

Fair Housing 2021: What Counselors Need to Know

Rights for Persons with Disabilities

Wednesday, November 17, 2021

Karen Hoskins: Hello. And good morning to those of you joining us from the West. And good afternoon to those of you who may be joining us in the East. Welcome to this, the second day of the Fair Housing 2021 Conference, What Counselors Need to Know. We had a full day of great information that we shared yesterday. And we expect to have a similar day today. My name is Karen Hoskins. And I am a technical assistance on the ICF team. And I also have a background in homeownership, education, and counseling.

It's my pleasure to welcome you to this, the first session for today titled, "Rights for Persons with Disabilities." We have a great speaker and a lot of great information to share. There's a lot of ground to cover, so we want to get started as quickly as we can. Just a note, I get asked this question right a lot and just want you to know up front that this presentation is available on the HUD Exchange, and will be available to you if you want to refer back to it. Or others in your office may want to access the materials as well. All of this information will be available.

So just a few housekeeping items before we get started. In Zoom, we will be utilizing both the chat and the Q&A function. The chat is specifically if you have a technical question or a technical issue with Zoom. Maybe you need some assistance with a challenge you're having with the technology. That is specifically what the chat is for. Questions, however, are directed to the Q&A box. You can find that Q&A box right next to the chat at the bottom of your screen. So if you have content-related questions -- anything our speaker might mention that you have a question about -- that is where you would post your question.

We'll also be using Mentimeter. We used Mentimeter yesterday and we'll continue to use Mentimeter today with doing some polling and knowledge checks just to make sure that our audience is on track with the information that's being presented. So Mentimeter will be used. And just to get us started on Mentimeter -- perhaps you weren't here yesterday to familiarize yourself with Mentimeter -- we have an initial icebreaker we want to get your participation in. You can go to Menti.com and use the code 3459-6416-3459-6416, is the code you would enter to participate in this first poll. I'll just mention that's also the code you would use throughout.

Our first polling question using Mentimeter is, how frequently does your agency provide services to clients with disabilities or impairments? We'd be interested to know how often serving the needs of those with disabilities or impairments is a part of your agency's service delivery. And as the results come in, it's very interesting that people are seeing some of these issues often and having to make accommodations for folks who have disabilities or impairments. Great. Okay. Wonderful. In our agenda, our presenter will cover some definitions that are important for you to know, talk about protections and basic accessibility requirements.

She will also be talking about reasonable accommodations and reasonable modifications, what those terms mean, and what the implications are. She'll also be talking about enforcement, how some of these rules are enforced. And as time allows, we will address some of the questions from the Q&A box. Our speaker today is Michele Hutchins. Michele is an equal opportunity specialist with the HUD Office of Fair Housing and Equal Opportunity. Michele has a depth of knowledge on this topic, so we're delighted that she was able to join us today. So with that, Michele, I'm going to turn it over to you to get us started.

Michele Hutchins: Hello, everybody. And welcome to the conference. As Karen said, I am an equal opportunity specialist with the Fair Housing Office. And I work in program compliance. And in our branch -- which is not enforcement -- we actually assure that all HUD-financed properties and programs and activities are in compliance with the fair housing laws and civil rights requirements. And I've been with HUD for 21 years. And I'm so happy to welcome you here today. And I'm pleased with the opportunity to be able to present to housing counselors.

It's such an important topic. And I think housing counselors really need to know about this. In the many years that I've been doing presentations, I have not really presented to any housing counselors. So I'm excited about doing this. Again, fair housing rights and protections for persons with disabilities is really, really important. And I think housing counselors need to know this so that you can then help them make sure that they have access to secure, affordable, and accessible housing. It can mean all the difference in the world of purchasing a house or renting a home or staying in your home.

I can attest to how important the housing counselors were when I used to be a first-time home buyer lender and I sent all my clients to housing counselors. And it really did make the difference of them being able to stay in a home and not lose their home. I'm going to provide a lot of information today in a very short period of time. So please put your questions in the chat. Hopefully, we can answer them in the question and answers afterwards. And to begin, I just want to talk about the definition of "disability" and the definition that HUD uses for housing.

This is different than from other organizations like Social Security. Their definition is about age and then it also has other factors in it. The definition for fair housing means that an individual with a mental or physical impairment that substantially limits one or more major life activities. And those major life activities are seeing, hearing, walking, breathing, performing manual tasks, caring for oneself, and learning. And they do need to meet each one of these. So that is different than some of the other ones.

