



FAIR HOUSING RIGHTS OF PEOPLE WITH DISABILITIES

A SELF-HELP GUIDE

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You can get this guide in other forms. Just ask us.

Funding

This guide was paid for by the United States Department of Housing and Urban Development, United States Department of Health and Human Services, and United States Department of Education.

This Guide Cannot Replace Legal Advice

This guide gives basic facts to people about their rights and laws that protect them. It is not meant to be legal advice. You may need more facts or legal advice. Contact the Arizona Center for Disability Law or talk to a lawyer in your area.

Federal and state laws can change at any time. To make sure facts in this guide are still correct, contact the Arizona Center for Disability Law. Or talk to a lawyer in your area.

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I. Introduction to the Fair Housing Act (FHA) and this Guide

A. What is the Federal Fair Housing Act

The Fair Housing Act is part of Title VIII of the Civil Rights Act of 1968. Title VIII does not allow housing discrimination based on race, color, gender, religion or country where you were born. In 1988, Congress added two other groups to the law: (1) persons with disabilities and (2) families with children under 18 years old. Before this law, people with disabilities were often denied housing. Congress wanted to get rid of housing discrimination and allow people with disabilities to live on their own. Today the struggle to end housing discrimination continues. For this reason, the Arizona Center for Disability Law (Center) gives information to help persons with disabilities learn about their housing rights.

B. What is the Arizona Fair Housing Act

The State of Arizona also has a Fair Housing Act. This state law is like the federal fair housing law. Because the two laws are alike, the information in this guide also gives a summary of the Arizona Fair Housing Act.

C. How the Arizona Center for Disability Law Helps People with Disabilities

If you feel that you have faced housing discrimination because of a disability, the staff at the Arizona Center for Disability Law (the Center) can help you. We provide free services and legal support to persons with disabilities in Arizona. The Center provides services for many physical and mental disabilities.

You can get information about who can receive services from the Center by calling our office. We also have help guides on our website at www.azdisabilitylaw.org. We help people based on our individual program needs and if we have enough staff.

D. This Guide is not Legal Advice

The Center's guide is not legal advice. The Center asks that persons who face discrimination get legal advice from an attorney. This guide only gives persons with disabilities information about their rights under the Fair Housing Act.

E. Introduction to this Guide

This guide tells you about the legal rights of persons with disabilities in housing under the Fair Housing Act. This guide does not provide information about landlord and renter law in Arizona. For example, this guide does not tell you what to do if your landlord tries to kick

you out, keeps your money, or will not fix something. To get information about your rights as a renter, look at the list at the end of this guide.

This guide is only for persons with disabilities. It does not look at other persons covered by the Fair Housing Act. If you feel that you have been discriminated against because of race, birth place, religion, gender, or you have children under 18 years old, you should call one of the fair housing agencies on the last pages of this guide. This guide will give you basic information about the rights of people with disabilities under the Fair Housing Act. It will also give you ideas on how to help yourself or others with disabilities. This guide also tells you how to use your rights under the law if you are not able to solve your housing problem.

F. Glossary of Abbreviations

FHA – Fair Housing Act

FHAA – Fair Housing Act Amendments

HUD - United States Department of Housing and Urban Development

The Center – Arizona Center for Disability Law

II. The Fair Housing Act

The FHA covers any type of building that a person or family returns home to for more than a small amount of time. These buildings are called “dwellings.” Dwellings can also include any empty land for sale or lease to build houses for one or more families.

The FHA covers:

- one-family homes,
- apartments,
- condos,
- homeless shelters,
- dormitory rooms,
- mobile home parks,
- trailer courts,
- nursing homes,
- assisted-living homes,

- group homes for the disabled, and
- retirement communities.

There are two exceptions where the FHA will not apply. First, the FHA does not apply to the sale or rental of a single-family home if:

- the owner does not own more than three single-family homes; and
- the home is sold or rented without the use of a real estate agent or salesperson. If a real estate person helps to sell or rent a home, then the rule applies.

EXAMPLE: Ricardo Rodriguez places a “for sale by owner” sign on his single-family home. Ricardo owns this home as his family’s own residence. He also owns one other single-family home. His mother lives in that home. Ricardo refuses to sell the home to Miguel Torres because Mr. Torres plans to open a group home for former alcoholics. This is ok under the FHA. This future sale is not covered by the FHA because Ricardo does not own more than three single-family homes. He is also not using a real estate agent or company to help him sell his home.

Second, the rule does not apply to small dwellings for more than one family (multi-family). Rooms or apartment units in a building for four or fewer families are not covered IF the owner lives in one of the units. These small dwellings are covered by the FHA if the owner does not live there. However, the advertising rules against discrimination do apply to these types of dwellings.

EXAMPLE: Lena Smith owns a small building with three separate apartments. She lives in one of the apartments and rents out the other two. One of her units is empty and Jane Doe, who uses a wheelchair and has a service animal, asks to look at the apartment. Lena tells Jane that she doesn’t want to be responsible for renting to someone using a wheelchair. She also doesn’t allow pets. The FHA does not apply here because the building houses four families or less, and Lena lives in one of the units.

The FHA does not apply to hotels or motels or other types of temporary housing. Instead, Title III of the Americans with Disabilities Act applies to hotels and motels. Also, Title III covers homeless shelters, battered women shelters, and other types of shelters and nursing

homes. If residential facilities meet the rule under the FHA, they are covered by both the FHA and ADA. For more information on Title III, please call the Arizona Center for Disability Law or look for our *Title III Self Advocacy Guide (ADA-2)* on our website.

