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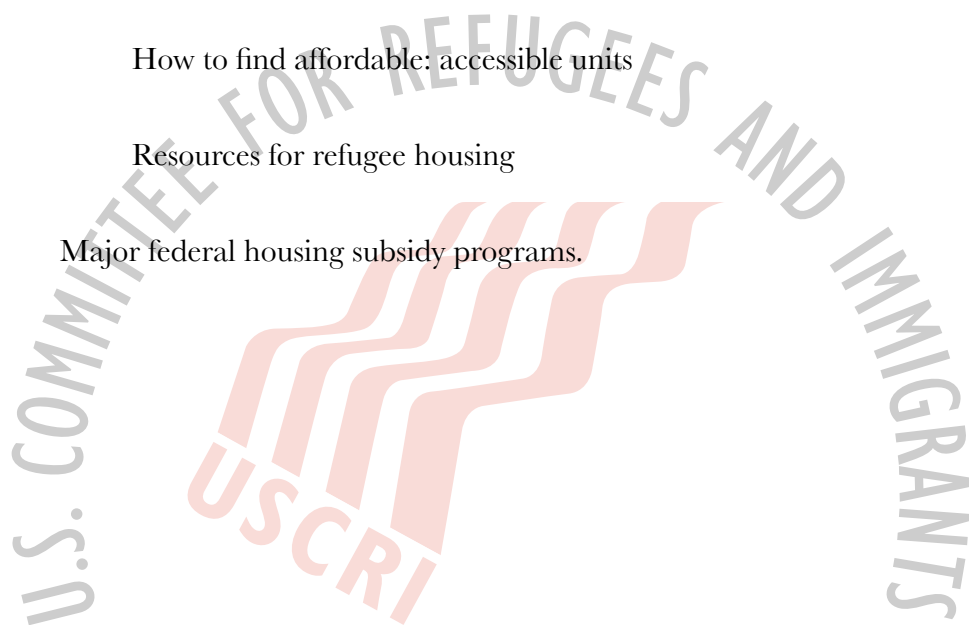
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HOUSING FOR PEOPLE WITH DISABILITIES

According to a report to HUD in 2004, disability discrimination has become the one of the most common types of fair housing complaint since discrimination based on disability was added to the Fair Housing Act in 1998.¹

Securing quality, affordable housing is important to establishing life in a new country. Unfortunately, in many housing markets across the United States, finding high-quality, affordable housing is difficult even for many native-born Americans without disabilities. In addition to the general challenges in the current American housing market, refugees with disabilities often face a number of unique challenges including:

- They tend to have more challenges in finding employment which makes it difficult to meet the income guidelines for rental housing
- Many of the accessible units are small studios or one-bedrooms, unfit for accommodating large families
- Some accessible units have age requirements and other restrictions that may prevent families from living together.
- They may not understand the system of laws designed to prevent housing discrimination.



Included in this chapter:

- ☑ Housing terminology
- ☑ Laws that protect refugees with disabilities from housing discrimination
- ☑ Federal legislation enacted to promote accessibility of housing
- ☑ Rights and responsibilities involved in adaptive housing modifications
- ☑ How the rules and regulations apply in the real world to help refugees with disabilities locate affordable, accessible housing.
www.hud.gov/offices/fheo/library/dss-download.pdf

Housing Terminology:

U.S. Department of Housing and Urban Development (HUD):

The department within the federal government with the mission of increasing access to affordable housing, supporting community development and increasing homeownership. HUD has many programs to meet its goals, including administration of a variety of housing subsidies and maintaining its Office of Fair Housing and Equal Opportunity (FHEO). Learn more about HUD's programs to help both renters and homeowners at www.hud.gov.

Subsidized housing:

Housing in which tenants pay less than the fair market rent (FMR) because the balance of the cost of the housing unit is made up through financial assistance from the government or other entity. People who meet household-income guidelines are eligible to live in subsidized housing.

Public Housing Agency:

The PHA's receive federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the Housing Choice Voucher Program. The PHA's provide localized public housing assistance, including housing rehabilitation and home loans.

1. Turner, M.A. et al (2004). "Discrimination Against Persons with Disabilities: Barriers at Every Step"

Public housing:

Housing owned and operated by a public housing agency (PHA) and for rent by low-income people. Established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities, public housing comes in all types and sizes, from scattered single family houses to high rise apartments for elderly couples and the disabled.

