial would not comport with the FHA which includes “a refusal to make reasonable accommodations in rules, policies, practices, or services” in its definition of discrimination.⁸

The Department of Housing and Urban Development and The Department of Justice have provided the following example as a necessary accommodation:

“Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy.”⁹

The reasonable accommodation must also be made within a **reasonable time**. “A provider has an obligation to provide prompt responses to reasonable accommodation requests.”¹⁰ Further, an undue delay may be deemed a failure to provide the requested accommodation and a violation of the FHA.¹¹

Thus, a failure to provide the required number of accessible spaces; a denial of a request for additional, necessary spaces; and a refusal to grant the request in a reasonable time will all likely be considered violations of the FHA.

⁶ U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, *Joint Statement of The Department of Housing and Urban Development and The Department of Justice Reasonable Accommodations under the Fair Housing Act* (May 14,2004) available at: <https://www.justice.gov/crt/us-department-housing-and-urban-development>

⁷ *Id.*

⁸ 42 U.S.C. §3604(f)(3)(b)

⁹ U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, *Joint Statement of The Department of Housing and Urban Development and The Department of Justice Reasonable Accommodations under the Fair Housing Act* (May 14,2004) available at: <https://www.justice.gov/crt/us-department-housing-and-urban-development>

¹⁰ *Id.*

¹¹ *Id.*