A. The Fair Housing Amendments Act (FHAA)

The FHAA makes sure that people with disabilities have the right to equal opportunities in housing, including accessible housing, and not being discriminated against because of their disability. The FHAA seeks to gain equal housing for persons with disabilities by allowing them to live on their own within their local areas.

Persons with disabilities are covered by the FHAA. A person with a disability is a person:

- with a physical or mental impairment which substantially limits one or more major life activity;
- with a history of having this impairment; or
- regarded as having this impairment.

Examples of “major life activities” include, but are not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working with others, and reproducing. Under the FHAA, a person is determined to have a disability on a case-by-case basis. The phrase “physical or mental impairment” is broad. Persons greatly limited by cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, and diabetes are covered by the FHAA. The FHAA also covers persons who are greatly limited by emotional problems, mental illness, mental retardation, and some learning disabilities.

There are two groups of people not covered by the FHAA: (1) transvestites and (2) persons who use a controlled drug. Also, a person with a disability may not be covered if he or she is a safety risk to others or their property. A dwelling does not have to be given to a person with a disability if that person is a threat to the health or safety of others. This safety defense to the FHA is talked about later in this guide.

B. Actions Not Allowed by the FHAA

1. Discrimination in Sale or Rental of Dwelling

It is against the law to discriminate in the sale or rental of a dwelling due to the disability of: the person who wants to rent or buy the dwelling; the person living in or wanting to live in

the dwelling after it is sold or rented; or a person connected to the buyer or renter. For example, a condo association may not make up rules that make it more difficult for two brothers with developmental disabilities to buy a condo in the complex. Also, an owner of a housing complex may not refuse to rent to a person who uses a wheelchair, is blind, or has a mental illness.

2. *Saying that a Dwelling is Not Available*

It is against the FHAA to tell any person with a disability that a dwelling is not available for sale or rent when it is. This part of the FHAA applies to words or conduct. A rental agent cannot tell a woman in a wheelchair that there are no vacant apartments if there are some available. Also, the rental agent would go against the FHAA if he only showed the most expensive apartment available to a person who is deaf. Such behavior might lead the future renter to believe that only the most expensive apartment is available for rent, which would be unfair.

3. *Using Unlawful Selection and Disability Questions*

Those who provide housing are allowed to use rules to judge if a person is alright to live in the dwelling. Under the FHAA, landlords can require that future renters meet income, rental history, and other standards. But it is against the law for a landlord to use different standards for persons with disabilities. For example, a landlord cannot demand that all residents “be able to live on their own” in order to rent a dwelling. Also, an applicant who receives Social Security Disability benefits cannot be denied an apartment if she meets the income limits. Also, it would be unlawful for an applicant who is blind to be asked to live with a roommate if the landlord does not ask all renters to live with roommates.

It is against the law to ask about a renter’s disability, how it happened or how serious it is. For example, it would be illegal for a landlord to ask about the renter’s HIV status even if the landlord was concerned about the safety risk to others. A housing agency violates a person’s fair housing rights by asking if that person can live alone. It would also be illegal for a landlord to ask on a rental application what type of medication a future renter was taking.

Some questions, however, are not illegal. Persons using certain banned drugs are not protected by the FHA. An apartment manager may ask if a person is using illegal drugs or whether the person has ever been convicted of illegally making or selling drugs.

Some housing may be available only to persons with a specific disability, such as a walking impairment. Or a complex may offer a special program for persons with disabilities. Where such programs are legal, housing agents may ask about disabilities to determine if the renter is eligible for the housing unit or a special program.

4. Unfair Terms or Conditions or Unequal Services and Facilities

It is against the law to discriminate against a person with a disability in the terms or conditions of a sale or rental of a dwelling. This means that buyers or renters with disabilities must have the same terms or conditions of sale or rental as someone without a disability. For example, a mortgage company may not ask for higher interest rates or a larger down payment on a contract because of your disability or the disability of someone who wants to live with you. It would be unlawful for a landlord to charge you a higher deposit because you use a wheelchair, and the landlord is afraid your wheelchair will damage the carpet or walls in the apartment.

The FHAA also allows persons with disabilities to have the same services available to them as for persons without disabilities. For example, it would be illegal for the homeowners association to refuse to allow your child, who uses a wheelchair, access to the community swimming pool. Or it would be illegal to require an adult who uses a wheelchair to only use the pool table and cues when an attendant is present. Also, an insurance company would violate the FHAA by charging you more for property insurance because you are blind or deaf.

EXAMPLE: *Ryan Johnson uses a wheelchair and he wants to move into the Village Hills apartments, which provides uncovered handicapped parking. Village Hills also offers covered parking and Mr. Johnson says he will be happy to pay the extra \$25 for a covered parking space. The manager says “no” because none of the covered parking spaces are handicapped and Mr. Johnson’s van space, which requires eight feet, would fill two covered parking spaces. Because of this, the manager is not willing to give him a covered space. Village Hills has violated the FHAA by making covered parking available for renters but not making the same covered parking available for those persons who need larger parking spaces for the use of a wheelchair.*

5. Unfair Advertising

Another part of the FHAA forbids unfair notices, statements or ads relating to housing. This part of the Act bans the making of any housing-related notices, statements or ads which list

any preference, limitation or discrimination against any protected class (race, birth place, color, religion, gender, disability, or family status). A real estate agency would violate the FHAA if it ran an ad in the local newspaper which advertised a home for rent that excluded future renters who are HIV positive. Both the real estate agency and the newspaper could be charged with running an ad that discriminates. This does not have to be something that is printed or written in a newspaper or magazine. Suppose that your lease allows you to rent your apartment to someone else. Your landlord would go against the FHAA by telling you that you are not permitted to rent out your apartment to a woman who is blind because she uses a guide dog.