And if they don't meet this definition, then they don't fall under the protection of the Fair Housing Act. Then there are three different acts that really protect the fair housing or people with disabilities. And I'm going to go over each one of them. Again, the Fair Housing Act prohibits discrimination in housing and housing-related transactions. And those transactions can be real estate. It can be lending. It can insurance, appraisals, as well as rentals. And it's in all types of housing -- it's not just federally-financed housing. It is also private housing.

And I don't know how many times I have talked to a housing provider, or even a homeowner that's selling their house and they're saying that they don't fall under the Fair Housing Act. They don't have to follow the requirements because they don't have any federal financial assistance. But since 1968, they do have to follow those requirements. And then the Americans with Disabilities Act of 1990 is the one that most people think about and know about regarding persons with disabilities. And really it doesn't have a lot to do with housing.

There are a few things, but it mainly protects people with disabilities in places of public accommodation, including employment and transportation; and some housing. Because if you have an activity like day care that's in a housing project that's open to the public, that is covered

under the ADA. Housing authorities are covered. There are some state and local agencies that housing programs are also covered under ADA. But a lot of times they're under the ADA as well as Fair Housing Act. And even the third one, which is Section 504 of the Rehabilitation Act, which is [inaudible] that's discrimination. It really is all about disability.

It prohibits discrimination based on both programs and activities, as well as physical accessibility. So a person that has federal financial assistance and has a program at their housing complex also has to make sure that they're accessible. And then just a little bit about physical accessibility, which is so important. And I will talk about the Fair Housing Act too. But with Section 504, it's full accessibility. So a new construction, there has to be a minimum of 5 percent of the units in the project, or at least one, that are fully accessible for a person that has mobility impairments; and an additional 2 percent for units that must be accessible for individuals with sensory impairment, which is vision and hearing impairments.

It also covers rehabilitation housing -- usually for 15 or more. But there's also a difference between substantial, rehab, and then just regular rehab that they actually need to make the units fully accessible. So now I'm just going to talk a little bit more about fair housing protections, things that people can't do if you're a member or any person associated with a person with a disability. You can't discriminate in the sale or rental. And that seems like that would be something that someone wouldn't do. But it does happen.

They may talk to someone on the phone and then they find out that they are a person with a disability, and then all of a sudden they say that it's not available. And that goes into my next one. They make it unavailable and then this denies the person full access to all types of housing. Or they might not even negotiate with a person; especially this can happen a lot in home-buying if they don't want -- I heard someone tell me that they didn't want to have a ramp put on the front of their house even though they were selling it. So they refused to negotiate with that person.

So there are a lot of reasons. And then, also, this example that we have here -- it says director refused to lease to a tenant because they were concerned for their safety. And really that safety is usually the person is afraid of that person, because they may have gotten an application in their past place that they were residing was in a place that serves mentally ill. So they believe that that person may cause a problem or won't be safe, and that either them or their office members or their tenants won't be sent because this person has a mental disability.

So additional protections are discrimination in terms and conditions or privileges of sale or rental. And what that really means is if a person has a disability, they can't charge extra for deposits or having a cosigner or things like that. And the same for provisions of services and facilities -- every service and facility must be accessible to a person with a disability. You cannot deny access to any of them. And you certainly can't refuse to provide a necessary reasonable accommodation, which we'll be talking about later.

This example on the slide is a leasing office doesn't fix a door. And the door is too heavy. And the automatic button is broken. And they must fix it, because that makes it so it's accessible to that person to either come in and maybe lease, visit somebody, or actually get to their unit and use all the common areas. So it's so important that things are not left broken. Another one is

there are reasonable accommodations, and then there are reasonable modifications. And a modification is there to assist a person that may need a change.

They may need to have a ramp installed. They may need to have grab bars installed, or have a cabinet taken out from under a sink in the kitchen or the bathroom so that they can use the property and their unit just like everybody else. The example here is that a person with a disability has a unit that has a couple of steps there going into the unit and they need to install a ramp. And the housing provider, the landlord, must allow that ramp to be installed so they can use that property and get into their unit just like everybody else.

There also could be a ramp at the back door so they can use their patio or their balcony. It's a variety of different things for reasonable modifications, which we'll talk about in a few minutes. And now I'm going to talk about not really the failure to design and construct, but I'm going to talk about the design and construction accessibility requirements under the Fair Housing Act. Developers do need to make housing accessible under the Fair Housing Act just like they do if they get federal financial assistance.

They need to make it accessible under Section 504. But with the Fair Housing Act, it applies to multi-family properties designed and constructed on or after March 13, 1991. And it's 4 units or more. So if a property has 4 units or more and they need to make the property and the common areas accessible, as well as the units, what we call, "adaptable" because they're not fully accessible. And they also have 7 basic requirements that I'll talk about next.

