

2024 Large Scale Managers Workshop

The Federal Fair Housing Act:

The what, when, who and why

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The Federal Fair Housing Act

The Federal Fair Housing Act (“FHA”) prohibits discrimination in housing based on:



DISABILITY



RACE



SEX



COLOR



NATIONAL
ORIGIN



RELIGION



FAMILY
STATUS

Disability

- The FHA defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.



Reasonable Accommodation

A change, exception, or adjustment in *rules, policies, practices or services* when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy the premises, including public and common use spaces.



Reasonable Modification



Allow, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

- Modification and permits at the expense of resident.
- Approval still must be obtained.
- If common area modification, and association's design is at no additional cost, then modification can be done with association design.
- Cannot require removal of common area/exterior modifications.

The Process

1. There needs to be a request
2. Figure out what you know and what you need to know to make a determination.
 - ✓ If the person's disability is obvious or known, and the need for the requested accommodation is readily apparent, then you cannot request additional information.
 - ✓ Reliable disability-related information that is necessary to verify the person has a disability, describes the needed accommodation, and shows the relationship between the disability and the requested accommodation.



▶ REQUEST
INFORMATION

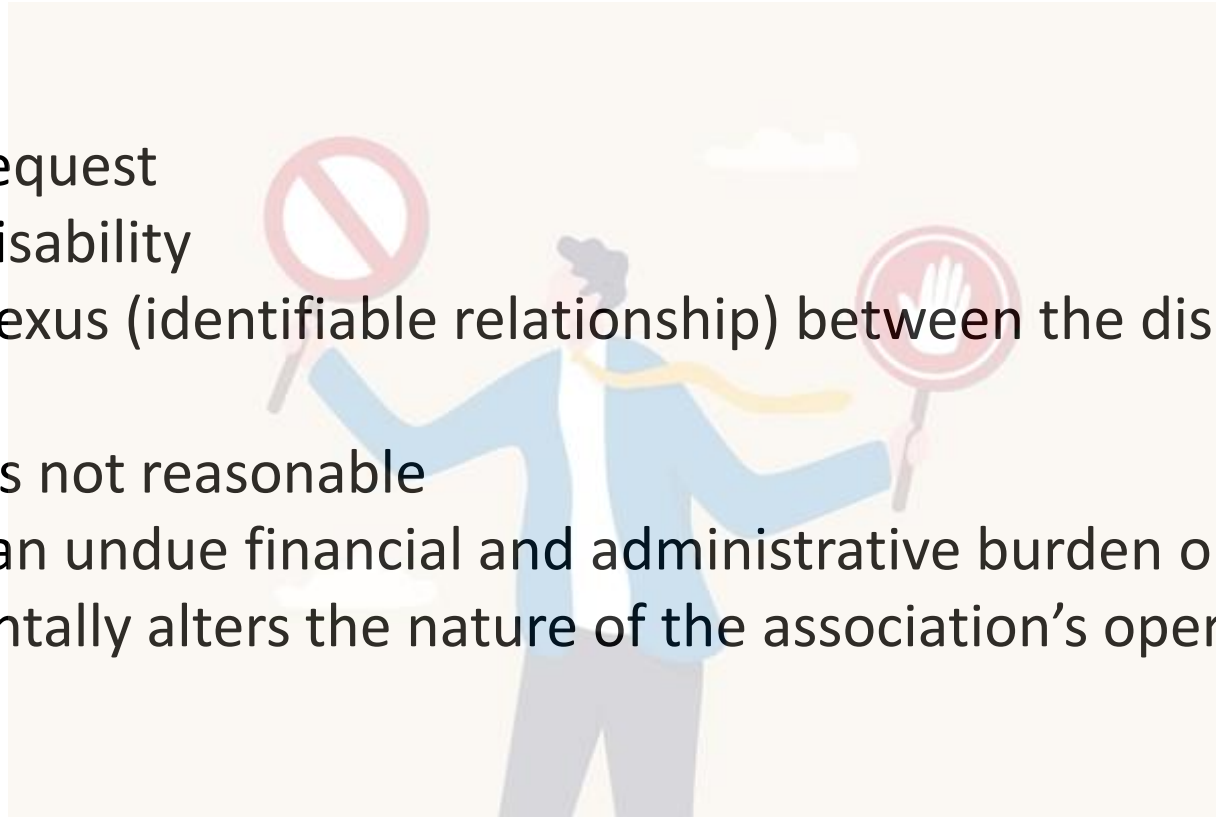
The Process

3. Engage in an interactive process.
4. Make a decision.



Basis to Deny

1. There is no request
2. There is no disability
3. There is no nexus (identifiable relationship) between the disability and the request
4. The request is not reasonable
 - imposes an undue financial and administrative burden on the association
 - fundamentally alters the nature of the association's operations



Scenario 1

The association has unassigned parking available to everyone in the community.

A resident with a mobility impairment requests an assigned parking space close to the entrance to her property as a reasonable accommodation.

There are available parking spaces near the entrance to her property already, but those spaces are available to all residents on a first come, first served basis.



Takeaway

1. Ask for the request in writing.
2. A request for assigned parking is a request for a reasonable accommodation, not a reasonable modification.
3. Assigned parking may be required, regardless of availability of spaces.

Scenario 2

The association does not allow pets in the clubhouse and pool area.

A tenant who is deaf requests that the association allow him to bring his service animal, a potbellied pig named Frank, to the clubhouse.



Takeaway

1. Ask for the request in writing.
2. An assistance animal is not a pet.
3. A service animal is different than an emotional support animal.
4. Always make sure the disability and disability-related need for the requested accommodation is established.

Scenario 3