6. Reasonable Changes and Accommodations

The FHAA calls for two types of changes to make existing housing more accessible to and used by persons with disabilities. First, people with disabilities must be allowed to make fair physical changes, *at their own expense*, to allow them to use their houses. Second, fair changes must be made to rules, policies, practices or services so that persons with disabilities can equally use and enjoy their dwellings. Unlike the Americans with Disabilities Act, which demands that public places and employers provide reasonable access or equipment at no expense to people with disabilities, this does NOT apply to the FHA. The guide will discuss this more on pages 10 to 13 of Section II-E.

7. Making Housing Unavailable

In General

It is unlawful to “otherwise make unavailable or deny” housing based on the person’s disability. This relates to other types of conduct aimed toward people with disabilities involving the sale, rental or funding of real estate. For example, a landlord cannot make housing unavailable to a renter by evicting him or her because of a disability. Also, a landlord may not simply evict a client because of conduct that is related to a disability. Instead, the FHAA asks that the landlord first determine if the renter can make reasonable changes to make his dwelling more suitable to his or her needs.

Reasonable changes or alterations are further explained in Section II-B-2 and Section II-E of this guide.

Zoning Practices and the Law

Zoning practices and enforcing the laws of private homeowner association's rules and regulations are two other areas where discrimination can be found. This type of discrimination can make housing "otherwise unavailable" for persons with disabilities. Under the law, local agencies may not use zoning laws or codes to exclude persons with disabilities from certain neighborhoods. Also, persons with disabilities may not have fewer chances to live in an area of their choice than persons without disabilities.

EXAMPLE: *Georgia Gray is a renter who is very hard of hearing. Because of her hearing loss, Georgia's TV is often very loud. The neighbors have complained. The landlord has threatened to evict Georgia. It is illegal for the landlord to evict Georgia before he sees if there is a device which will allow George to watch TV at a lower volume. Georgia can buy a TV with closed captioning or a special device which would allow her to enjoy the TV without disturbing her neighbors. Therefore, the landlord will not have to evict Georgia because of the loud noise.*

A federal, state or local agency may break FHAA laws through a land use or zoning code that:

- prohibits placing a group home for persons with disabilities in a certain residential area;
- makes group homes meet safety, health or parking rules that do not apply to all homes of the same size;
- asks group homes to meet rules that make it illegal to have one group home within a specific distance to another similar group home; or
- demands group home owners tell neighbors of the home's future location in their neighborhood.

For more information on zoning and discrimination, see Appendix A at the end of this guide.

A land use or zoning rule may also break the FHAA when it blocks a disabled person's use of her single-family home. This is true even when the rule does not favor one person over another.

EXAMPLE: *River City has a zoning code which requires that no property owner build on the area 20 feet from the public area in the front of his or her home. Maria owns a home in River City. She uses a wheelchair so she wants to build a ramp from her driveway to her front door. The River City Planning Department has denied Maria's request. The Zoning Manager tells the Department that everyone must have the 20-foot front yard setback. River City has violated the FHAA by not making Maria's dwelling available to her.*

Private Restrictive Covenants

Private restrictive covenants may also violate the FHA and the FHAA. Restrictive covenants are promises you make when you buy a home in a private development. They are promises about what you can and cannot do with your property when you purchase a home in the community. The document, which you sign upon closing, is called the "covenants, conditions and restrictions" or "CC & Rs". Restrictive covenants may also be found in the homeowners, condo, or cooperative association rules. For example, a restrictive covenant might say that in your group of homes, no carports over nine feet in height can be built, and there is no on-street parking. These rules could violate the FHA in some cases. Suppose you drive a wheel-chair accessible van that does not fit under the nine-foot carport. Under these rules, you could not build a taller carport or park on the street. Now both of these covenants do discriminate against persons who use wheelchairs and drive vans. The association will have to change or give up one of the covenants to meet the needs of the resident's disability. You will find more information on this subject on pages 11 to 13 of this guide.

8. *Discrimination in Real Estate Sales*

Under the FHAA, it is unlawful for any person or business who sells homes to discriminate against anyone with a disability. This includes the areas of:

- making or purchasing of loans;
- providing financial help for purchasing, constructing, improving, repairing or keeping up a dwelling; or
- selling, buying or determining the value of your property.

You cannot be denied a home equity loan because of your disability. If you are selling a home that is handicapped accessible, a business cannot refuse to list your property in its listings and ads.

9. *Steering and Blockbusting*

Steering and blockbusting are not allowed under the FHAA. *Steering* means not permitting buyers or renters to have access to all available housing in an area. An apartment manager steers when she shows a renter a building which she calls the “handicapped building.” Multi-family housing complexes may not put all persons with disabilities in one building. Steering is also when a realtor tells a buyer that the area “down the street is more appropriate for disabled residents.”

Blockbusting is when a real estate agent or company tries to get a person to sell her house by stating that the neighborhood is changing because of its make-up, such as race, color, religion, or disability. An example is when a real estate agent calls a resident to tell him that a group home for recovering drug addicts is moving down the block and tells him to sell his home quickly before the value goes down.

10. *Interference, Coercion and Threats*

An individual who exercises his or her rights under the federal FHA is protected from interference, coercion, and threats. This protection also applies to persons who help or encourage others to exercise their rights under the FHA. For example, River City’s Zoning Manager may decide to stop a builder from building affordable housing for persons with disabilities. The Zoning Manager has *denied* the future renters a dwelling as well as *interfered with* the developer and her renters.