The 7 basic accessible design requirements are accessible entrances and accessible routes; accessible and usable public and common use areas; usable doors, which means that a door when it's opened 90 degrees has to have 32 inches clear between the face of that door and the doorstop -- the little part that sticks out from the door; accessible route into and through the covered unit. I don't know how many developers I talked to where they told they didn't need to make all of the bedroom doors accessible or the same size. I'm not quite sure why they would do that.

I would think it would be cheaper to make everything the same. But light switches, outlets, thermostats, and then other environmental controls can't be any higher. The on switch can't be any higher than 48 inches. And the electric plugs can't be any longer for the bottom plug than 15 inches off the floor. There have to be reinforced walls for grab bars to be installed later around the toilet, the bathtub, or in the shower. And then, of course, there needs to be useful kitchens and bathrooms.

Useful kitchen -- you need to be able to enter it. It has to be wide enough so you can enter. And then you need to be able to center on all the appliances -- the sink, the stove, the refrigerator, the dishwasher. And then also have a turnaround space, whether it's a T-shape or a 60-inch turnaround. And then in the bathroom, you need to be able to open the door, go in, shut the door, and then be able to center on the sink, and then be able to use the toilet and get into the bathtub or a shower.

These are all very important design requirements and accessibility requirements for a person. And a lot of times a person with a disability, or anyone, they walk into for housing accessible

unit, and it looks like everybody else's. And they really need to know that it is adaptable, that that sink can be lowered. It can be taken out. So they can roll under it. The grab bars can easily be added, and that they can add a variety of different accessible features so that it's useful and helpful for them.

Also, under the design qualifications for both fair housing and Section 504, you need to know that it's also not just for housing itself -- it also is for offices. As a housing counselor, your office should be accessible. Someone should be able to get into your office, either through the door or into the entrance. And a lot of times -- I even did a presentation once where I walked in. I did the presentation. When I walked out, I went, oh. There was a small step. It was probably like 4 inches. And I didn't notice it.

I immediately went back in and asked if there was another entrance available that was accessible. And there was not. And actually, one of the employees was in a wheelchair. And I asked him how he actually got into the office. He said he did wheelies. So you really need to make sure that it's accessible. And I know we're in a day and age now that a lot of times people aren't using their offices. We are doing everything virtually, like we are having this conference. So you need to make sure that your website is accessible, that when you do presentations it's accessible.

Also, you need to be cognizant that sometimes people don't have computers and they may need to have you call them. And there may be a hearing problem or a vision problem. And you might need to send information in larger print or provide it in an alternative way. So there are so many different things that have to go with making sure that a person has access to all the services and programs and physical access to get into a property.

Now I'm going to talk about reasonable accommodations and modifications. And this is one of the most -- in our fair housing complaints, we get the most complaints based on reasonable accommodations and modifications. So this is another topic that is so important to understand and to know about and to really help your clients to make sure that they receive their reasonable accommodations and modifications so they can access housing just like everyone else. What is a reasonable accommodation?

Pretty much it's a change, exception, or adjustment to a rule, policy, practice, or service which may be necessary to allow a person with a disability to enjoy that property, dwelling just like everybody else. Next slide. And here are some examples of reasonable accommodations -- aid in filling out housing-related documents. And this is another one that is so important. I think that housing counselors could help a lot to make sure that a person with a disability understands the documents. It's in large print so they can read it, or that they can know how to send it in through the computer.

Again, a lot of persons may not have access to a computer, or they may not know how to use a computer. So filling out those papers is so important. Also, it could include person with a disability moved in didn't have a disability, or their disability's getting worse and they need now to move to a first floor so that they can access their unit. They no longer can climb up the steps. Also, allowing a tenant to pay rent when their SSDI check arrives, which may not come on the

first. It may come on the third or the tenth. And that's a reasonable accommodation to allow them to pay later.

Then there are two common reasonable accommodations -- accessible parking and assistance animals. With accessible parking, this used to be -- and it still is to a certain extent -- one of our bigger complaints that are filed. There must be accessible parking spaces or handicap parking spaces. What that means is there has to be a sign that's mounted in front of the space. There has to be an access aisle that's next to the space. There needs to be accessible parking spaces at the leasing office, and also throughout the complex so a person can access those.

But one of the biggest problems is -- there also needs to be a curb cut so that at the top of the access aisle, usually, so if they're in a wheelchair they don't have to go out into the road or into the parking lot in order to access the sidewalk. One of the bigger things we have found with this is that a lot of times housing providers have unassigned parking. And they think that they need to treat everyone the same. So they immediately say when someone requests a dedicated accessible parking space that they can't allow it. So, of course a fair housing complaint is filed.

