Creating Accessibility:
Reasonable Accommodations & Modifications in Housing
AGENDA

• The Need for Accessible Housing
• Accessibility Through Reasonable Accommodations and Modifications
• Examples of Common Reasonable Accommodations and Modifications Issues
• IDHR’s Guidebook for Housing Providers

Disclaimer:
This presentation is intended for educational and informational purposes only, not legal advice.
THE NEED FOR MORE ACCESSIBLE HOUSING

• As of 2010, 56.7 million people in the U.S. live with a disability.

• The availability of accessible housing is critical to enable people with disabilities to live independently.

• The physical attributes of a property or nature of the policies, which govern the property may have the effect of limiting the accessibility of the property for these individuals.
A disability is a condition which substantially limits at least one major life activity, such as walking, hearing, seeing, working, communicating, or learning.
THE NEED FOR MORE ACCESSIBLE HOUSING

Accessibility of America’s Housing Stock: Analysis of the 2011 American Housing Survey

• Assessed the accessibility of America’s current housing stock

• Three classifications:
  (a) Potentially Modifiable
  (b) Livable
  (c) Wheelchair Accessible
# THE NEED FOR MORE ACCESSIBLE HOUSING

<table>
<thead>
<tr>
<th></th>
<th>Potentially Modifiable</th>
<th>Livable</th>
<th>Wheelchair Accessible</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Properties</td>
<td>33.34%</td>
<td>3.76%</td>
<td>0.15%</td>
</tr>
<tr>
<td>Rental</td>
<td>31.48%</td>
<td>4.07%</td>
<td>0.18%</td>
</tr>
<tr>
<td>Owner-Occupied</td>
<td>33.91%</td>
<td>3.68%</td>
<td>0.13%</td>
</tr>
</tbody>
</table>
## THE NEED FOR MORE ACCESSIBLE HOUSING

<table>
<thead>
<tr>
<th>Region</th>
<th>Potentially Modifiable</th>
<th>Livable</th>
<th>Wheelchair Accessible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northeast</td>
<td>18.21%</td>
<td>2.68%</td>
<td>0.09%</td>
</tr>
<tr>
<td>Midwest</td>
<td>23.88%</td>
<td>3.78%</td>
<td>0.21%</td>
</tr>
<tr>
<td>South</td>
<td>41.27%</td>
<td>3.81%</td>
<td>0.15%</td>
</tr>
<tr>
<td>West</td>
<td>41.21%</td>
<td>4.50%</td>
<td>0.15%</td>
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</table>
ACCESSIBILITY THROUGH REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Applicable Laws

- Fair Housing Act (42 U.S.C. 3601)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
- Americans with Disability Act (42 U.S.C. 12102)
- Illinois Human Rights Act (775 ILCS 5/1)
- Local Ordinances

State of Illinois
Department of Human Rights
What properties are covered by these laws?

Any building which is occupied or intended to be occupied as a residence by one or more families and any vacant land which is offered for sale or lease for such building.
ACCESSIBILITY THROUGH REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Who is obligated to follow the law?

Any person or entity involved in or who have the ability to affect a person’s acquisition or enjoyment of a housing accommodation.

- Potential Buyer
- Potential Seller
- Real Estate Agent
- Lender/Mortgage Company
- Appraiser
- Property Insurance Company
- Attorney
- Homeowner’s Association
- Condominium Association
- Building Inspector
- Municipal Code Enforcement Officer
ACCESSIBILITY THROUGH REASONABLE ACCOMMODATIONS AND MODIFICATIONS

**Reasonable Accommodations** = exception or modification to a housing provider’s rule, policy, regulation, practice, program, or service that will help a person with a disability have an equal opportunity to access and use the unit and common areas.

The request for an accommodation must be both reasonable and necessary.
ACCESSIBILITY THROUGH REASONABLE ACCOMMODATIONS AND MODIFICATIONS

A request is **not reasonable** if it imposes an undue financial and administrative burden on the housing provider or fundamentally alters the basic operation or nature of a housing provider’s services or programs by significantly modifying, eliminating, or adding to the services it provides.

