

# **Housing Discrimination based on Disability under the New York State Human Rights Law**

By:

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# What will we cover today?

- How is “disability” defined/covered?
- What’s prohibited?
- What’s required? - Reasonable Accommodations for Persons with Disabilities in Housing
- Assistance & Service Animals
- Type of Disability Complaints

# Definition of Disability under NYSHRL

- physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic technique, or;
- a record of such an impairment, or;
- a condition regarded by others as such an impairment.

# Definition of Disability under FHA

The FHA defines “disability” as a substantial limitation of a major life activity.

The definition of disability under the NYSHRL is more broadly construed and does not require the impairment to be substantial or affect a major life activity.

# Housing Prohibited Discriminatory Conduct

- Housing providers may not refuse to sell or rent housing accommodations on account of a person's disability.
- Housing providers can not discriminate in the terms, conditions or privileges in the sale, lease or ownership of a housing accommodation on account of a person's disability.
- Housing providers are prohibited from printing, circulating, advertising or using any form of application, or making any record or inquiry that expresses directly or indirectly any limitation, specification or discrimination as to disability.

# Housing Reasonable Modifications

Housing providers must permit, at the expense of a person with a disability, for “reasonable modifications” of existing premises occupied or to be occupied by such person if the modifications may be necessary for full enjoyment of the premises.

# Housing Reasonable Modifications

Examples of “reasonable modifications” include:

- widening of doorways;
- adjusting kitchen / bath fixtures or counter heights;
- installation of grab bars.

# Common Areas

Housing providers are required to pay for reasonable modifications in common areas.

This is a distinction from the Federal Fair Housing Act.



# Reasonable Accommodations

Examples of “reasonable accommodations” to rules, policies, practices or services include:

- waiving a no pet policy for a person with a disability who needs an assistance animal;
- moving a person with a disability to the top of a waiting list to secure a handicap parking space that is close to, and on an accessible route to one’s unit.

# Reasonable Accommodation Notice

In 2022 a law was passed requiring notice be provided to tenants and prospective tenants of their right to request reasonable accommodations for a disability.

# Guide, Hearing & Service Dogs

Persons with disabilities that use guide, hearing or service dogs that have been professionally trained have significant protections under the NYSHRL to have the dog go where they go.

# G/H/S Dogs & Assistance Animals - Housing

- Persons who use G/H/S dogs that are professionally trained are protected to have their dogs live with them.
- Assistance animals not professionally trained are subject to a reasonable accommodation analysis.

# Assistance Animals - Housing

- Persons with disabilities that have a disability related need for an assistance animal can ask a landlord to waive a no pet policy to allow for an assistance animal to live with the individual.
- Landlord is entitled to medical documentation to support that the person has a disability and that the need for the animal is disability related.

# Assistance Animals - Housing

Landlords are prohibited from making restrictions on the type of animal, breed or size of dog, and from assessing fees for someone who needs an assistance animal because of their disability.

Assistance animals are not pets.

# **Assistance Animals – FHA & NYSHRL**

## **Service Animals – ADA & NYSHRL**

There is a distinction between service animals and assistance animals as covered by the Americans with Disabilities Act (ADA), and the Federal Fair Housing Act and NYS Human Rights Law.

# Service Animals - ADA

The ADA's coverage of service animals applies to places that are open to the public, not your home.

Where am I standing?



# Where am I standing?

## - In my home.

The FHA and NYSHRL cover housing and permit for assistance animals as reasonable accommodations.

It can be any type of animal, within reason.

It can be an emotional support animal.

Housing provider can ask for medical documentation.

## Where am I standing?

**- In a place that is open to the public – not my home.**

The ADA and NYSHRL cover places that are open to the public and allow for service animals for persons with disabilities.

A service animal can be either a dog or miniature horse.

Emotional support is not a covered service.

Owner may ask: 1) Is it a service animal? What type of service does it provide? The end.

# Assistance Animals - Housing Service Animals – Public Places

# Where am I standing?

# New Construction

- Newly constructed covered multi-family dwellings must be designed and constructed in accordance with the accessibility requirements found in the *New York State Uniform Fire Prevention and Building Code*.
- “Newly constructed” multi-family dwellings include those built for first occupancy after March 13, 1991.
- “Multi-family dwellings” are defined as, a dwelling which is occupied for permanent residence, and which is either sold, rented, or leased to be occupied as the residence of three or more families living independently of each other.

# New Construction

Requirements Include:

Public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

All doors are designed to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs;

All premises within the units contain an accessible route into and through the dwelling;

# New Construction

Requirements Include:

Light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; and

Reinforcements in the bathroom walls to allow later installation of grab bars;

# DHR Complaint Statistics

While employment cases make up the majority of discrimination complaints filed with DHR, housing complaints are the second most.

Over half of the housing complaints filed with DHR include allegations of discrimination based on disability.

# DHR Complaint Statistics

Majority of disability/housing complaints allege refusal to reasonably accommodate.



# Contact Info

- If you'd like connect with the Division with questions or requests, call us at **1-888-392-3644** or email us at [info@dhr.ny.gov](mailto:info@dhr.ny.gov).
- DHR's Director of Disability Rights, John Herrion, can be contacted at [john.herrion@dhr.ny.gov](mailto:john.herrion@dhr.ny.gov), or 718-741-8332.