But parking spaces are one of the easier things to do. A person with a disability may not be able to walk very far, so they need to have that closer space next to their unit or entrance to the building so that they can get into their property as fast as possible. And if the person has a disability and a disability-related need, then the parking space should be easily approved. And then our next one is assistance animals. Assistance animals -- out of the reasonable accommodations, disability is one of the major complaints that are filed.

And then with this, reasonable accommodations for assistance animals is also a large number. We receive the most questions on this. And most of our complaints are filed on assistance animals. And it's because assistance animals are not pets. And a lot of landlords want to treat them as pets. In most of my presentations, I make the audience repeat after me and say, "Assistance animals are not pets." And these animals can include both service animals, emotional support animals, as well as comfort animals.

And they also are not just dogs -- they can be cats, birds, fish. They can be iguanas, tarantulas, even snakes. It really depends on what the person needs for their assistance, because it is an assistance device. It really helps that person be able to live in that property just like everybody else. It helps them either stay on their medication. It may help them to get out to walk. It may help them to get up in the morning and go to work so that they can make sure that they can stay in their apartment and be able to do everything like everyone else.

And a no-pet policy definitely needs to clearly state that the policy does not apply to assistance animals. And even if there is a pet policy, it should state that it doesn't apply to assistance animals. Because a lot of times housing providers want to put on weight, breed, number, and size limitations on assistance animals. And you can't, because it really depends on what the person needs.

And that seeing-eye dog or hearing dog may be bigger. They usually are German Shepherds or another breed. And they are heavier. And they are actually bigger than normal. Also, in some

cases, you might even have a miniature horse. They are very good for persons with vision impairments. And that's not a pony -- it's a miniature horse, which is usually smaller than a larger dog. Also, they can't have a number limited on there, which means a person may need to have an animal that helps them walk. And then they may have an animal that detects a seizure.

So with assistance animals, there are so many qualifications and so many things that housing providers want to put on and limit the assistance animals that they really shouldn't do. The big thing is it is a reasonable accommodation. The person should ask for it as a reasonable accommodation, and get approval for it. So a reasonable accommodation example -- can a landlord charge an extra fee or an additional deposit or insurance for applicants or tenants with a disability as a condition of granting a reasonable accommodation? Next slide.

And the answer is no. Absolutely not. Again, a person with a disability should not be charged an extra fee. A person contacted me and they wanted to make a person have insurance and charge an extra fee because they were afraid that the wheelchair was going to cause damage. And absolutely, a housing provider can charge a person after damage has happened -- but not before. And there shouldn't be any extra fees ahead of time just because a landlord or a housing provider is speculating that there may be damage.

And what is a reasonable modification under the Fair Housing Act? Pretty much, again, it's that structural change that needs to happen for a person to fully enjoy their other premise. Here are some examples -- widening doorways to make it more accessible for a person in a wheelchair to get into that unit. Installing grab bars in the bathrooms and the toilet and in the shower or the bathtub. Lowering kitchen cabinets so that if you're in a wheelchair, you can actually use the cabinet and use the sink.

Also, being able to take the cabinet out so you can roll under the sinks. Adding a ramp to either the primary entrance or the back entrance, like I said earlier. And altering a walkway to make sure that you can access all the public or common use areas. Or even in some cases we've had where a laundry room is downstairs and a person can't access it. So then a ramp has to be added so that they can actually get to the laundry room and use that service.

So who pays for the modification? Under the Fair Housing Act, it's the person making the request that pays. If they request to have a ramp put in, then they have to pay for that ramp. The exception is if a property has federal financial assistance -- and that includes housing authorities. And there can be project-based vouchers that are in a property where the housing provider pays for these. With a reasonable modification, does the tenant have to remove that modification? Again, under the Fair Housing Act, they might when it's reasonable to do so.

So if the door was widened, you wouldn't want to make that change back to a smaller door, as well as with grab bars. It really doesn't affect the next tenant. And also, it doesn't have to be removed if it's in the common area. Like I said before, if the ramp was put in so a person can get from one room to the other because there are steps. But if there is a ramp in front of a dwelling unit, then the tenant would have to pay to have that removed.

How do you access an accommodation or modification request? Reasonable accommodations must be asked for. They can be in writing or oral. Landlords -- they can ask for it on a landlord form. And landlords can have a form or a form for both the request, as well as the verification. And then there can be some documentation that's requested. I just want to say one more thing about the oral request. And a lot of landlords, they'll say that they'll have someone help that person fill out the application, which is fine. But really once someone asks it orally, that is a reasonable accommodation. A person must then start analyzing it to either approve or deny.