State Housing Finance Authority (Agency) (HFA):

A state agency which is responsible for the financing of housing and the administration of subsidized housing programs. HFA's usually have housing search engines to locate housing subsidized with low income housing tax credits (LIHTCs) and publicly administered property-based subsidized housing programs. You can find your HFA by going to <http://www.ncsha.org>

Section 8:

A federal, subsidized housing assistance program for low- and very-low income households, typically administered by public housing agencies/authorities. Under this program, HUD pays a landlord the difference between 30% of a family's adjusted gross income and the HUD approved fair market rent (FMR) for the area. HUD habitability standards apply. There are two types of Section 8 subsidies.

Housing Choice Vouchers:

A family applies for a voucher through their PHA. Some local PHAs designate vouchers for certain populations, like large families or people with disabilities; contact your PHA to find out about local preferences. If approved for a voucher, the family selects from the open market a property inspected and approved as meeting basic habitability requirements. If the family chooses a unit that rents for more than the FMR, the family makes up the difference between the FMR and the rent charged in addition to their 30% of income rent contribution. Housing Choice Vouchers are portable—that is, they can be taken to another property or even out-of-state. However, holders of vouchers must submit income verification annually to remain qualified.

Project-based Section 8:

Under this program, some or all of the units in a housing development are approved for Section 8 subsidies. Occupants of those units must meet the income requirements. Property owners receive rental assistance payments for specific units designated for households qualifying for Section 8 assistance.



ANTI-DISCRIMINATION LAWS

Despite the many challenges in finding housing, there are also several tools to assist refugees with disabilities find and keep housing. The first tool is a set of laws to protect refugees with disabilities against housing discrimination. To be an effective advocate for those you serve, it is important to know the basics about housing and disability laws.

Two primary federal laws protect the housing rights of people: Title VI of the Civil Rights Act of 1964 and the Fair Housing Act.

The **Fair Housing Act** covers almost all housing units, including privately-owned housing, housing that received federal assistance and housing owned by state and local governments. The Fair Housing Act protects people from discrimination on the basis of race, color, religion, sex, familial status, disability or national origin. The US Department of Housing and Urban Development (HUD) enforces this act.

Similar to anti-discrimination employment laws, *the Fair Housing Act restricts landlords from differential treatment based on a person's disability*. A landlord is allowed to ask certain questions, as long as all applicants are asked the same questions. These questions may include information about a person's income source, their

rental history and credit history. A landlord may make decisions based on these established income guidelines, just as they would any other applicant, but they are not allowed to deny a person housing based on their disability. A landlord is not allowed to ask questions like, “What’s wrong with you?” or “May I see your medical records?” or inquire as to how a person’s disability affects their functioning, even when a person’s disability is obvious, such as when a person is missing limb or is blind.



WHAT IS DISCRIMINATION IN HOUSING?

If you work in the housing field, you may be familiar with housing laws but may not be aware of what discrimination sounds like. Below, a few examples are provided:

- 1. Example:** “I don’t want someone with a mental handicap living in my building.”

A landlord cannot refuse to rent to someone because of a disability.

- 2. Example:** “You would be much happier living near all the other folks with disabilities in our complex.”

Landlords are not allowed to make false statements about housing not being available when it is, require an extra deposit from someone with a disability or restrict a person with a disability to living on a certain floor or section of the property.

- 3. Example:** “We do not allow pets in this building.”

A landlord may not refuse to change the no-pets rule to allow a service dog for a tenant with vision loss

or prevent tenant to make reasonable modifications to a unit—at the renter’s expense—to accommodate a disability. A landlord must allow reasonable changes in rules, policies, services or practices, when these accommodations are necessary to allow a person with a disability an equal opportunity to use and enjoy the housing.²



HOW TO ADDRESS DISCRIMINATION:

If an individual believes they have been a victim of an illegal housing practice, they may file a complaint with the Department of Housing and Urban Development (HUD) or file their own lawsuit in federal or state court. You must file the complaint with HUD within one year of the incident you believe to be housing discrimination. If you choose to file your own lawsuit in federal or state court, the Act requires that you do so within two years of the incident.

To locate a private or government agency near you who assists with housing discrimination, go to National Fair Housing Advocate Online at <http://www.fairhousing.com/index.cfm?method=agency.search>

ACCESSIBILITY LAW

In addition to protecting against discrimination, the Fair Housing Act joins a number of other federal laws to assist refugees with disabilities by requiring accessibility standards.

