Elevator Outages and the Fair Housing Act

Many tenants with disabilities living in apartment buildings crucially depend on elevators for equal access to their housing and to the community. When an elevator stops working, tenants with disabilities can literally be trapped in their home or locked out of their home. This fact sheet will provide important information to tenants with disabilities on their rights under the federal Fair Housing Act and other civil rights laws to be provided with full and equal access to and use of their homes and the obligations of housing providers to ensure the proper functioning of elevators and to provide reasonable accommodations to tenants with disabilities when elevators are being repaired.

Fair Housing Act Requirements

The federal Fair Housing Act (FHA) makes it illegal for a covered housing provider to discriminate against people with disabilities in the sale or rental, or to otherwise make unavailable or deny, dwellings to them because of their disability. The FHA also makes it illegal to discriminate against people with disabilities in the provision of services or facilities in connection with such dwelling. Discrimination under the FHA includes the failure of a housing provider to maintain or make repairs to sale or rental dwellings because of disability.

To meet its obligations under the FHA, a housing provider must conduct regular maintenance and repairs to ensure the proper functioning of elevators and must promptly respond to elevator outages and promptly make repairs to or possibly even replace an elevator, if necessary, to limit the amount of time the elevator is out of service. Failure to do so could constitute a violation of the FHA.
Reasonable Accommodations During Elevator Outage

The FHA requires housing providers to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to give an individual with a disability an equal opportunity to use and enjoy a dwelling. A reasonable accommodation is any change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.

If an elevator is out of service, a housing provider still has an obligation under the FHA to ensure that tenants with disabilities have equal use and enjoyment of their home and must provide reasonable accommodations if necessary to do so.

Examples of possible reasonable accommodations include:

- relocating temporarily to another unit or apartment on a lower level if one is available
- relocating tenants to a hotel or other accessible lodging during the repairs
- providing assistance with getting medications, groceries, trash removal, etc.

Failing to implement lawful reasonable accommodation policies to ensure that tenants with disabilities have equal access to their housing when the elevators stop working could also violate the FHA.

The FHA also requires that housing providers have emergency evacuation plans and policies to ensure that tenants with disabilities can safely evacuate in the case of fire, medical emergency, or other emergency, especially when an elevator is out of service.
What Steps Should I take if an Elevator is Out?

- Contact your landlord, condominium association, management, or maintenance company immediately to ensure that the elevator outage has been reported and to ask about what actions are being taken to expedite repair.

- Inform your landlord, condominium association, management, or maintenance company that you are a person with a disability and having use of a safe and operational elevator is a necessity and not a convenience. Put your concerns in writing.

- Most condominium associations and apartment buildings contract with an elevator service to provide maintenance and emergency service. Keep in mind that it may take 24+ hours for an elevator technician to respond to the outage.

- Be diligent and call each subsequent day that the elevator is out of service to ask when the elevator is expected to be repaired and what specifically is being done to expedite the repair. For example, ask if repair parts have been ordered, if necessary, and when the parts will be picked up or delivered. Unfortunately, a broken elevator does take time to repair.

- If you are facing a lengthy delay, you may wish to request a reasonable accommodation from your landlord or housing provider to relocate temporarily to another unit or apartment on a lower level if one is available.

- Discuss a strategy with management to minimize the duration of the outage. Perhaps work can be broken into sections with the elevator being operational intermittently.

- Discuss with management what, if any, emergency evacuation plans and procedures are in place for tenants with disabilities, especially during an elevator outage. You can also contact your local Emergency Services Department or Fire Department for assistance and to alert them to concerns over any lack of emergency evacuation plans.

Elevator Outage in Public Housing

Section 504 of the Rehabilitation Act applies to all federally funded or federally subsidized housing, including state and local public housing providers. Section 504 imposes similar requirements on public housing providers to provide reasonable accommodations to tenants with disabilities. If you discover that an elevator has stopped working or is out of service, you should contact your local Housing Authority ADA/Section 504 Accessibility Coordinator. The Housing Authority has obligations under the ADA, FHA, and Section 504 to provide reasonable accommodations to tenants with disabilities to ensure equal access to and enjoyment of their homes during an elevator outage and to ensure the proper maintenance and operation of elevators.
Who can I Contact to File a Complaint About Housing Discrimination?

If you believe that you have been subject to housing discrimination because of an elevator outage, you can file an administrative complaint with the United States Department of Housing and Urban Development (HUD) by contacting HUD’s Office of Fair Housing and Equal Opportunity at 1-800-669-9777 or by visiting HUD online at File a Complaint – Main Page | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

You can also contact the Philadelphia Regional Office of Fair Housing and Equal Opportunity at 215-861-7646, 1-888-799-2085, or 215-656-3450 (TDD) or by mail:

Philadelphia Regional Office of FHEO
U.S. Department of Housing and Urban Development
The Wanamaker Building
100 Penn Square East,
12th Floor Philadelphia,
Pennsylvania 19107-3380

Is there a deadline for filing a complaint with HUD?

Yes. An administrative complaint must be filed with HUD within 1 year from the date of the discriminatory actions by your housing provider.
If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). Our email address is: intake@disabilityrightspa.org. DRP’s live intake line is open Monday-Friday from 9:00 a.m. to 3:00 p.m.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania prioritizes cases that have the potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

IMPORTANT: This publication is for general informational purposes only. This publication is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Pennsylvania and any person. Nothing in this publication should be considered to be legal advice.

PLEASE NOTE: For information in alternative formats or a language other than English, contact Disability Rights Pennsylvania at 800-692-7443, Ext. 400, TDD: 877-375-7139 or intake@disabilityrightspa.org.

Follow Us On Social Media

[Social media icons for Facebook, Twitter, Instagram, LinkedIn, and YouTube]