Suppose a real estate agent finds a home for a person with two children with disabilities but the homeowners’ association president tells the agent that “we don’t want those kinds of people in the area.” The real estate agent explains that the family has a right to live there under the FHA and accepts an offer on the house. Later the president calls the agent’s employer and gets the agent fired. Both the agent and the family can file a discrimination claim under the FHAA against the homeowner’s association. The president of the homeowners’ association *interfered with* the agent’s job when the agent was helping the family exercise its right to equal housing under the FHA.

C. What is a Reasonable Accommodation under the Fair Housing Act?

Discrimination against a person with a disability includes a refusal to make reasonable accommodations in rules, practices, policies, or services. Such accommodations may be necessary to give a person equal opportunity to use and enjoy a dwelling. This requirement applies to the dwelling unit itself and all areas open to everyone. An accommodation is necessary when the person with a disability requires some thing or service to enjoy his or her housing.

EXAMPLE: Coyote Hills has parking for all of its residents by first-come, first-served. It has four disabled access parking spaces next to the apartment rental office. Sam Brown wants to live at Coyote Hills but she uses a walker. She requests that Coyote Hills assign her a parking space near her apartment. The manager tells her that no one gets an assigned space. Coyote Hills has violated the FHAA because it is required to provide disabled access parking as a reasonable accommodation for Sam's disability.

A reasonable accommodation may require a change in a rule, policy, practice or service which burdens a person because of his or her disability. The reasonable accommodation responds to the special needs of the person with a disability when it comes to housing.

EXAMPLE: Ken Johnson resides in Sunset Manor, an assistive-living facility for elderly persons. He has physical limitations and uses a wheelchair. Sunset Manor has a group dining room which serves three meals a day. The manager tells Ken that he cannot use his wheelchair in the dining room and must use a regular dining room chair. It is hard for Ken to transfer to a chair. Because of the lack of muscle strength in his arms, he will now need help leaving the dining room in case of an emergency. In this case, the manager must waive the no wheelchairs rule as a reasonable accommodation to allow Ken to enjoy the dining services at Sunset Manor like the rest of the residents.

Reasonable accommodations apply to anyone with a disability intending to live in the dwelling, not just the person who signs the lease or owns the property. The reasonable accommodation part of the FHAA, however, is limited to rules, practices, policies or procedures which affect persons with disabilities *because of their disabilities*. It is not designed to do away with rules, practices, policies or procedures which impact all persons

whether they have a disability or not. For example, a mobile home park can charge a daily parking fee for all guests. It is not required to waive the fee for someone who visits daily to help a person with a disability.

EXAMPLE: *Like most apartment complexes, the Blazing Butte requires that future residents have a certain monthly income level in order to live in the complex. The Blazing Butte requires that its renters have three times the monthly rent in gross income. A one bedroom apartment rents for \$500 per month. Joan Jacobs receives \$1,200 a month in Social Security Disability benefits and feels sure she can pay the rent and have enough left over for her other needs. The Blazing Butte will not rent to her because her monthly disability benefit check is less than three times the monthly rent. The Blazing Butte is not required to change its policy as an accommodation to Joan. This rule is about her income, not her disability. Any other future renter who is employed and earns \$1,200 per month would also not be able to rent at Blazing Butte whether the person has a disability or not.*

Only reasonable accommodations must be provided under the FHAA. A reasonable accommodation is one which does not create a great burden on the person or group providing the accommodation and does not change the program the person or group is trying to achieve. It is not clear exactly what is meant by “reasonable” under the FHA, but it is clear that each individual case must be handled on a case-by-case basis.

EXAMPLE: *Donna Dent has twin babies who have many disabilities. The babies require someone to keep an eye on them all day long. El Dorita Village has a rule that won't let overnight visitors stay for more than 14 days each month. Donna breaks this rule by having a nurse stay every night and she gets evicted. El Dorita Village violated the FHA by not changing its overnight guest rule as a reasonable accommodation to the infants who need around the clock care because of their disabilities.*

Also, the FHAA does not cover a renter or resident who is a safety risk to others or who will cause great damage to the property of others. But groups covered by the FHAA are required to provide a reasonable accommodation that could get rid of the risk. If the individual still a threat after getting a reasonable accommodation, then he or she can be refused housing. For example, if an individual with mental illness talks in a loud manner,

this might cause her next door neighbors to be fearful. She may not be evicted if her behavior is not threatening even if neighbors complain due to their feelings about persons with mental illness. If the conduct, however, is really threatening, the landlord must first decide if he can accommodate the person before evicting her.

Nothing in the FHA requires landlords or neighbors to put up with violence or assaults from anyone, including persons with disabilities. An apartment complex can evict a renter who has molested another person even if the renter is a person with a disability. Persons who have committed assault or property crimes in the past may not be allowed to live in an apartment complex even if they are person with disabilities.

D. Does a Landlord Have to Allow a Resident to Have an Assistive Animal?

It is against the reasonable accommodation provision of the FHAA to refuse to allow a person with a disability to live in a home because he or she needs an assistive animal. The animal does not have to be a certified assistive animal. But the animal must be necessary for the person to live in the house. Documents should be provided to show that the person needs an assistive animal.