A resident with a visible mobility disability is upset that there is no ramp outside the recreational facility building.

Takeaway

1. Make sure there is a request.
2. If there is a request, ask for the request in writing.
3. If there is a request, cannot ask for disability-related information because it is readily apparent.

Scenario 4

Because of a mobility disability, a resident installs a ramp at the outside entrance to their detached, single-family home. The Association does not provide snow removal services, and the covenants specifically state that snow removal is the responsibility of the individual resident.

The resident requests that the Association remove snow from the ramp.



Takeaway

1. Ask for the request in writing.
2. Resident is responsible for upkeep and maintenance of a modification used exclusively by the resident.

Scenario 5

A new owner comes to the community and decides to use the property as a group home for individuals recovering from drug addiction and alcoholism. The covenants prohibit group homes.



Takeaway

1. Ask for the request in writing.
2. Disability includes mental impairments such as alcoholism and drug addiction
3. Disability does not include juvenile offenders, sex offenders, and individuals currently engaging in illegal use of controlled substances

Scenario 6



An owner residing at a single-family home with a front yard and balcony requests permission to plant a garden in the common areas behind the house as part of a recommended form of gardening therapy to treat anxiety and PTSD.

Takeaway

1. Ask for the request in writing.
2. An accommodation must be necessary, not a matter of preference.

Scenario 7

A resident with hearing impairment requests that the association provide a sign language interpreter at all association meetings.



Takeaway

1. Ask for the request in writing.
2. There may be costs associated with a reasonable accommodation request that the association is responsible to cover.

Scenario 8

A resident has a severe mobility impairment that substantially limits his ability to walk. He asks the association to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The association does not provide any transportation or shopping services for its residents.



Takeaway

1. Ask for the request in writing.
2. A “fundamental alteration” alters the essential nature of the association’s operations.
3. Engage in an interactive discussion- alternative accommodation? For example, reducing the need to walk long distances by altering parking policy to allow a volunteer from a local community service organization to park car close to the unit so she can transport the resident to the grocery store and assist him with his shopping.

Questions?

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Nura listens intently to board members and managers to understand their goals, and spends time explaining legal concepts, laying the framework for the decision-making process. She is thorough and systematic in her research, but flexible and innovative when it comes to problem-solving. She embraces obstacles because they challenge her to be creative.