

Disabled residents have law on their side

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After Robert and Barbara Dublirer bought a Fort Lee co-op apartment in 2002, they requested a special parking spot because Robert Dublirer has multiple sclerosis and walks with forearm crutches.

But they say the management of the building, Mediterranean Towers South, was so unhelpful they were forced to complain to the U.S. Department of Housing and Urban Development, which ultimately accused the co-op of violating the Fair Housing Act.

Mediterranean Towers South, which said it tried to accommodate Dublirer, has just settled the case, giving Dublirer the parking space he requested, plus a financial settlement.

"The idea of justice is a central theme to me, both personally and professionally," said Robert Dublirer, a 59-year-old retired New York prosecutor. "I wasn't looking for anything more than the law says I'm entitled to."

The dispute illustrates an issue often faced by landlords and condo and co-op boards: How can they accommodate the needs of disabled residents while being fair to everyone else?

Along with handicapped-parking issues like those in the Dublirer case, other examples of common disputes include:

- A condo resident begins using a wheelchair and asks for a ramp. But the condo board balks because that would change the complex's exterior appearance.
- A tenant becomes disabled and wants to widen interior doorways for a wheelchair and add a shower grab bar. But the lease prohibits changes to the apartment.
- A resident asks for an "emotional support animal" to help with a psychological disability. But the building bans pets.

In all these cases, experts say, the law is clear: landlords, condos and co-ops have to make "reasonable accommodations" for the disabled person. These cases are covered by the New Jersey Law Against Discrimination and the federal Americans with Disabilities Act and Fair Housing Act.

"It's pretty obvious that state and federal law will trump the regulations of any type of property association," said David Frizzell, a Glen Rock lawyer whose firm represents more than 100 condo and co-op associations in New Jersey.

"There are times when the associations don't understand the law," said J. Frank Vespa-Papaleo, director of the New Jersey Division of Civil Rights. "Their defense is:

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When people bought their place, they agreed to these rules. Rules are rules.

"But even if everyone agrees [to the rules], an association can't deny people rights that they otherwise have under state or federal law," Vespa-Papaleo continued.

In general, landlords and homeowner associations are more likely to accommodate residents who have obvious disabilities -- for example, allowing a Seeing Eye dog for a blind resident or a ramp for a resident in a wheelchair. Usually, modifications are at the resident's expense.

Even in those cases, however, there have been disputes over how quickly the disabled resident's needs are met. A resident who asks to install a wheelchair ramp, for example, should not have to wait months for the condo board to meet and approve it, Frizzell said.

"If you're just dragging it out, in effect you're denying the right," Frizzell said.

The most contentious cases are those where the disability is emotional or psychological, because, in the words of Vespa-Papaleo, "it's an invisible disability."

An especially hot area: the "emotional support animal" in a pet-free complex.

To get approval for an emotional support animal in a no-pets building, it's not enough for residents to say that a puppy would make them happier. A medical professional must attest to the resident's disability and need for an emotional support animal.

Frizzell's law firm, Buckalew Frizzell & Covina, has developed a five-page form to be filled out by medical professionals in these cases. Generally, if a resident has this kind of document, the landlord or homeowners association has to allow the animal.

"It becomes a battle because you want to bring a dog into a building where one of the reasons people live there is because they don't want to see pets," Frizzell said. "But the building has no choice if they've gone through all these steps to establish that the dog is a legitimate emotional support animal."

Allegations of housing discrimination against disabled people are now the most common complaints heard by the U.S. Department of Housing and Urban Development -- even more common than complaints of racial discrimination.

"I suspect that will continue to grow as the population continues to age," said Vespa-Papaleo.

Federal housing discrimination charges carry a maximum civil penalty of \$11,000 for the first offense, plus damages and legal fees for the complainant.

The bottom line, Frizzell said: "If somebody has a handicap, you can't discriminate against them, and that includes failing to permit a reasonable accommodation. That's as much a discrimination as if somebody came to the door to rent an apartment and you said, 'We don't rent to African-Americans' or 'We don't rent to handicapped people.' "

In the Dublirer case in Fort Lee, the co-op management told the couple there were no handicapped spots because the building was constructed before the law required them. And, the board's lawyer says, the Dublirers knew there were no handicapped spots when they bought the apartment. (The Dublirers agree, but say they were told "preferential parking" was available.)

The Dublirers asked for a parking space close to the building and in the upper level of the covered parking garage. The upper level is four steps down from the building's lobby level, which Dublirer can navigate. Instead, he got a space in the lower level, down 17 steps -- a difficult trip for him.

The co-op board said it could not take away an assigned spot from another resident to give to the Dublirers,

but put the couple's name on a waiting list for an upper level spot. It also gave the couple an outdoor parking spot close to the building's front door, saying that was in compliance with the law. The board's attorney, John Schepisi, said the board felt the outdoor spot was safer because the garage floor is slippery, and Dublirer had fallen on it many times.

"The board bent over backward to try to accommodate Mr. Dublirer," Schepisi said.

But Dublirer said the outdoor spot was a problem in bad weather, because he is unable to hold an umbrella or clean snow and ice off his car.

In the end, Schepisi said, the board settled the case to avoid the expense of a trial.

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