EXAMPLE: *Keith is deaf and lives with a trained signal dog named Alex. Alex alerts Keith when the phone or doorbell rings, when the smoke detector sounds, and when someone calls his name. The mobile home park where Keith wants to rent a space has a limit on a pet's height and weight. Dogs cannot be taller than 12 inches and cannot weight more than 25 pounds. The mobile home park manager says that Alex can't live there because Alex is 24 inches tall and weighs 80 pounds. Under the FHA, the manager must get rid of or change the weight and height rules to allow Keith to live there with Alex. Because Alex is a specially trained dog, Keith cannot live safely in the mobile home park without Alex's help.*

No pet rules or rules that say pets need to be a certain weight or height can be waived for assistive animals since these animals are not pets.

A landlord also cannot charge a deposit or monthly "pet rent" because assistive animals are not pets. An assistive animal must, however, obey other rules that apply to all pets in the complex. Residents still need to clean up after their assistive animals and keep them on leashes. A landlord can evict a resident if his or her assistive animal is aggressive and bites or injures someone.

A resident must request an accommodation to have his or her landlord, condo association or homeowners' group change its no pets or weight or height rules. A resident should make all requests for an accommodation in writing. A resident should have a doctor or the animal's trainer to send in a letter, on personalized stationery, saying:

- (1) you are a person with a disability;
- (2) how your animal helps you; and
- (3) the accommodation you will need to enjoy equal access and use of areas available for everyone.

You are NOT required to provide a letter that describes your disability and you should not provide confidential information.

E. Does My Landlord Have to Change My Apartment So I Can Use It?

No. Your landlord does not have to change your apartment to make it easier for you to use. But rental housing providers must let you pay for changes to your apartment or rental home. These changes are not limited to the inside of your unit. But you have to ask permission to make changes to lobbies, main entrances and other common areas. These can include clubhouses, pools, and mailbox areas. Some of the changes looked at by the FHAA include:

- widening doorways,
- removing counters under sinks,
- lowering kitchen cabinets,
- installing ramps, and
- installing grab bars in bathrooms.

Your landlord can make you take out the additions to your apartment when you leave.

EXAMPLE: *Mary Murray is a woman diagnosed with Multiple Chemical Sensitivity (MCS). She has found an apartment at the Chino Coves which meets her disability needs. But the landlord had just installed new carpet in the apartment. The new carpeting has a smell which makes Mary's chemical sensitivity worse. Mary asks if it would be okay if she removes the carpet so she can live in the apartment. The manager says she can remove the carpet but she must agree to safely store the carpet and reinstall it when she leaves the apartment. Under the FHAA, it is okay for the manager to do this.*

Also, the landlord can make sure that the changes are suitable, can require you to get building permits, use a licensed and bonded contractor, and submit plans for approval. If you need to ask for changes to common areas, ask your housing provider to make the area accessible before you pay for the changes. Center staff has found that many apartment complexes will make common areas accessible to improve the property's look. They will also want the changes to blend in with their present surroundings.

The FHA allows the housing provider to ask you to place the money to restore the inside of your unit into a special (escrow) account. Few, if any, housing providers ask that money be set aside for this purpose. If your housing provider does ask you to do this, we have two suggestions. First, explain to the housing provider that accessible housing makes the unit attractive to people with disabilities. Second, agree to restore the unit to the way it was if they rent to someone who does not need the accessible items. We have found that many people without disabilities like the wider doorways and ramps which make it easier to move furniture or push children in strollers. Persons without disabilities can often benefit from special handles which ease home entry when carrying groceries or boxes. Also, higher toilet seats and grab bars in the bathrooms are useful to people with and without disabilities.

F. Does An Apartment Complex Have to Be Accessible to Wheelchairs?

The FHAA says that all construction of buildings for more than one family on or after March 13, 1991, has to contain seven items that are accessible. Failure to include these seven items violates the FHAA. Not all types of housing for families are covered by the FHAA. Buildings with four or more units are covered if they have an elevator. If a building has four or more units but no elevator, only the bottom floor units and common areas on that floor are covered. If a building does not have four units, it is not covered by the seven items for the FHAA.

The seven items required by the FHAA are:

- A building entrance that can be used by persons with disabilities;
- Public and common use areas on an accessible route used by persons with disabilities;
- Doors wide enough for a wheelchair;
- Routes easy to get into and through the building;
- Easy to reach light switches, electrical outlets, heater and air conditioning controls;
- Grab bars installed in the bathrooms; and
- Kitchens and bathrooms made for persons with disabilities.

1. *Building Entrance on an Easy to Use Route*

Covered multi-family dwellings must be built so they have at least one entrance on an easy to use route for people with disabilities. This means that the entrance itself must be accessible to and usable by persons with disabilities, including those who use wheelchairs.

An accessible building entrance is required to have:

- a clear width of open doorway of at least 32 inches;
- low or no steps;
- maximum force needed to open the door;
- accessible door hardware;
- enough space for a wheelchair to fit; and
- safe door closing speed.

An accessible route is one path, without plants or other debris, that winds through the grounds and is connected to the sidewalk, public transportation stops, and parking areas. These pertain to all dwellings built for occupants after March 13, 1991.

If there are unusual site features, then this requirement is waived, but this is very rare.

2. Access to Public Use and Common Areas

Persons with disabilities must be able to use public and common areas. These areas must be on an accessible route. Some of these public areas include, but are not limited to, the clubhouse, meeting rooms, shuffleboard areas, parking, lobbies, drinking fountains, swimming pool areas, playgrounds, sales or rental offices, mailbox areas, laundry rooms, health spas, game rooms such as pool and table tennis, tennis courts, restrooms, bathing areas, and gyms or fitness rooms.

If the housing development has many recreational areas, not every area needs to be accessible. It is okay to have some of these areas accessible to persons with disabilities. The FHA does require accessible recreation areas but it does NOT require equipment on the playground to fit a wheelchair or pool lifts to use the pool. Only the area around the pool and playground need to have wheelchair access.

