



GSHA
Housing Law Forum
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Agenda

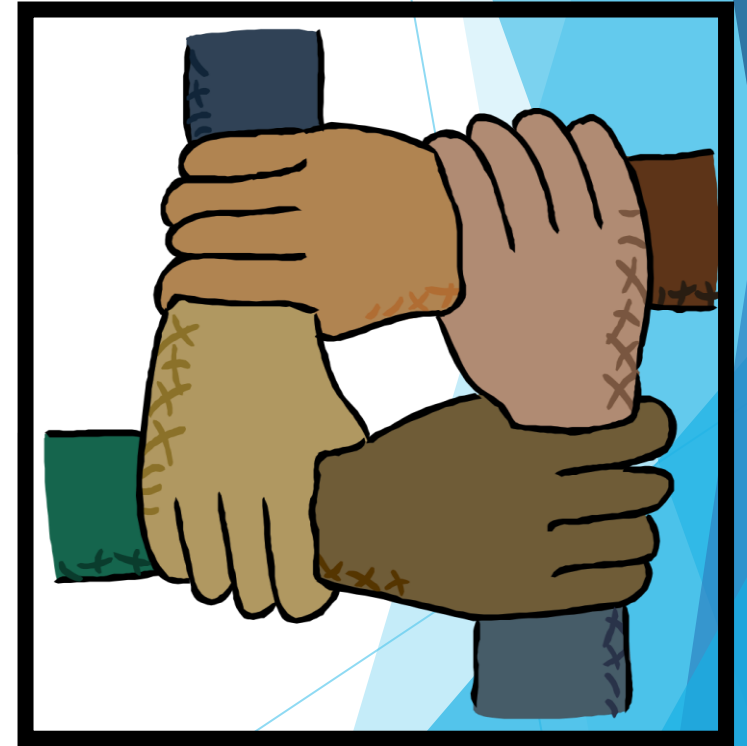
- ▶ Applicable Laws
- ▶ Accessibility Units
- ▶ Reasonable Accommodations
- ▶ Reasonable Modifications
- ▶ Assist Animals

Protected Classes

Federal:

- Race
- Color
- National origin
- Religion
- Sex
- Familial status
- Disability

**Georgia State Fair Housing
Law =
Same Protected Categories
as Federal FHA**



Non Discrimination Laws

- ▶ Section 504 of the Rehabilitation Act = federally funded properties
- ▶ Americans with Disabilities Act (ADA) = leasing offices and office parking
- ▶ Violence Against Women Act (VAWA) = federally funded and tax credit properties
- ▶ Equal Access Regulations = prohibits discrimination against LGBT in federally funded or insured properties

Accessibility Laws



- ▶ UFAS (Uniform Federal Accessibility Standards) - Any subsidized or LIHTC property is required to comply in common areas and 5% of units
- ▶ Fair Housing Act - Only if built for first occupancy after March 1991
 - ▶ Lesser standard than UFAS
 - ▶ Applies to all covered units and common areas
- ▶ ADA - Applies only to areas of public accommodation (does NOT apply to residential housing)
 - ▶ Some shelters
 - ▶ Health clinics
 - ▶ Leasing office and parking of apartment communities



UFAS covers... Just about everything

- ▶ Leasing/Service Desk
- ▶ Ramps
- ▶ Sinks
- ▶ Door widths and maneuvering space
- ▶ Laundry rooms
- ▶ Restrooms
- ▶ Parking
- ▶ And much more

UFAS Accessible Units

- ▶ Must make up at least 5% of total units
- ▶ Must be located on an accessible route
- ▶ Features include:
 - ▶ In kitchen, pull-under sink and 30” pull-under workspace (or install removable base cabinets)
 - ▶ In bathroom, pull-under sink (or removable base cabinet)
 - ▶ Sinks should be no higher than 34”
 - ▶ Showers and bathtubs must have a seat (roll-in showers are NOT required)
 - ▶ Shallow sinks (no deeper than 6 ½”)
 - ▶ Clear floor space in front of all appliances and laundry machines
 - ▶ 3’-0” doors for all rooms (FHA requires only 2’-10” doors)



UFAS Units

- ▶ Non-disabled individuals are allowed to occupy them, BUT they must be transferred if a new or existing disabled resident needs the features of the unit
- ▶ Accessible features are required in UFAS units, but some of these same accessible features could be requested as a reasonable modification in a standard unit
 - ▶ Ramps for thresholds
 - ▶ Knee space under sinks
 - ▶ Countertop microwave
 - ▶ Tub cuts and grab bars