And if they don't, it can be a denial, and it can be a fair housing complaint. So what does a landlord or housing provider do to actually assess the accommodation and figure out if they need to approve it or not? They begin with a simple question -- does the person have a disability? Do they meet that definition? Do they have a major life activity that's affected? And is there a disability-related need for the accommodation? And then what types of questions are landlords allowed to ask regarding the disabilities?

This is always a big one because landlords may ask too many questions. And then they may ask what type disability and that sort of thing. So landlords [can't?] ask for verification of disability if it's not an obvious disability. But they may not ask again for specific diagnosis, the type of disability, the nature and severity of that disability. And they can't make the person use a form. They can have a form, but they can't require the person to submit that form or have the verifier submit the form.

It's perfectly fine for a person to write a note, ask orally, or have that verification come in on the doctor's letterhead or the therapist's letterhead and that sort of thing. And also, if a disability is obvious, then you don't have to do any more. So if a person in a wheelchair needs a closer parking space, you already know there is a disability and a disability-related need. So you approve the reasonable accommodation. And if it's not obvious, a disability-related information can be requested.

So they can verify that the person meets the definition and describe the need of the accommodation and show the relationship between the person's disability and a requested accommodation. And this is usually done by a doctor, a health care provider, a therapist that knows that person and knows what their disability is and their disability-related need and what type of accommodation and modification they need. And a disability can be verified by a person may have SSI or SSDI -- again, that third-party. It can also be a reliable third-party.

Like I said, anybody who knows that person has a disability and a disability-related need. And usually the requester should be the one that provides provides that information. Once a landlord has documentation, they should approve it as quickly as possible and not hold it up. And especially with assistance animals, if a person brings in an assistance animal and you ask them to remove an animal because you think it's a pet and then they say it's a reasonable accommodation, you immediately need to start that process and approve that assistance animal as soon as possible, and not have that animal removed.

But there are some reasons why you can deny an application. And one is undue financial administrative burden, which is made on a case-by-case basis. And it's not just based on a

landlord saying, oh, it's too expensive. I've heard housing authorities and housing providers tell me that all the time -- oh, we can't possibly put in a ramp because it's too expensive. They can't just say no. They need to do an analysis of how much the reasonable modification is going to cost and then base it against what their financials are.

And then if it's too expensive, then they need to try to find another alternative. Another one is fundamental alteration of the nature of the provider's operation. An example of this is that a person asks to be taken to the store each week. And of course, the housing provider doesn't provide that. But they may know of other services that do that and they can provide that information to the person so they can get to the store each week. Direct threat to health and safety -- again, determined on a case-by-case basis.

And it needs to have evidence regarding that as a direct threat to health and safety. It can't just be a perception that something is harmful, especially for restricted breeds. A person might have a pit bull. So you can't just say it's a direct health and safety hazard because that person has a pit bull. Pit bull may be very calm, may be doing everything it needs to do. It's under control and there isn't a problem. But if it does become aggressive toward others, then communication is always key.

You need to talk about it, see if there's a reasonable accommodation that can help to make sure that there isn't a direct threat. And then allow that person to keep their animal, because it's so important for assistance animal and for a person to keep their assistance animal to help them do everything that they need to do. Again, that direct threat needs to be based on evidence. And then enforcement -- HUD is the enforcer under the Fair Housing Act, under certain ADA requirements, as well as Section 504. These are what we can do.

HUD investigates a claim. A person files a fair housing complaint. And then HUD investigates it and we either determine if it's cause or no cause. And really what we ask from the housing counselors is to really let the person know their rights, that they can file that complaint. And in some cases, if you can help them file a complaint -- especially if it's online and they need additional assistance -- please do that. This is how you can file a complaint. You can do it online.

And it's in different languages, especially English or Spanish. You can email. You can download a form. It, too, is also in a variety of languages. And it can go to a local office. And on the phone call, you can call the 800-number or look on the list and call your local HUD office. Or it can be mailed. You print out the form. And it can be in different languages. And it gets mailed to your office.

Karen Hoskins: That was a lot of great information, Michele. Thank you so much. We want to check in and see if our audience has been keeping up with all of the great information that you shared. So we have a couple questions to pose to our audience via Mentimeter. The first one is Michele talked about the various acts that have implications for persons with disabilities. Which Act has protections that also cover employment and transportation?

Which of those Acts that she talked about -- Fair Housing, ADA, or Section 504 -- which one has implications for both employment and transportation? It looks like everybody is weighing in that

it's ADA. Great. Our folks are paying attention. Wonderful. Okay. Next one -- properties constructed after March 13 -- what year is that? -- must include accessibility in their design. This is a fill-in-the-blank. Okay. Our audience is paying -- great job, Michele! 1991 -- yes. That's the correct answer. March 13, 1991.