According to the Housing and Urban Development website, the **Americans with Disabilities Act of 1990 (ADA)** requires that housing provided by state and local governments (such as housing on a state university campus) and public and common-use areas of housing developments (areas like rental offices and community rooms) are accessible.

An older law, **Section 504 of the Rehabilitation Act of 1973**, applies to all multifamily housing projects larger than four units receiving federal assistance. This Act states that for new construction, a minimum of five percent of units—not less than one unit—must be accessible to individuals with mobility impairments, and two

² Source: (National Fair Housing Advocate Online): http://www.fairhousing.com/index.cfm?method=page.display&pageName=resources_ACCESS

percent must be accessible to people with sensory impairments. A similar standard is applied for properties using federal funds to rehabilitate a unit.

The Fair Housing Act (revised in 1998)

applies to all multifamily housing complexes with more than four units built after 1991, regardless of ownership. Under this law, units are required to meet new construction requirements including accessibility features called “universal design.” Accessibility features in universal design include accessible common use areas, at least one accessible building entrance, and doors and hallways wide enough for people using wheelchairs.

For more detailed information on accessibility- and anti-discrimination laws, go to: <http://www.resna.org/taproject/goals/community/HMRG.htm#laws>

REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Sometimes, housing is already in compliance with local-, state- and federal accessibility requirements, but the physical property or the housing policies still require further accommodation to allow a person with a disability an opportunity to fully use and enjoy the unit. In these cases, a person with a disability may ask their landlord for reasonable accommodations.

Reasonable accommodation was first established under Section 504 of the Rehabilitation Act. This fair housing regulation makes it unlawful for a landlord or housing provider to refuse to make reasonable accommodations to a unit so that a person with a disability may reside there. In some cases, this may mean adjusting a rule or policy, such as allowing a service dog to reside in a building that does not allow pets. In another case, it may mean designating a parking space closer to a person’s unit. In other circumstances, modifications may be necessary. A **modification** means altering the physical premises to remove barriers or obstacles which may interfere with a person with a disability living in the unit.

According to the National Fair Housing Advocate Online the following are examples of common modifications:³

³ “Frequently Asked Questions”, U.S. Department of Justice Civil Rights Division, Housing and Civil Enforcement Section, 11/03). <http://www.usdoj.gov/crt/housing/faq.htm#victimflha>

- Installing grab bars in the bathroom
- Lowering or removing kitchen cabinets
- Installing a visual door bell or fire alarm
- Removing a bathtub to install a roll-in shower
- Widening a doorway to the building laundry room



GUIDELINES FOR MODIFICATIONS:

There are three classifications of physical modifications, excluding those covered by accessibility laws mentioned earlier:

1. Modifications that will not have to be restored

Example: The doorway to a laundry room, widened to allow access, would not have to be restored since the widened doorway would not affect the use of the laundry room by other tenants.

2. Modifications that will need to be restored to their original condition, but are inexpensive enough to not require the establishment of an escrow account.

Example: An under-sink cabinet that had been removed would need to be replaced because the next tenant could want the storage space. Since the cost to replace the cabinet would not be excessive, an escrow account probably would not be needed.

3. Modifications that will need to be restored and are relatively expensive and, therefore, may require an escrow account.

Example: A roll-in shower would have to be removed and a bathtub reinstalled. Because of the cost associated with restoring the bathroom to its original condition, if paid for by an individual renter, an escrow account may be required.

WHO PAYS FOR MODIFICATIONS?

In addition to the cost of the modification, the main factor considered when determining who pays for a modification is the type of housing in which the tenant lives.

If a person with a disability is living in Federally-assisted housing, whether it is publicly- or privately-owned, the housing provider may be required to pay for the modifications and to make reasonable accommodations. Since PHA's are federally-funded, they, too, are expected to make reasonable accommodations when requested. For example, if you live in a public housing unit and you are deaf, the landlord is responsible for installing equipment to make the unit accessible (i.e. flashing fire alarm inside the apartment). Similar standards may apply for privately-owned, subsidized housing.

In privately-owned, unsubsidized housing where accommodations are made to the unit, landlords may be eligible for tax breaks, enabling them to recoup some of the costs incurred. They should consult a local tax expert to determine eligibility.

If providing an accommodation would cause an undue financial hardship for a landlord, such as significantly altering a building, and the landlord is not bound by accessibility law to make the modification, the landlord may be exempt from providing the accommodation. Deciding what is a reasonable request is sometimes where disagreements emerge. A tenant should put their request in writing.