Some Common Violations

Parking

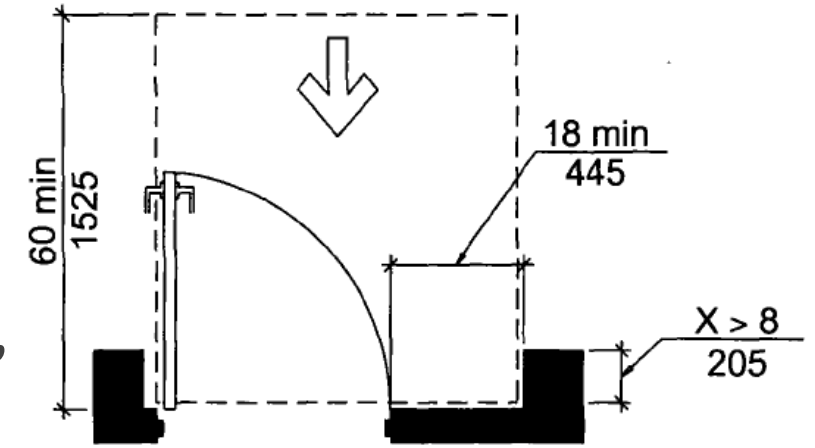
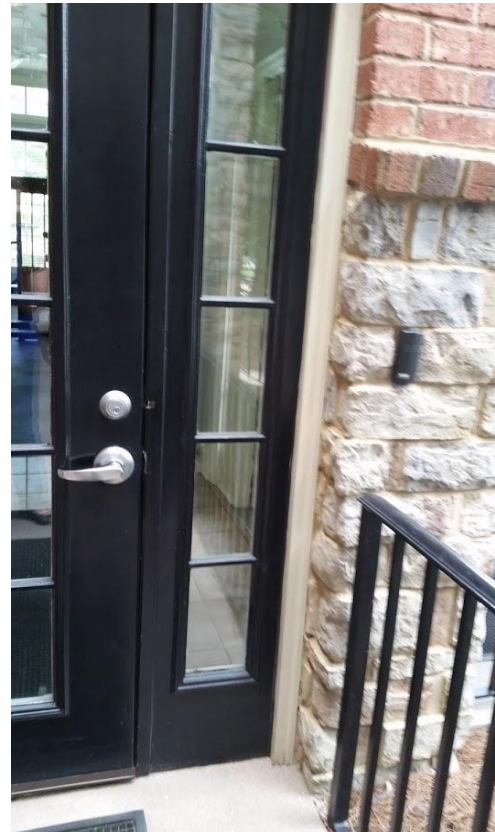
- Van accessible space(s) - ANY property with leasing office MUST have at least one van accessible space with proper signage
- Accessible spaces and their access aisle must be flat (2% slope max)
- If resident parking is provided, 1 accessible space per accessible unit (UFAS)
- If FHA applies, 2% of total parking spaces must be designated accessible



Some Common Violations

Door Maneuvering Space

- In common areas, the pull-side of a door must have 18" maneuvering space

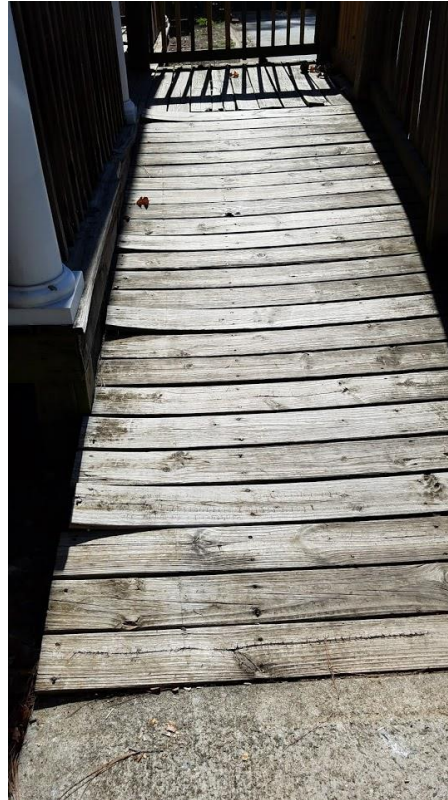


(a)
Pull Side

Some Common Violations

Accessible Route to ALL Amenities

- Accessible route from ALL units (or if no elevators, just 1st floor units) to all amenities
- Curb cuts
- Ramps
- “Stable, firm, and slip resistant”