Are assistance animals limited to only dogs? No. They are not. We heard that loud and clear. It does not have to be a dog in order to be considered an assistance animal. And can a landlord charge a tenant for a reasonable modification? We're getting a lot of responses that say, it depends. Since the response here is it depends, any comments you want to make, Michele, about this particular one and why the appropriate response is it depends?

Michele Hutchins: Right. That's what happens a lot of times in fair housing is the answer is it depends. So that's why it's so important to get as much education about it as possible. But in this case, it really depends on who financed the property. If it's federally-financed, then the property owner or management company pays for it. And if it's a private housing development, then the tenant pays for it.

And this also includes housing choice vouchers are not considered federal financial assistance because they're renting -- the landlord isn't the one receiving the assistance. So if a housing choice voucher person goes out and rents, they have to pay for their accommodation. But if they are in a federally-financed property or have a project-based voucher, then the housing provider pays for it.

Karen Hoskins: Okay. Great. Thank you for that. And then we have one more question. Can a landlord ask about the nature or severity of someone's disability? Okay. The answers are continuing to come in. And I believe we have consensus that, no, a landlord cannot ask about the severity of someone's disability. So our audience is definitely keeping up with all this great information. So thank you for that. We have got a number of questions through the chat, Michele.

There's a real interest in this whole issue of service animals and how some of that should be managed. There were a number of questions on the service animal issue, so I want to try to get to some of those if you could provide some answers for that. Here's the first one -- if a tenant failed to notify the landlord of having an assistance animal and the landlord later became aware, can the tenant still be protected from eviction for a lease violation?

Michele Hutchins: Yes. They can. As soon as the landlord discovers the animal or finds out about it and then asks the person, do you have a pet because this is a no-pet place? And they say, oh, no. This is my service or my assistance animal. Then that really is them asking for a reasonable accommodation. And the reasonable accommodation process should start. So they've asked.

Then if they need to verify that -- which most of the time they do need to verify that the person has a disability and a disability-related need for that assistance animal -- they go through the process. But it should be as quick as possible to make sure that the person gets approved for the reasonable accommodation.

Karen Hoskins: Okay. Great. And then this participant says they understand the difference between a service animal and a pet. But they're curious about the reference to the limitation on the number of pets that an individual can have. For example, if someone says they need to have 16 cats in their property, would that fall out of the "reasonable" category?

Michele Hutchins: It does fall out of the reasonable category. If a person has more than one animal, they have to go through the process. And there needs to be a disability-related need for each one of those animals. Like in my example, there may be a person that needs to have a dog that helps them walk and keeps them steady as they're walking. And then there may be a cat that actually detects seizures. There could be more than one person in the family that has a disability and they each have to have a different type of animal to help them with their disabilities and do all the services that they need. I'm not quite sure if they'd be able to have 16 different disability-related needs for them.

Karen Hoskins: Okay. Great. Thank you. And then this'll be the final one I'll ask right now regarding service animals, and then we'll move on to some of the other questions. Can the landlord request any medical proof of the need for an assistance animal?

Michele Hutchins: They can't ask for medical proof, because that's type of disability, severity and that sort of thing. But they can ask for verification that the person has a disability and a disability-related need for needing that animal and that the animal is going to assist them in the day-to-day living. Just they can't ask that specific medical. I do know that a lot of doctors and health care providers do send that information. And I just let landlords know that they really should either keep that in a separate area and not in their files, or destroy it and then just document that the person has verified that they needed the assistance animal.

Karen Hoskins: Okay. And this person is just asking for clarification on did you mention that individuals who may be selling their homes are also liable under the Fair Housing Act?

Michele Hutchins: Yes. Absolutely. All housing transactions are covered under the Fair Housing Act -- whether you're buying or selling, the real estate person is the insurer, the appraiser -- all types of housing transactions.

Karen Hoskins: Okay. Great. And this one I thought was really interesting. This participant wants to know what the appropriate terminology or phrasing that should be used in collateral materials when referencing people with disabilities and impairments. You know, in an effort not to be condescending, or anything like that, is there recommended terminology or phrasing that should be used in reference to this population?

Michele Hutchins: Usually, putting people first -- so it can be persons with disabilities, individuals with disabilities. And then also, we always use mobility impairments, vision and hearing impairments, those types of words. I'm not exactly sure. If they could put more information of what they are looking for in the box, I could provide maybe some documentation or something for them. But usually it's just putting people first.

Karen Hoskins: Okay. That's a good guiding principle. Great. And for subsidized housing, are managers able to ask an applicant if they are able to care for themselves? Someone, they recognize they have a disability and they ask the question, are you able to care for yourself? Is that appropriate?