3. Doors that are Easy to Use

All doors must be wide enough for use by individuals in wheelchairs. These include all doors such as closet and bedroom doors, which must be at least 32 inches wide.

Certain doors on public buildings have stricter requirements. The FHA calls these “accessible doors.” These doors must be at least 32 inches wide, have very low or no threshold height and opening force must be 5 pounds for inside doors and 8.5 pounds for outside doors.

4. Easy to Use Routes Through a Building Unit

General Rules for Easy to Use Routes

The Fair Housing Guidelines require that an easy to use route be provided into and throughout a dwelling unit. There are two requirements for this route. It must be: (1) wide enough (36-inches) and (2) be on an even level. This 36-inch route is required to be that wide, except when it passes through usable doors which are 32-inches wide. The easy to use route must continue through all rooms in the unit and connect with the main entrance and all inside doors. An easy to use route is not required into a basement or garage. But the doors to such areas must be 32-inches wide. This allows for changes if a person with a disability later wants to add a ramp to increase access to the garage or basement areas.

As stated earlier, an easy to use route must not have abrupt level changes. The Fair Housing Guidelines do allow for a change in level between the inside of the unit and an outside surface or balcony. The amount of level change depends on: (1) whether the door is a main door such as a front door or an inside door, and (2) the building material of the outside landing.

For example, the landing surface inside and outside of a home's main front door must be the same level or within ½ inch, if the outside landing surface is made of concrete or another substance, which does not let water pass through. The Fair Housing Act Design Manual has further explanations regarding other exterior doors and surfaces made of other materials.

5. *Easy to Use Routes in Buildings with Two or More Stories*

There are special rules for easy to use routes in homes, which are two stories in height and house more than one family. In the FHA, these are called “multi-story dwelling units.” It means a unit with living space on one floor and another floor either above or below it. However, only multi-story homes with elevators are covered by these rules. Multi-story buildings without elevators are NOT covered by the FHA.

If a person who uses a wheelchair lives in a multi-story unit, the building must meet certain rules under the FHA. These rules allow for residents and their guests who use wheelchairs to visit family, friends or neighbors in these multi-story buildings.

For covered multi-story buildings with one or more elevators, the story served by the elevator must be the main entrance to the multi-story building. For all rooms on that level, the unit must meet five access requirements:

- usable doors,
- easy to use route through that floor of the unit,
- easy to reach temperature controls,
- thicker walls in bathrooms, and
- easy to use kitchens and bathrooms (if these rooms are on the first level). Even if the main rooms are on the other floors of the unit, there must be an easy to use bathroom or powder room on the main level.

6. Easy to Reach Temperature Controls

Light switches, electrical outlets, thermostats, ceiling fan switches and other room controls must be in easy to reach locations. Where there are no obstructions to interfere with the reach of the person using a wheelchair, all controls that are covered and switches must be between 15 and 48 inches above the floor. As with all general rules, there are a few exceptions. Certain controls and outlets are not covered by these requirements including, circuit breakers and outlets, used for a appliances such as a refrigerator, stove, washer and dryer, or microwave oven.

7. Bathrooms Must Have Thicker Walls for Installation of Grab Bars

The FHAA does not require that grab bars be installed in bathrooms. However, the guidelines do require that bathroom walls be strong enough to support the grab bars, if added later. This area should be at least six inches wide by 24 inches long so it can support grab bars, which must be installed behind and beside toilets. The same areas (six inches wide by 24 inches long) are required for tubs and shower areas.

8. Easy to Use Kitchens and Bathrooms

The FHAA requires that multi-family dwellings, built on or after March 13, 1991, have easy to use kitchens and bathrooms (note that the FHAA says *usable* and not *accessible*).

In general, easy to use bathrooms should include:

- an easy to use route into the bathroom with at least 32 inches on either side;
- easy-to-reach switches, outlets and controls;
- thicker walls to install grab bars;
- enough space in the bathroom to allow a person using a wheelchair to enter the room, close the door, reopen the door and exit the bathroom; and
- enough clear floor space within the bathroom to allow a person using a wheelchair to use the sink, toilet and bathing fixtures.

G. How Do I Ask For a Reasonable Accommodation?

Nothing in the FHA says that you, or any other person with a disability who will live with you, must ask for the accommodation at the beginning of your lease term or when you start living in the building. It is okay to ask for a reasonable accommodation at any time while you are living there. However, you should ask as soon as possible upon discovering a need for an accommodation.

The FHA does not make you ask for this accommodation in writing. But if you put it in writing, you will have a record of the request and the date you asked for it. In your letter, you should add the reasons why you need to have a special accommodation in order to enjoy your home. You should also include a letter from your doctor or health care provider that shows: (1) that you are a person with a disability; (2) the reason you need the accommodation; and (3) why it is needed for you to enjoy your home. Keep a copy of your letter and your doctor or health care provider's letter in a safe place.

H. What Do I Do If I Think That My Housing Rights Have Been Violated?

You have several choices available to you. You can:

- try to work it out with your landlord, management company, builder, real estate agent, insurance company or other offender;
- call the Arizona Center for Disability Law for more self-help information;
- file a complaint of housing discrimination with the United States Department of Housing and Urban Development (HUD);
- file a housing discrimination complaint with the Arizona Attorney General's Office;
or
- talk to a private attorney and file a lawsuit.

