

Orlando Investment Properties

Renting to the Handicapped

Spring 2006

Fair Housing is simple – do not discriminate. While this may be a basic principle, it is often not “easy” to follow, particularly in the area of handicapped or disabled persons. Many landlords often do not know or understand the legal requirements when it comes to renting to handicapped tenants, which can lead to costly lawsuits. Courts do not tolerate ignorance of Fair Housing laws and penalties can be extremely steep regarding discrimination against the disabled.

There are many Fair Housing Acts as well as Presidential Orders. The following acts are particularly important in the rental housing industry and disabilities.

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

The 1988 Fair Housing Amendments Act recognized the need to define and protect

the rights of the disabled throughout American society.

Title II of the American Disability Act (ADA) of 1990 prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. Housing and Urban Development (HUD) enforces Title II when it relates to state and local public housing, housing assistance, and housing referrals.

Fair Housing defines “handicap” as:

- A physical or mental impairment which substantially limits one or more of a person’s major life activities
- A record of having such an impairment
- Being regarded as having such an impairment

Property owners cannot refuse to rent to a handicapped person if they are qualified to rent the property. Under ADA, owners may not inquire if a person has a disability, or ask questions concerning the nature or severity of a disability. However, they can make the following inquiries if they ask them of all applicants:

- Inquire into applicant’s ability to meet requirements of tenancy
- Inquire whether an applicant is qualified for a dwelling available

- only to persons with handicaps or a particular type of handicap

There are several areas regarding the disabled that can lead to trouble – one is that of assistance animals. These animals are not “pets” under Fair Housing laws and owners cannot charge “pet deposits” or increased deposits for a handicapped/disabled person who needs an assistant animal. While they cannot refuse the animal, owners can require the proper paperwork from disabled tenants or applicants before allowing the animal in the residence.

Property owners also cannot refuse to rent to handicapped tenants who require modifications to a dwelling.

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The 1988 Amendments Act requires that landlords allow persons with disabilities to make reasonable modification necessary at their own expense. Examples of this are widening doorways, installing grab bars, and lowering kitchen cabinets. In rentals, landlords may, where reasonable, require that the original condition be restored when the tenant vacates the premises.

The 1988 Fair Housing Amendment also set up new requirements for new housing and HUD publishes technical assistance to builders, developers, and others regarding new construction.

There is, of course, so much more to the Fair Housing acts that govern the disabled that we cannot cover in this article space. To obtain more information go to the following HUD and Justice Department websites.

<http://www.usdoj.gov/crt/ada/adahom1.htm>

<http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

As your property management company, we understand the importance of following all Fair Housing laws to protect you and your investment. 