If a landlord refuses to make an accommodation, a person may offer to pay for modifications themselves.

When tenants pay for adaptive modifications to a unit themselves, they agree to:

- Request prior approval from the landlord;
- Provide a reasonable description of the proposed modifications
- Provide documentation of the necessary accommodation if a landlord requests it. A doctor may verify the need for the modification without revealing the disability
- Restore the unit to its prior condition, except for ordinary wear and tear
- Provide reasonable assurances that the work will be done in a workmanlike manner
- Obtain all necessary building permits.

HOW TO ASK FOR AN ACCOMMODATION OR MODIFICATION:

Sample forms to request an accommodation, certify a disability or request a modification may be found at: <http://www.housingrights.com/pdfs/Requestforreasonableaccommodation-modification.pdf>

RESOURCES FOR MODIFICATION FOR PRIVATELY-OWNED UNITS:

In instances when modifications are costly, a refugee family may access public and private resources to help make housing modifications. To help with this process, contact:

- 1. Your state's Assistive Technology Project**
(see section 6). Some of the projects have low-interest loans available to purchase needed assistive technology equipment
- 2. The local Public Housing Authority (PHA)** to inquire about available funds for making modifications to privately-owned units

3. Local housing and community development departments for low interest loans and grants to owners for such accommodations.

4. Your local county social service office to inquire about funds or programs available to people with disabilities for making modifications

5. Your local civic organizations or groups who are familiar with and involved in helping with refugee resettlement in a community may be approached for financial assistance to purchase needed equipment.

6. Your Department of Vocational Rehabilitation Services can assess assistive technology needs and may have funds available to help a person secure necessary equipment, especially as it relates to finding employment.

7. Local Center for Independent Living to determine the types of resources they have available to help with housing.

WHERE TO BUY EQUIPMENT AND MODIFICATIONS:

Before purchasing items or doing home modifications, consulting someone for an Assistive Technology assessment and learning about resource people in your state is strongly encouraged. Please refer to the AT section to learn about the assessment process and resources for financing AT. Contacting a local Center for Independent Living will help you identify resources in your community. Please refer to the Centers for Independent Living section to learn how to find your local agency.

HOW TO FIND AFFORDABLE, ACCESSIBLE UNITS:

While there is no magic formula for finding affordable, accessible units, there are some resources to assist you in finding affordable housing units with higher standards of accessibility. Since every community's housing situation is varied, the information provided is general.

1. Contact your local Public Housing Authority (PHA) If you already have a Housing Choice Voucher, you can ask the PHA for a list of landlords who accept vouchers. If you do not have a Voucher, ask the PHA about waiting lists for Housing Choice Vouchers and about applying for residency at project-based Section-8 properties. If you are looking for assistance with paying for a modification, you can also ask your PHA about any funding it has available for modifications.

To find out who your PHA is, go to: <http://www.hud.gov/offices/pih/pha/contacts/index.cfm> and click on your state.



2. Contact your State Housing Finance Authority (HFA) In addition to being able to provide information about privately-owned subsidized housing in the area, State Housing Finance Authorities administer the Low-Income Housing Tax Credit Program which is a major source of funding for development of affordable housing. They often also have web-based affordable housing search services that identify a variety of subsidized properties.

3. Contact the Housing and Community Development Department in your local government. This agency frequently administers the Community Development Block Grant and HOME programs Both programs make grants to local agencies for (1) housing rehabilitation loans and grants for rental housing and homes; (2) new housing construction; and (3) making buildings accessible to the elderly and individuals with disabilities.

Information on CDBG is available from Community Connections: 800/998-9999. The following block grant programs are available at the state and local government levels:

State Community Development Block Grant (CDBG) Program

<http://www.hud.gov:80/cpd/cdbg/subi.html>

CDBG Block Grant Entitlement Communities Program

<http://www.hud.gov:80/progdesc/cdbgent.html>

Colonias Set-Aside Provision of the State CDBG Programs

<http://www.hud.gov:80/progdesc/colonias.html>

John Heinz Neighborhood Development Program

<http://www.hud.gov:80/progdesc/heinzfin.html>

CDBG for Insular Areas

<http://www.hud.gov:80/progdesc/cdbg-ins.html>

Home Investment Partnerships Program (HOME)

<http://www.hud.gov/progdesc/home1a.html>

Local Housing and Community Development agencies will also be able to provide a list of community-based housing development organizations (CHDOs), local nonprofit organizations interested in affordable housing solutions.

