



Disability Civil Rights Protections in Housing

The 1988 amendments to the Fair Housing Act (FHAA) extended the Fair Housing Act's (FHA) protections against discrimination in housing to people with disabilities. Under the FHAA, veterans with disabilities are covered as people with disabilities. PVA was a proud supporter of the FHAA and its late executive director, Gordon Mansfield, helped to shape implementation of the law when he served as Assistant Secretary for Fair Housing and Equal Opportunity in the administration of President George H. W. Bush. People sometimes think the Americans with Disabilities Act (ADA) covers housing when, in fact, it is the FHA that covers most private, residential, multifamily housing in the nation. This issue brief outlines some of the distinctions between the FHA and the ADA with regards to housing and offers resources where readers can learn more about these laws, their applications, and their enforcement.

How Does the FHA Help PVA Members?

For PVA's members, the two most important aspects of the FHA are its Accessibility Guidelines (FHAAG) and the Act's reasonable modification or accommodation requirements. The accessibility guidelines are design and construction standards requiring units in private multifamily housing built for occupancy after March 1991 to be accessible to persons with physical disabilities. The law also makes it unlawful to refuse permission to a person with a disability to make reasonable modifications of existing premises—at their own expense - in order to afford that person full enjoyment of the premises of a dwelling. Other types of reasonable modification or accommodation include exceptions to “no pet” policies for service animals or changes to apartment or condominium parking space policies to allow mobility-impaired residents to reserve a space near their unit if it is necessary to assure that they can have access to their apartment. You can learn more about the FHAAG [here](#).

Private, single family homes, by and large, are not covered by the accessibility standards under the FHAA or the ADA. However, FHAA prohibitions against discrimination in sales or rental policies do apply to this type of housing inventory.

When Does FHA Apply vs. ADA?

Several years ago, the Departments of Justice (DOJ) and Housing and Urban Development (HUD), which are responsible for enforcing the FHA, issued guidance on the application of the FHAA accessible design and construction rules to sort out sometimes confusing overlays of fair housing law, ADA, and accessibility requirements of other federal laws.¹ According to that

¹ HUD and DOJ Joint Statement Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act: https://www.ada.gov/doj_hud_statement.pdf.

guidance, dwellings covered by the FHA design and construction requirements include condominiums, cooperatives, apartment buildings, vacation and time share units, assisted living facilities, continuing care facilities, nursing homes, extended stay or residential hotels, and more. Also, housing covered by the Act's design and construction requirements may be subject to additional accessibility requirements under other laws such as the ADA. For example, vacation and time share units, if operated like hotels, are subject to the ADA's Title III covering public accommodations.²

Moreover, the HUD/DOJ guidance amplifies that housing—even single-family housing—constructed with any federal, state, or local funds may be subject to accessibility requirements under laws other than the FHA. These laws—particularly Title II of the ADA, Section 504 of the Rehabilitation Act of 1973, and the Architectural Barriers Act—have requirements for accessibility that exceed those contained in the FHA. Where multiple laws apply to housing, that housing must comply with all such laws. The more stringent requirements, however, apply first and foremost. Thus, state or local laws may increase accessibility beyond what is required by federal law but may not decrease the accessibility required by federal law.

It is important to remember that building design and construction, including safety and accessibility, are largely regulated and enforced by states and local jurisdictions. An occupancy permit issued by a local jurisdiction (or a building inspector) does not ensure ADA or Fair Housing accessibility compliance. Although local building departments sometimes waive building code requirements, a local waiver does not affect the entity's obligation to comply with the ADA or Fair Housing access standards.

A useful reference guide to the ADA's application to various Title II and Title III environments, including housing, can be found on the U.S. Access Board's website - [Using the ADA Standards](#).

What Should I Do If I Face Disability Discrimination in Housing?

There are several ways that a person may file a complaint with HUD:

- By placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275; or
- By completing the “on-line” complaint form available on the [HUD website](#).

To report an incident of housing discrimination to DOJ, call the Fair Housing Tip Line: 1-800-896-7743 or e-mail: fairhousing@usdoj.gov. For more information on the types of housing discrimination cases handled by DOJ, please refer to the DOJ's Housing and Civil Enforcement Section's website at http://www.justice.gov/crt/about/hce/housing_coverage.php.

² Highlights of the Final Rule to Amend DOJ's Regulation Implementing Title III of the ADA: https://www.ada.gov/regs2010/factsheets/title3_factsheet.html.