Some Common Violations

Doorway Thresholds

- ▶ Common areas - ½” threshold max
- ▶ Anything over ½” must be ramped



Laundry

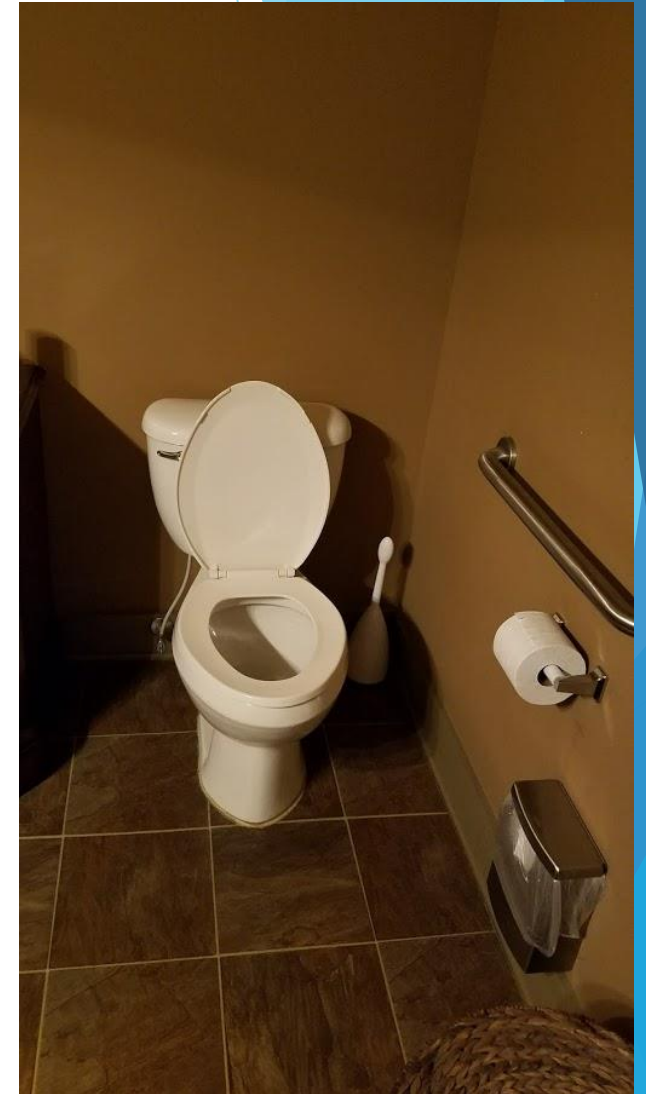
- ▶ Front-loading machines in common facilities



Some Common Violations

Common Area Restrooms

- Must have pull-under knee space under the sink
- Sink may only be 34" high (2'-10")
- Grab bars must be mounted on side and back wall around toilet



Disability Rights

- ▶ Persons with disabilities have “extra” rights
- ▶ Right to reasonable accommodations and modifications
- ▶ These requirements apply to private market, LIHTC, and federally funded properties



Asking About Disability Status

CAN ASK:

- Are you disabled?
 - IF part of eligibility criteria
- What features do you need in an accessible unit?

NEVER ASK:

- What is your disability?

Reasonable Accommodations

An exception to the usual policies and procedures

- ▶ These “extra rights” present the most challenging fair housing issues
- ▶ Housing provider **MUST** approve the request if:
 - ▶ The tenant is disabled (*Substantially impairs one or more major life activities*)
 - ▶ The accommodation will alleviate or assist with the symptom(s) of the disability
 - ▶ The request is reasonable
 - ▶ Necessary for the tenant to use and enjoy the property
 - ▶ Does not create a financial or administrative burden for the housing provider



Reasonable Accommodation Process

- ▶ Housing Provider CAN (and should):
 - 1) Ask tenant to fill out Request Form (or otherwise put the request in writing)
 - ▶ A verbal request is still valid
 - 2) Ask whether tenant considers him/herself to be disabled
 - 3) Determine the connection between the disability and the request
 - 4) Verify the need with a 3rd party professional whenever need and/or connection is not readily apparent
- ▶ If request is being denied, should have meeting with tenant to discuss reason and any possible alternatives



Verification Process

- ▶ Verify only if the disability status and/or the connection between the disability and the requested accommodation is not readily apparent (visually obvious)
- ▶ If a verification is needed:
 - 1) Resident designates a verifier and signs the authorization on a Verification Form
 - 2) Staff sends out the verification form
- ▶ If verifier does not return the form, staff should follow up with the verifier at least once
- ▶ If verifier does not respond, notify resident before denying request