Michele Hutchins: They shouldn't. It's not an appropriate thing to do. I know that a lot of managers get to know their tenants. And especially if they know they have a disability, they want to help them. But really with a reasonable accommodation, person needs to ask for that accommodation. Again, I know it gets hard, especially in senior housing where people may start doing things in the apartment like leaning on the stove or burning up the microwave, that you really want to ask if they can take care of themselves.

The only way to do that is really doing lease violations and then talking about it during the lease violations. And hopefully, during that time, then the person can realize they may need additional help, which they can get as a reasonable accommodation. And they can bring someone in to help them with cooking and cleaning and that sort of thing. But really they can't ask if they can live independently.

Karen Hoskins: I see. Okay. Here's another one -- what is the timeframe for repairs to a property? For example, someone gets a new wheelchair, which is wider than the previous one they had and it doesn't fit through the door any longer. How long does the landlord have to make a repair like that?

Michele Hutchins: I'm not quite sure if they're asking if they want to widen the door, or if they need to make a repair to the door.

Karen Hoskins: I think they want to widen the door. It would require widening of the door.

Michele Hutchins: Okay. There isn't a specific timeframe, but they need to do it as quick as possible. So the person would go through the reasonable accommodation request, ask for it. With a wheelchair and widening the door, they wouldn't have to get someone to verify they need because they already know that. And then they should try to get someone in as soon as possible - - 10 days, 15 days. It really depends. There could be other things that come up that may take a little bit longer to get parts or something like that, but they should try to do it as soon as possible.

Karen Hoskins: Okay. Great.

Michele Hutchins: We don't have a specific date in the regulations.

Karen Hoskins: Okay. Here's another interesting one. I believe this is on the issue of reasonable accommodation. This question is in reference to multi-family structures where there may be multiple levels. Maybe it's a townhome or something like that. And there's a set of stairs going up, set of stairs going down. How can a building like that comply with laws about disability access?

Michele Hutchins: Okay. If it's under the Fair Housing Act -- so it's a private building -- two-story or more townhomes are actually exempt from the Fair Housing Act, so they don't need to make those modifications. They only need to make it accessible if they actually include an elevator in that building. But a person still can ask for a reasonable modification. And hopefully, the stairs are wide enough that they could put in one of those chairs that would allow them to go up and down the stairs.

Under federal regulations, they would have to make it accessible. They would pay for putting in the chair to go up and down. Not necessarily an elevator, because that could be pretty expensive, but some type of alternative to make sure that it's accessible. But in the beginning, you would hope that under federal financial assisted properties, they wouldn't make a unit that's not accessible.

Karen Hoskins: Okay. That's helpful for sure. And what if the home or the office building is an older property and the layout of it won't allow modifications to the building or the home? It's old and modification doesn't make sense for whatever reason. Is there an exemption possible on modifications given the set of circumstances like that?

Michele Hutchins: If it's federally financed and falls under Section 504, they actually need to make it accessible to the maximum extent feasible. Let's say, they may have to widen a door so a person can get into the property, but they may not be able to access all aspects of it. The bathroom may be smaller, so they may use a smaller grab bar instead of a larger one. Or they may have to change out the sink and that sort of thing, to the maximum extent feasible.

Under the Fair Housing Act, if it's older than the March 13, 1991 building, then it doesn't have to be -- there aren't any retrofits to the Fair Housing Act. It just goes from 1991 on. Again, a person could ask for a reasonable accommodation, too. And it usually would be to the maximum extent feasible. And the person would have to pay for it.

Karen Hoskins: Okay. That's great info. All right. And what if there are a lot of disabled individuals in a building and all of them are requesting special parking spaces and there's limited parking? What are some of the implications there? What do you do in that situation?

Michele Hutchins: I know. It gets harder when there's limited parking. And I know this happens a lot in senior buildings, is that a person wants to be closest. The first thing they do is communication again. See if someone will switch spots so that they are closer to their unit. Sometimes a person with a disability may just need the dedicated parking space so they can use that and be closer. And they don't need the access aisle. And the other thing is then they would have to do a wait list like first come, first serve. And then they would have to wait for having an accessible space. And it's hard when there's limited parking.

Karen Hoskins: Okay. Thank you for that. We're continuing to get questions about service animals, so let's go back.

Michele Hutchins: We always get that. In all of my presentations, I have to save time for assistance animals because they are the number one question.

Karen Hoskins: Okay.

Michele Hutchins: Housing counselors, you need to allow service animals in your offices.

Karen Hoskins: Okay. I think you mentioned in your presentation, you used the example I believe, about a pit bull and the potential that that animal could potentially be aggressive. The question is, what if property insurance -- I'm assuming this is the property insurance on the building -- will not allow pit bulls on the property? And it could be a very sweet pit bull who has no history of aggression.