4. Contact your local government's social service agency

and inquire about locally-based transitional housing programs, housing programs specifically for individuals with disabilities and services for people with disabilities who live in non-modified homes. Area Agencies on Aging, departments of community development and other offices within the local government may have discretionary funds available to cover expenses not paid through traditional programs. Some states provide local agencies with funds to offer rental subsidies, damage deposits or the first month's rent. They may also have someone to accompany people to find housing.

5. Find non-profit affordable housing providers in your area

in addition to locating these through your local Community Development Agency or the HUD office in your area, you can find these mission-driven affordable housing providers by checking out the following web sites of

national organizations developing housing across the country:

Enterprise Foundation

www.enterprisefoundation.org

Local Initiatives Support Corp(LISC)

www.lisc.org

Mercy Housing Inc.

www.mercyhousing.org

Neighborworks

www.nw.org

National Low Income Housing Coalition

www.nlihc.org/states/index.htm

6. Check out the housing search engines specializing in affordable and accessible housing. In addition to the housing search engines run by many State Housing Finance Authorities (see 2, above) there are a few housing search engines featuring units that are affordable and/or already accessible. Start with:

SocialServe

www.socialserve.com

National Accessible Apartments Clearinghouse

www.accessibleapartments.org

7. Network among members of your community. Ask friends about who lives in affordable, accessible housing. Inquire among friends and community members about landlords who are willing to accept Housing Choice Vouchers. Sometimes word of mouth is one of the best options.

RESOURCES FOR HELPING REFUGEES WITH HOUSING

1. National Refugee Housing Technical Assistance “Welcome to Your New Home” Mercy Housing
www.refugeehouse.org
2. HUD Fair Housing First Module 3: Disability Rights Laws (1 hour, 30 minutes)
<http://www.fairhousingfirst.org/training/module3.html>
3. National Fair Housing Advocate Online
<http://www.fairhousing.com/index.cfm?method=application.home>
4. Many states have handbooks that outline tenant/landlord rights and responsibilities. Check your state web page to find a handbook

Tips:

☑ Document, document, document if in the course of your work you encounter landlords who are discriminatory, documenting what is said and then reporting it is very important.

☑ Refugees who are new to this country may be unaware of their right to file for renters tax credit. During tax season, remind refugees of their right to file

☑ When helping newly arrived refugees with disabilities settle in an apartment, remember to check on discounts for phone hook up and ongoing services or assistance. There may be other discounts for people with disabilities, including energy assistance for heat and electric bills.



MAJOR FEDERAL HOUSING SUBSIDY PROGRAMS

Funding Program	Type of Subsidy	Eligibility/Rent restrictions	Administering Agency	Applicants/ Owners	Website access
Public Housing	Subsidized Rental Housing	<50% AMI, rent = 30% of income	Local Public Housing Authority	Local Public Housing Authority	www.hud.gov ; then rental housing; then Public Housing; then Local HA; then browse HA profiles
Tenant-based Section 8 (Housing Choice Voucher)	Rental Assistance	<50% AMI, rent = 30% of income	Local Public Housing Authority or other designated entity	Low income households apply for assistance which can be used in the private rental market.	www.hud.gov ; then rental housing; then Section 8 Vouchers; then Local HA; then browse HA profiles
Project-based Section 8	Project Rental Assistance Contract	Generally <50% AMI, rent = 30% of income	Local HUD Multi-family Housing office	Private for-profit and nonprofit corporations/ individuals;	www.hud.gov ; then rental housing; then Privately-owned subsidized housing; then state; then city; then number of rooms
Low Income Housing Tax Credit	Construction or Acq./rehab Equity	20% units at 50% AMI, rent at rates set in applications	State Housing Finance Authority	Private for-profit and nonprofit corporations/ individuals;	State government Website or www.ncsha.org
HOME	Rental housing development costs, tenant-based rental assistance, down payment assistance	65% AMI, rents at rates set in the application	Local housing and community development agency (pop. >approx. 100,000); State housing agency for smaller communities	Private for-profit and nonprofit Developers	www.piperinfo.com , then click "state and local government on the net", then click state, then scroll to jurisdiction you need and click on it.
CDBG (Community Development Block Grant)	Rental housing development costs, home ownership, community services	80% AMI, no rent restrictions	Local governments for communities > 50,000. State government for smaller communities	Private for-profit and nonprofit developers, local government	(see cell above)