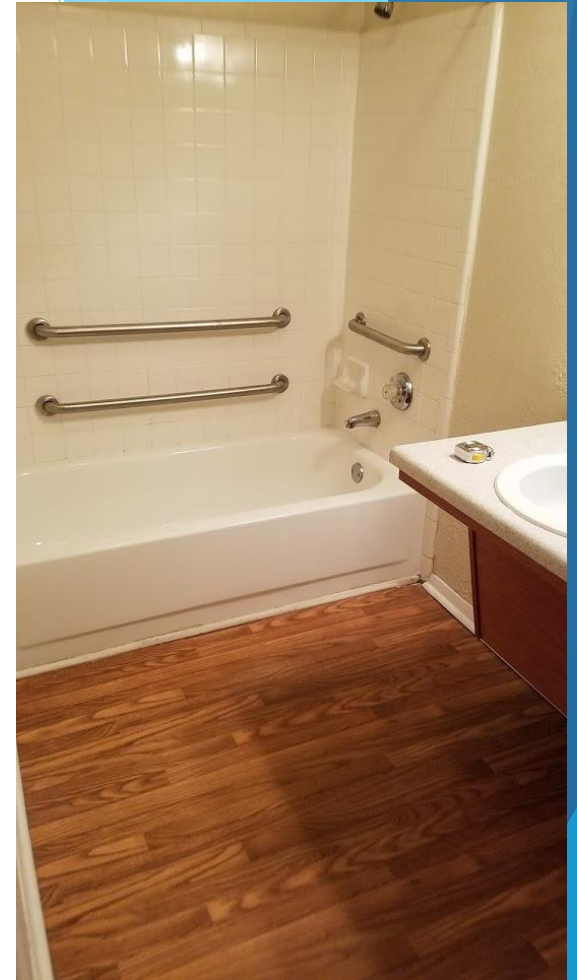
Reasonable Accommodations: Other considerations

- ▶ Residents with mental illness
 - ▶ Extra opportunities to cure as R.A.
- ▶ Occupancy criteria:
 - ▶ Criminal history screening
 - ▶ Credit and past landlord screening

Reasonable Modifications

Physical modification to a unit or common area

- ▶ Same request and verification process as reasonable accommodation request



Reasonable Modification FAQs

- ▶ Who pays?
 - ▶ Private market = Resident pays
 - ▶ Subsidized = Property pays
- ▶ Who performs the work?
 - ▶ If property is paying, they choose the contractor
- ▶ Does the unit/common area have to be converted back to original condition if/when resident leaves?
 - ▶ Typically yes, if the modification would likely affect the next resident
 - ▶ If subsidized, property would bear the cost of this
- ▶ Can resident choose materials/design/finishes of the modification?
 - ▶ If property is paying, no. Property makes these decisions, as long as they meet the resident's disability-related needs.

ASSIST ANIMALS ARE EVERYWHERE



LAWS MATTER - ADA

Covers areas of public accommodation

- ▶ Allows trained service animals
 - ▶ Dogs or Miniature Horses ONLY
- ▶ Does NOT recognize emotional support animals
- ▶ Employee can ask:
 - ▶ Is this a service animal?
 - ▶ What task(s) does the animal perform?
- ▶ No forms or paperwork required for entry
- ▶ Some shelters may be covered by ADA



LAWS MATTER - FHA

Covers all residential housing

- Allows any assist animal:
 - Service animals
 - Trained to provide specific service to a disabled person
 - Do not have to be “certified” or wear a vest
 - Emotional support animals
 - NOT trained, but provide a therapeutic benefit to a person with a disability (often a mental disability)
- No restriction on type or breed of animal - can be ANYTHING!!
- Some shelters may be covered by FHA



Request Form and Verification of Need

- Property should follow Reasonable Accommodation process
- Acceptable forms of verification:
 - Letter from 3rd party professional
 - Verification form sent by the property
- Unacceptable forms of verification:
 - “Certification” from an online website
 - Letter from a doctor or therapist who has never seen or treated the resident or who was paid specifically to write the letter
- Property can verify with 3rd party verifier if the resident has a disability-related need to take the animal in common areas



Breed Restrictions

- ▶ Cannot apply breed restrictions unless:
 - ▶ You are enforcing a local or state restriction
 - ▶ Your insurance company has a breed restriction for coverage of damages
 - ▶ If so, HUD will expect you to show you've unsuccessfully searched for comparable coverage from companies without a breed restriction



More than One?

- ▶ In some instances a resident may be able to justify a pet and an assist animal
- ▶ If ESA, you should ask both resident and verifier to explain what type of emotional support the ESA will provide that is different from the pet



Assist Animal Policy

Housing provider can require assist animal owners to sign an assist animal agreement that includes:

- Meeting county requirements for the care and ownership of an animal
- Requiring resident to pick up after animal
- Requiring that the animal is quiet and doesn't disrupt property
- Requiring animal be on leash when out of unit
- Limiting where animal is taken on property unless animal is actively providing a service or benefit at that place
- Specifying that aggressive behavior could/will result in removal of the animal

Cannot charge a pet deposit or pet fees



BEWARE OF DOG

Enforcement of the Lease and Assist Animal Agreement

- ▶ Violations are enforceable, but must be carefully documented due to the risk of a fair housing complaint
- ▶ Need written complaints, incident reports, pictures
- ▶ Provide notice of result of continued violations
- ▶ When possible, use steps rather than an immediate ban on animal
 - ▶ Use of muzzle when in common areas