1. *Filing a Complaint of Housing Discrimination with HUD or the Arizona Attorney General's Office*

You have a right to file a complaint of discrimination with either HUD or the Arizona Attorney General's Office if you (or someone who can speak for you) believe that you have been discriminated against in housing. The complaint must be filed no later than **one year** after the supposed discrimination has occurred or terminated. You can call any local HUD office or the Arizona Center for Disability Law and ask that a complaint form be sent to you. If you need help with filing a complaint, the staff at HUD will help you with this. You can contact HUD at:

San Francisco Regional Office of FHEO
U. S. Dept. of Housing and Urban Development
600 Harrison Street, 3rd Floor
San Francisco, CA 94107-1387
(415) 489-6524 (voice)
(800) 347-3739 (toll free)
(415) 436-6594 (TTY)

Under the Arizona Fair Housing Act, you may also file a complaint of housing discrimination with the Arizona Attorney General's Office. To file a complaint, you should call the office nearest to you to find out what you need to do to file a complaint. The staff at the Attorney General's Office can also assist you with filing a complaint. The address and telephone numbers for the offices in Tucson or Phoenix are:

400 West Congress
Tucson, AZ 85701
(520) 628-6500 (voice)
(520) 628-6872 (TTY)

1275 West Washington
Phoenix, AZ 85007
(602) 542-5263 (voice)
(602) 542-5002 (TTY)

There is no cost to you for filing a housing discrimination complaint with either HUD or the Attorney General's Office.

Once you file a complaint with HUD or the Attorney General's Office, it is very important that you do two things. First, respond quickly and truthfully when asked to provide information or documents to show your claim of housing discrimination. Second, be sure to keep your information up-to-date and call the agencies if you move or change your phone number. Without the correct address and telephone number, HUD or the Attorney General's Office cannot contact you about your case. If HUD or the Attorney General's Office cannot reach you, or if you fail to work with them in the investigation of your complaint, HUD or the Attorney General's Office can stop investigating your complaint and close your file.

Once an investigator has been assigned to your case, be ready to give him or her any written documents to support your claim and a list of people who witnessed the event, if any. You should also be ready to provide a letter from your doctor or health care provider showing that you are a person with a disability. The person who is helping you file the claim can also provide those letters. At the end of the investigation, the agency will either issue a charge of discrimination or dismiss your complaint if the agency finds no reason to believe discrimination occurred. If the agency believes that discrimination occurred, it MAY file a lawsuit on your behalf or offer to settle the matter outside of court. However, both you and the other individual or group must agree to settle outside of court. The Center strongly suggests that you talk to a private attorney if HUD or the Attorney General's Office issues a finding of probable cause in your case

2. Filing a Private Lawsuit

You do not have to file a housing discrimination complaint with HUD or the Arizona Attorney General's Office. You may hire a private attorney and file a civil lawsuit in federal or state court. You must file the lawsuit no later than **two years** after the discrimination occurred or the end of a discriminatory housing practice. If the possible discrimination resulted from a failure to design or build a covered dwelling to FHA guidelines, the two years start at the end of the design and construction phase, which will occur on the date the last certificate of occupancy is issued. (Look to Arizona court case *Garcia v. Brockway*, 503 F.3d 1092 [9th Cir. 2007]). If your attorney wins the lawsuit, she or he may be awarded reasonable attorney's fees and certain costs relating to the lawsuit.

This guide does not provide directions for the filing a civil lawsuit. The Center suggests that you talk to a private attorney for more advice about filing a lawsuit.

III. Other Help Available for Housing Discrimination

A. Injunctions

An injunction is a court order making the offender do something by law or stop doing something that is not allowed under the law. It helps guard against future discrimination. For example, the court may order your landlord to change a "no pets" policy to allow you to live with your animal that assists you. In some cases where housing or a building is not accessible, the court has ordered builders and designers to re-do the complex because the builder ignored the FHA guidelines in building the complex.

B. Money Damages and Civil Penalties

Under the FHA, you may be allowed to collect money for damages for actual losses or injuries. In a lawsuit, you may be allowed to collect other money from the other individuals involved in order to punish them for not following FHA guidelines. These are called punitive damages. These kinds of damages are not given out too often. If the lawsuit is brought by HUD or the Attorney General's Office, the other person may have civil penalties which he or she will have to pay to HUD or the Attorney General's Office.

IV. APPENDIX – HOUSING RESOURCES

DISABILITY ISSUES

ACCESSIBLE APARTMENTS

National Accessible Apartment
Clearinghouse
800-421-1221

Southern Arizona Legal Aid –Tucson
520-623-9461
800-248-6789

HOME CHANGES PROGRAMS

Arizona Bridge for Independent Living
(ABIL)
5025 E. Washington Street, Suite 200
Phoenix, Arizona 85034-2005
602-256-2245
800-280-2245
TTY: 602-256-2245/800-280-2245

Attorney General's Office – Civil Rights
Section
1275 W. Washington Street
Phoenix, AZ 85007-2926
602-542-5263/877-491-5742
TTY:602-542-5002

Direct Center for Independence (DIRECT)
1023 N. Tyndall Avenue
Tucson, Arizona 85719
520-624-6452
800-342-1853

Attorney General's Office – Civil Rights
Section
402 W. Congress
Tucson, Arizona 85701
520-628-6500
877-491-5740

OTHER HOUSING ISSUES

LANDLORD/TENANT

Community Legal Services
305 S. 2nd Avenue
Phoenix, AZ 85003-2402
602-258-3434/800-852-9075
TTY: 602-254-9852
Area Served: La Paz, Maricopa, Mohave,
Yavapai, Yuma counties

Arizona Fair Housing Center
615 North 5th Avenue
Phoenix, Arizona 85003
602-548-1599/800-868-3315
TTY: 800-367-8939

