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# Disability Rights in Housing

2025 CLE Training  
September 24, 2025  
1:30pm - 3:00pm

# What is HOME Line?

HOME Line Tenant Hotline:

**612-728-5767**

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# Housekeeping

- This session is being recorded and will be available on HOME Line's website in a few days
- Please ask questions through the Q&A function located at the bottom of the Zoom window
- CLE credits will be applied for after this session





# Disability Rights in Housing

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# Presentation Overview

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- A. About Mid-Minnesota Legal Aid
- B. Laws Relating to Disability Rights in Housing
- C. Reasonable Accommodations and Modifications
- D. Reasonable Accommodation as a Defense to Eviction
- E. Service and Emotional Support Animals
- F. Enforcement Options

# About Mid-Minnesota Legal Aid



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## How We Help

MMLA provides free civil legal services to people with low incomes in Central Minnesota through offices in Minneapolis, St. Cloud, and Willmar.

Our attorneys serve clients on issues related to immigration, disability discrimination, access to public benefits, tax issues, issues impacting youth, families and seniors, and more.

Our Minneapolis housing team represents clients across Hennepin County in housing proceedings, including eviction defense, emergency tenant remedy actions, and rent escrow actions. The Housing Discrimination Law Project provides advice and representation to people who are experiencing discrimination.



# Eligibility

- We use federal poverty guidelines to determine eligibility for services based on income.
- Not all seeking our services must meet these guidelines.
- People 60 and older, and people with disabilities, are eligible for Legal Aid regardless of income.



# Laws Relating to Disability Rights in Housing



# Federal Fair Housing Act

## Prohibits an owner, landlord, or agent from:

Discriminating in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

- (A) that buyer or renter,
- (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (C) any person associated with that buyer or renter.

...

Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

- (A) that person; or
- (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (C) any person associated with that person.

Fair Housing Act, 42 U.S.C. § 3604

# Minnesota Human Rights Act

## Prohibits an owner, landlord, or agent from:

Refusing to rent, sell, lease, or deny housing to any person or group of persons because of **race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or family status;**

...

Minnesota Human Rights Act, Minn. Stat. § 363A.09

# “Disability” Defined

## How do the FHA and MHRA define disability for fair housing laws?

The Fair Housing Act (FHA) and Minnesota Human Rights Act (MHRA) definitions of disability are similar.

The FHA defines disability as:

A physical or mental impairment which substantially limits one or more of such person’s major life activities.

42 U.S.C. § 3602(h)(1)

The MHRA defines disability as:

Any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; (3) is regarded as having such an impairment; or (4) has an impairment that is episodic or in remission and would materially limit a major life activity when active.

Minn. Stat. § 363A.03, Subd. 12



# Discrimination in Practice

Outright discrimination is now rare. Here are some examples of discriminatory actions a landlord cannot take:

## Before the Tenancy—Refusal to Rent

- *An overly burdensome application process*
- *Unexplained or unjustified delay*
- *Discouraging an applicant from applying or trying to direct them towards properties that are different from what they originally requested (i.e. steering)*
- *No return phone call or email*
- *Claiming that a unit is unavailable*

## During the Tenancy

- *Not engaging in the interactive process for reasonable accommodations or modifications*
- *Not responding to a reasonable accommodation or modification request*
- *Eviction*
- *Retaliation*
- *Notices of lease violations that are pretextual*
- *Harassment and stalking*

## After the Tenancy

- *Bad references*
- *Excessive charges*
- *Withholding the security deposit*
- *Further harassment*

# Reasonable Accommodations & Modifications



# Reasonable Accommodations vs. Modifications

## Reasonable Accommodations

- A change in rules, policies, practices, or services when the accommodation may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling.
- A landlord's denial of a reasonable accommodation request can be a form of disability discrimination.

42 U.S.C. § 3604(f)(3)(B)

Minn. Stat. § 363A.10, Subd. 1(2)

## Reasonable Modifications

- “Reasonable modifications” differ from “reasonable accommodations” based on the scale of the changes to be made, and who might be responsible for the cost of implementing them.
- In practice, landlords can potentially charge tenants for reasonable modifications. Landlords cannot charge for reasonable accommodations.

42 U.S.C. § 3604(f)(3)(a)

Minn. Stat. § 363A.10, Subd. 1(1)

# Reasonable Accommodations Process

## Making a Request

- A tenant can ask for a reasonable accommodation at any point in their tenancy, including during an eviction proceeding.
- A tenant, family member, or service provider may tell a landlord about a disability-related need without using the words “reasonable accommodation.” Landlords need to treat all requests for disability-related needs as reasonable accommodation requests.
- No “magic words” necessary.

## Elements of a Request

1. Linked to a disability-related need
2. Necessary to afford equal opportunity or access
3. Possible to implement (reasonable)

*Huberty v. Washington County HRA*, 374 F. Supp. 2d 768, 773 (D. Minn. 2005).

# Duties of Housing Providers

## What are the duties of housing providers with regard to reasonable accommodation?

- A landlord can ask for verification of a disability or for more information about the nexus (connection) between a tenant's disability and the accommodation they are requesting--not necessarily details of the disability.
- A landlord has to analyze every situation on a case-by-case basis and can't blanket deny accommodations.
- A landlord can deny accommodations if the accommodation represents:
  - Undue administrative and financial burden,
  - Fundamental alteration of the landlord's business practices, or
  - Direct threat to health and safety that cannot be eliminated or significantly reduced through an accommodation.
- A landlord must talk to the tenant about potential alternatives if a request cannot be granted, this is called "the interactive process."
- Tenants don't have to accept alternatives to their requests.
- A landlord's failure to respond to a reasonable accommodation request is considered a denial and is a basis for a fair housing claim.