Michele Hutchins: There are a lot of insurance companies out there that do have that clause, unfortunately. And what we say for the property owner or property management company is to really check and see that. And then let them know that this is a reasonable accommodation. It's not a pet -- it's actually an assistance animal. And that insurance company should provide a reasonable accommodation just like the housing provider does.

We had a case in Denver -- it's not specifically that -- there was a ban of pit bulls in the city. So they actually had to ask a reasonable accommodation of the city to allow that pit bull. It took a while, but it was approved. The insurance company really should. And if they won't do that, I would hope the housing provider changes insurance to one that would. But if not, let HUD know. And then we will have Department of Justice look at that insurance company.

Karen Hoskins: Okay. Great. Let's see, what else? What documentation is needed to prove that the person with the disability is in need of an assistance animal? I think that this person may just want to know in general what documentation is required.

Michele Hutchins: Okay. Really it's just getting that verification from a third-party -- a doctor, a health care provider, a therapist who knows that person has a disability and believes that the assistance of an animal is going to be what they need to either help them with taking their medication, getting up in the morning, going out and exercising. And they know best what the person needs. And in this case, instead of having medication that's helping them, they believe that an assistance animal is helping them.

And then all they really need to say is that the person has a disability and has a disability-related need for that assistance animal. There's not a whole lot of documentation. I mean, it can come on a letterhead from the doctor, or even the landlord's paperwork. But paperwork for landlords, we're always talking to them, especially in program compliance about how they can have it. But they can't make a person and they can't deny the reasonable accommodation because they are not using their paperwork to request a reasonable accommodation or get a verification on it.

Karen Hoskins: Okay. And just to clarify -- we talked about this issue of insurance just a minute ago -- but just to circle back to that one a bit, can a landlord use the fact that their insurance will increase as a reason for denying an assistance animal?

Michele Hutchins: They could. But they really need to go through the process of asking the insurance company and either them or the person with the disability to ask for a reasonable accommodation from the insurance company. Because it's not like having pets with restricted breeds. This animal is an assistive device just like a wheelchair, and they shouldn't be treating it like it's a pit bull. It's an assistive device, so they should grant that reasonable accommodation as an insurance agency. It's kind of one of those depends questions. I would really go through the process first just in case so that if you do get a fair housing complaint filed against you --

Karen Hoskins: Okay. We'll make this our last question too, Michele. This has been great information. Again, on the assistance animal issue, if the assistance animal has caused damage to the property and it's clear that there's been wear and tear on the property as a result of the assistance animal being there, who is responsible for those repairs?

Karen Hoskins: It's the tenant. The tenant pays for those repairs. If they have chewed the wood or broken a cabinet or damaged the carpet, definitely, it is the tenant that pays those; just like if they or another member of their household had damaged a window or cabinet or something like that. The tenant definitely can do that. All we ask is that they don't ask for the assistance animal to be removed. And what I always say in my presentations is that it is the tenant that signs the lease. There aren't any paw prints on the lease, so they don't evict the dog -- they evict the person, if it comes to that.

And they can do that, but just like any lease violations or any type of process, communication is so key. And a person might get another reasonable accommodation to make sure that they have the animal taken out so that those types of things don't happen or other things that they can do so the animal stays under control and is not aggressive so that they can keep their animal. But I can't say enough how important assistance animals are and how they change the lives of a person with a disability and how it makes it so they can live in any apartment in any situation.

Karen Hoskins: Okay. Great. Well, Michele, thank you so much for sharing your expertise with us today. I think we all learned a lot. For our audience, there are any number of resources available on the topic of assisting persons with disabilities. Here you have a list of them. Again, just as a reminder, this presentation and all of this information will be available on the HUD Exchange for your reference. Here we have a number of resources listed.

In addition, we've also listed here the websites for the Office of Housing Counseling and the Fair Housing Equal Opportunity Office should you need to contact them. You can also submit to that email address. We encourage you to continue this conversation on Whova on that issue of assistance animals. If you want to continue that conversation on Whova, please do so. If we didn't get to your question, we have noted it. And we'll make every effort to provide you with an answer during the conference at some point. So thank you.

There were some great questions that were submitted, so thank you to our audience for submitting such great questions. We really appreciate -- Michele, thank you again for your presentation. We want to thank our audience for attending today.

I want to encourage everyone to stick around. This is just the first session for today. We have another one coming up, our next session in 30 minutes. That one is LGBTQI+ Protections under the Fair Housing Act and in HUD programs. Thank you, again, to our audience.

And that's going to conclude this session for today. Thank you so much, and everyone have a great afternoon.

(END)