South West Fair Housing Council
2030 E. Broadway, Suite 101
Tucson, Arizona 85719
520-798-1568
888-624-4611

City of Phoenix-Landlord/
Tenant Message Line
602-262-7210
Avondale, AZ. 85323-2809
623-932-9440
Southern Arizona Peoples Law Center
606 N. Fourth Avenue
Tucson, Arizona 85705
520-623-7306

PUBLIC HOUSING AUTHORITIES

Avondale Community Action Program (CAP)
1007 S. 3rd Street
Avondale, Arizona 85323
623-333-2700

Bullhead City Housing Authority
1355 Ramar Road, Suite 3
Bullhead City, Arizona 86442
928-758-0702

City of Chandler Housing Division
235 South Arizona Avenue
Chandler, Arizona 85225
480-782-3200

Housing Authority of Cochise County
Old Bisbee High school, 1st floor
100 Clawson Avenue, P.O. Box 167
Bisbee, Arizona 85603
520-432-8880

Douglas Housing Authority
425 10th Street
Douglas, Arizona 85607
520-364-8458

Housing Authority of the City of Eloy
100 W. Phoenix Avenue
Eloy, Arizona 85231
520-466-7162

Flagstaff Housing Authority
3481 N. Fanning Drive
Flagstaff, Arizona 86002
520-526-0002

Gila County Housing Authority
5515 South Apache Avenue, Suite 200
Globe, Arizona 85501
928-425-7631 Ex: 8667

City of Glendale Housing Authority
6842 N. 61st Avenue
Glendale, Arizona 85301
623-930-2180
TTY: 623-930-2197

Graham County Housing Authority
118 Arizona Street
Bisbee, Arizona 95603
520-432-5301

Housing Authority of Maricopa County
2024 N. 7th Street, Ste. 101
Phoenix, Arizona 85006-2155
602-744-4500

City of Mesa Housing Authority
20 E. Main Street Suite 250
Mesa, AZ 85211
480-644-3536
Application Line - 480-644-3571

Mohave County Housing Authority
809 E. Beale Street
Kingman, Arizona 86402
928-753-0723

Nogales Housing Authority
951 N. Kitchen Street
Nogales, Arizona 85621
520-287-4183

City of Peoria Housing Department
10950 North 87th Avenue
Peoria, Arizona 85345-6599
623-486-4375

City of Phoenix Housing Department
830 East Jefferson Street
Phoenix, Arizona 85034-2298
602-534-5345
TTY: 602-534-5345

Pima County Housing Dept.
310 South Commerce Park Loop
Tucson, Arizona 85745
520-791-4171

Pinal County Housing Department
970 N. Eleven Mile Corner Road.
Casa Grande, Arizona 85222
520-868-7201 or 520-866-7203

City of Scottsdale Housing Agency
7515 E. 1st Street
Scottsdale, Arizona 85251-4502
480-312-7717 Section 8
480-312-2528 Section 8 Information Line

City of Tempe Housing and Redevelopment
21 E. 6th Street, Suite 214
Tempe, Arizona 85281
480-350-8950
TTY: 480-350-8913

City of South Tucson Housing Authority
1713 S. Third Avenue
Tucson, Arizona 85713
520-623-8481

City of Tucson Community Services
Department
800 E. 12th Street
Tucson, Arizona 85719
520-791-4717
TDD: 520-791-5481

Williams Housing Authority
620 West Sheridan Avenue
Williams, Arizona 86046
928-635-4717

Winslow Housing Authority
900 W. Henderson Square
Winslow, Arizona 86047
520-289-4617

Yavapai County Housing Authority
119 E. Aspen Avenue
Flagstaff, Arizona 86001
520-774-1895

Yuma City Housing Authority
1350 W. Colorado Street
Yuma, Arizona 85364
928-782-3823

Yuma County Housing Authority
8450 W. Highway 95
Suite #88
Somerton, Arizona 85350
928-627-8828 Ex: 112

LEGAL ASSISTANCE WITH PUBLIC HOUSING ISSUES

Community Legal Services
305 S. 2nd Avenue
Phoenix, AZ 85003-2402
602-258-3434/800-852-9075
TTY: 602-254-9852
Area Served: La Paz, Maricopa, Mohave,
Yavapai, Yuma counties

Southern Arizona Legal Aid-Tucson
Section 8 Housing
520-623-9461
800-248-6789

OTHER HOUSING COMPLAINTS

Complaints against home builders or
licensed subcontractors:
Registrar of Contractors
602-542-1525
877-692-9762

Complaints against real estate agents:
Arizona Department of Real Estate
2910 N. 44th Street, Suite 100
Phoenix, Arizona 85018-7272
602-771-7799

FORECLOSURES (MORTGAGE)

Community Legal Services
305 S. 2nd Avenue
Phoenix, AZ 85003-2402
602-258-3434/800-852-9075
TTY: 602-254-9852
Area Served: La Paz, Maricopa, Mohave,
Yavapai, Yuma counties
Southern Arizona Legal Aid-Tucson
520-623-9461
800-248-6789

FAIR HOUSING WEBSITES

National Fair Housing Advocate Online
www.fairhousing.com

Home Mortgage Disclosure Act Data
www.rtk.net

Fair Housing Rights and Information
<http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm>

Alpha-One Fair Housing Accessibility
Information
<http://alphaonenow.org/accessdesign/>

Census Bureau
www.census.gov

Community Connections
www.comcon.org

Empowerment Zone/Enterprise Community
Programs – www.ezec.gov

The Fair Housing Institute
<http://fairhouse.net/>