## Reasonable Accommodation as a Defense to Eviction



# Relevant Caselaw

**Several cases suggest that Reasonable Accommodations may be asserted as a defense to an eviction.**

- *Schuett Investment v. Anderson*, 386 NW 2d 249 (Minn. App. 1986)
- *Hunt v. Aimco Props., L.P.*, 814 F.3d 1213 (11th Cir. 2016)
- *Highland Management v. Moeller*, unpublished, 2020 WL 290447 (Minn. App. 2020)
- *But see Kleinman Realty Co. v. Talbot*, 2011 WL 1938184 (Minn. App. 2011), *rev. denied* (Minn. 2011)

# Common Scenarios

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## Tenants may raise a reasonable accommodation defense to eviction when...

- An alleged breach of lease is related to a disability such as a mental health challenge that contributed to a dispute with a neighbor.
- The ability to timely pay rent is impacted by the timing when they receive their monthly Social Security Disability income.
- A physical disability is impeding the tenant's ability to upkeep and maintain basic housekeeping.

# Common Solutions

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## **A reasonable accommodation settlement may include...**

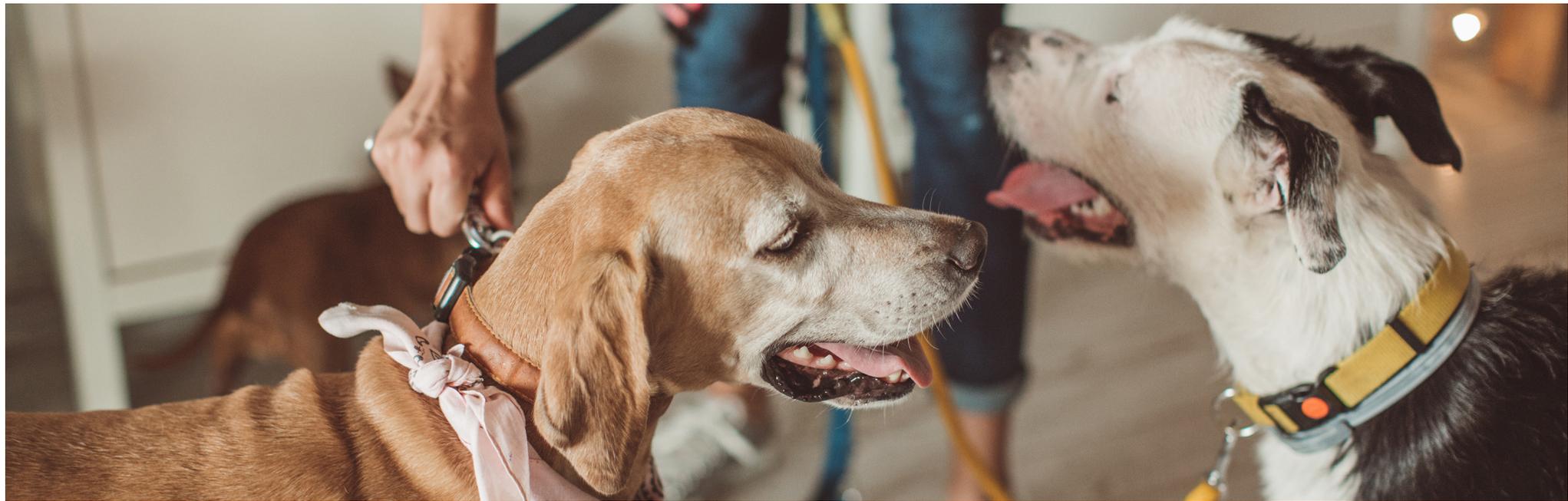
- A plan to remain lease compliant and in control of mental health disabilities through ongoing therapy and medication.
- A landlord's commitment to waive late fees based on the timing of disability income received for rent.
- A plan to maintain one's home with the help of support services or other caregivers.
- Waiving pet fees or rent for a service animal or emotional support animal.

# Practical Recommendations

## Best practices in negotiating an agreement to preserve the tenancy:

- The agreement does not set the client up for failure.
- The tenant must be able to remain lease-compliant with accommodations in place.
- The agreement provides notice of any alleged non-compliance and an opportunity to contest allegations.
- The agreement doesn't waive any rights to a future accommodation request.
- The agreement might provide for a caption change, limited landlord reference, and expungement.

# Service and Emotional Support Animals (ESAs)



# Service & Emotional Support Animals (ESA)

## Reasonable accommodations include ESAs

- Under Minnesota state law, tenants or applicants can request a reasonable accommodation to have a service or emotional support animal.
- No-pet policies do not apply to ESAs and service animals, and landlords can't charge any pet fees or deposits for them.
- ESAs and service animals don't have to be registered, but a landlord can request documentation related to the animal, e.g. vaccination records.
- Landlords individually assess each animal individually and can't make blanket bans (ex. A pitbull ban wouldn't necessarily apply to a service animal).
- Landlords can require that tenants follow local ordinances, such as pet immunization laws or laws about keeping exotic pets.

See Minn. Stat. § 504B.113.

# Enforcement Options





## How to make a complaint

If you've experienced discrimination, you have options to take action (with or without an attorney):

- File a federal complaint with the Department of Housing and Urban Development
- File a state complaint with the Minnesota Department of Human Rights
- File a complaint with your local civil rights division
- Pursue legal action
- Statute of Limitations
  - Federal – Two Years
  - State – One Year

# Thank you!

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