

THE FAIR HOUSING ACT  
AND  
POST DISASTER  
LEGAL NEEDS

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Disaster Legal Response Training  
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The Fair Housing Act can be an important addition to your toolbox

- Covers both renters and homeowners
- Applies to all types of rental housing whether subsidized or market rate
- Covers all types of dwellings
- Applies to landlords, mortgage companies, insurance companies, HOA's, cities

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Found at  
42 U.S.C. § 3601 *et. seq.*

- It is illegal to treat someone differently **because of** their:
  - Race
  - Color
  - Religion
  - National Origin
  - Sex
  - Familial Status (the presence of children under the age of 18)
  - Disability (may be actual or perceived)

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**What you might see:**

- A landlord:
  - *prioritizing repairs for their white tenants over their African American tenants or Hispanic tenants*
  - *Returning the security deposit more quickly for one group over another*
- A mortgage company offering more favorable terms for one group of borrowers over another group
- A codes department enforcing their rules more stringently over one group than another

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**Important to remember:**

- The person must be otherwise eligible
- The negative actions must be **because of** membership in a protected class

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**Persons With Disabilities**

- Have Additional Protections
- Reasonable Accommodations – a change to rules, policies, practices, or procedures
- Reasonable Modifications – a change to the structure
- Definition under the Fair Housing Act:
  - *A physical or mental impairment that substantially limits one or more major life activity*
    - An actual diagnosis
    - Perception of one
    - History of a disability

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### What You Might See

- As you've heard, one of the mid-term situations you might encounter involves clean-up of the property where the landlord or City sends the resident a notice of violation because the property is not cleaned up
- IF the person has a disability that prevents the person from cleaning the property in the required time
- A reasonable accommodation request MIGHT be used to get more time

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### You must be able to show a nexus

- You must be able to show the connection to the person's disability and the violation for which they've been cited
  - *For example – they have been cited by the city for not cleaning their property*
    - They have a mobility impairment or physical condition (ie: heart problems)
    - They have a plan or are willing to make a plan for clean-up

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### Making The Request

- Your request for Reasonable Accommodation should:
  - State that the resident is a person with a disability that prevents them from \_\_\_\_\_
  - Not state what the disability is, unless it is visible
  - Explain the plan to become compliant
- There is no one-size-fits-all
- Only available to persons with disabilities

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**Example:**

Dear City:

I represent Mr. Smith in the matter of the citation he received because his yard still contains debris from the tornado. Mr. Smith is a person with a disability that has prevented him from completing the clean-up by City's deadline. Mr. Smith requests a reasonable accommodation that he not be fined and that he be allowed 2 additional months for compliance.

Mr. Smith's disability causes him to be unable to lift more than 2 lbs. Mr. Smith has contacted several agencies for assistance with clean-up and is on more than one waiting list. Due to the tornado, the wait might be 2 more months.

Mr. Smith can provide verification of his disability and that he is on the waiting lists. This accommodation is reasonable in that it will not pose an undue financial and administrative burden and will not fundamentally alter your program.

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**Questions?**

Tennessee Fair Housing Council

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