

DIG Litigation Update - \$625,000 settlement to ensure accessibility in Section 8, project based housing developments.



On April 17, 2015, Housing Opportunities Project for Excellence, Inc. (HOPE) and six residents of two developments in Miami Gardens and Opa-Locka, Florida settled a lawsuit with Charter Management and Miami Property Group, and obtained significant changes in the policies and procedures of their housing development to ensure that all residents are able to easily obtain necessary accommodations for their disabilities, required the construction and maintenance of children-friendly facilities

and awarded \$650,000 in damages and attorneys' fees.

In Florida, there are approximately 21,000 units that are project-based, privately owned developments that receive Section 8 funding. The average income for the tenants of these units range from \$10,000 to slightly over \$16,000, and many of these residents are employed or on Social Security Disability or Supplemental Security Income. In these developments, the tenants pay 30 percent of income for rent. Tenant-paid rents for these types of units average under \$300 per month, and U.S. Department of Housing and Urban Development (HUD) pays the remaining amounts. This HUD subsidized housing stock serves a large concentration of elderly households and families with children throughout the state of Florida.

There is a dearth of availability of accessible housing for persons with disabilities who reside in subsidized housing. Most of the housing stock for assisted housing is over thirty years old, and when built, there were no requirements for accessibility in housing. While HUD regulations require that property owners both ensure that all alterations to the property maximize accessibility and that they provide residents with modifications to their units, most times, these obligations are neglected.

In this lawsuit, the residents were denied accommodations, or the management placed unnecessary barriers to obtaining an accommodation. In this development all of the apartments had entry doors which required a step-up to get into the doorway. As such, a person who uses a wheelchair were essentially trapped in their homes, a person with mobility impairments could be assigned to live on the second floor, or required to park in a far parking space.

Most of all, many of the residents of these developments were not aware that the owner of these projects had a duty to provide the accommodations at the facilities expense, and not the tenant's expense. As such, many tenants did not know what was available to them, or how to ask for an appropriate accommodation.

The settlement ensured that all of the residents are aware of the modifications that they could receive, from assistance animals, to ramps and grab bars; required extensive training and guidance, and provided additional facilities for children.

So this month's article will conclude with a listing of many, but not an exhaustive account, of accommodations that can be requested, and what proof is needed to get an accommodation:

How to request an accommodation:

An accommodation can be verbal or in writing, and if the disability is obvious and the need for the accommodation is clear, than no additional proof is required. If the disability is not obvious or the need for the accommodation is not clear, than the housing provider can ask the requestor to provide verification from their medical provider of their disability and need for the accommodation. The housing provider cannot ask for medical records, and as proof of disability, must accept proof of receipt of social security determination of disability.

Accommodations that may be requested:

- Ramps in common areas or into doors
- Grab bars in toilet areas or baths
- Widening doorways
- Stoves or appliances with controls within the reach range
- Lowered peepholes
- Cabinets within reach range
- Lowered thermostats
- Constructing a usable doorway
- Roll-in shower
- Pedestal sink
- Hand-held shower nozzle
- Designated, exclusive parking space
- Lowered Mail-Box
- Assistance and payment for relocation expenses during any renovations to the tenant's home

Changes in policies that can be requested:

- Assistance animal (service animal or emotional support animal)
- Live-in Aide
- Transfer to a downstairs unit
- Transfer to a larger unit to accommodate a live in aide