A request is **necessary** if there is a nexus or disability-related need for the accommodation to enable equal access and use of the dwelling.
Who is responsible for paying for an accommodation?

Because a reasonable accommodation is a change or an exception to a rule, policy, practice or service, it typically involves no costs to the housing provider.

However, if there is a cost, a housing provider is typically responsible (unless the cost would impose an undue financial and administrative burden on the housing provider).
What information can the housing provider request?

- If the disability is not readily known or apparent to the housing provider, the housing provider may request reasonably reliable information to show that the person has a covered disability.

- If the disability related need is not readily known or apparent, the housing provider may request reasonably reliable information to show the nexus for the request.
Interactive Process

If the housing provider needs additional information, wants to propose an alternative accommodation, or believes the request is not reasonable, the housing provider must engage in an **interactive process** with the resident.

If a request is denied without engaging in the interactive process, the housing provider may be liable for failing to grant the request.

A housing provider must respond to the request in a timely manner.
Reasonable Modifications = a structural change to the unit or common area so that the person with a disability can access and use the premises.

The request for a modification must be both reasonable and necessary.
Who is responsible for paying for modification?

Generally, the tenant is responsible for paying for the modification.

Additionally, the tenant is responsible for upkeep of a modification made to the unit. A housing provider is responsible for upkeep for modifications made to the common areas if the housing provider is typically responsible for maintaining the common area.
ACCESSIBILITY THROUGH REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Must the tenant restore the property to its original condition when the tenant vacates the property?

Modifications to the unit – Yes, if it is reasonable

Modifications to the common areas - No
EXAMPLES OF COMMON REASONABLE ACCOMMODATIONS AND MODIFICATIONS ISSUES

PARKING

If a housing provider offers parking for residents, the housing provider must reasonably accommodate a person with a disability by making an exception to its parking policies.

1. Common use parking lot or spaces
2. Deeded or leased parking spaces

State of Illinois
Department of Human Rights
ASSISTANCE ANIMALS

A resident may request an exception to a housing provider’s pet policies as a reasonable accommodation for their disability to allow an assistance animal.

An **Assistance Animal** as any animal that performs tasks or emotional support to lessen the effect of a disability.
EXAMPLES OF COMMON REASONABLE ACCOMMODATIONS AND MODIFICATIONS ISSUES

EARLY TERMINATION OF LEASE OR TRANSFER TO ANOTHER UNIT

Residents with disabilities who reside in a unit that is not accessible may request as an accommodation to:

- Leave the unit early;
- Transfer to another unit; or
- Transfer to another building
EXAMPLES OF COMMON REASONABLE ACCOMMODATIONS AND MODIFICATIONS ISSUES

HOARDING

If a person’s practice of hoarding constitutes a disability or results from a disability, the person may request an accommodation from the housing provider.
EXAMPLES OF COMMON REASONABLE ACCOMMODATIONS AND MODIFICATIONS ISSUES

AESTHETICS

A housing provider cannot deny a request for a reasonable modification because the housing provider is concerned regarding the aesthetics of the modification.

A housing provider may require a more aesthetically pleasing design if the housing provider is willing to pay any additional costs associated with the design.
IDHR’s Guidebook on Reasonable Accommodations and Modifications

Found on IDHR Website:
www.Illinois.gov/dhr
Under “Publications” Tab
IDHR’S GUIDEBOOK ON REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Key Features

• Broad Application
• 10 Sections
• Important Arrows
• Pro Tips
• Helpful Examples
• Highlighted Sections

Housing providers are not required to set policies or formal procedures covering reasonable accommodations or modifications. However, they can be helpful. Reasonable accommodation and modification policies provide a roadmap to the resident regarding the housing provider’s process for considering and handling a request and help ensure the housing provider handles the request appropriately.

If a policy or procedure does exist, a housing provider cannot refuse a request for an accommodation or modification because a resident failed to follow the established policy or formal procedures in making a request. Housing providers should consult with an attorney who is knowledgeable about disability law when adopting these types of policies.
Thank you!

Illinois Department of Human Rights
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IDHR.FairHousing@Illinois.gov
www.Illinois.gov/dhr

*Guidebook can be found under the Publications Tab