



metropolitan boston housing partnership

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## **Fair Housing and Hoarding and Sanitation Fact Sheet**

### **1. What is Fair Housing?**

Fair housing is a set of principles and laws which mandate equal access and opportunity in housing. Fair housing covers all housing-related activities, from search and application to amenities, management policies, terms and conditions plus termination of tenancy. Fair housing covers persons who are members of a protected class which are designated as groups of persons and their families that historically have experienced discrimination. In Massachusetts, those classes are race, religion, national origin, gender, disability, familial status, marital status, sexual orientation, public assistance (including rental vouchers), and military status.

### **2. Who must follow fair housing laws?**

Property owners, developers, condo associations, and homeowner associations are covered parties under fair housing laws. Their employees, such as property managers, clerical staff, maintenance workers and all others are responsible for performing their duties in a manner consistent with fair housing. Attorneys and real estate agents must act and advise their clients in a compliant manner. Other residents in the building or development can be held responsible under fair housing laws and regulations if their behavior is considered to be discriminatory. Developers, architects and contractors can be held liable under the accessible design and construction fair housing mandates for units built for persons with disabilities and their families.

### **3. What types of housing is covered by fair housing?**

To some degree, fair housing laws apply to all types of housing. The private real estate market and all types of government-funded housing must be compliant. Fair housing laws are not restricted to rentals. Condos, co-ops “rent-to-own” and single-family ownership units are covered as well.

### **4. Are there other applicable anti-discrimination laws for housing authorities and Sec. 8 programs?**

Federally funded public housing authorities (PHA) and Sec. 8 voucher-administrating agencies must follow both state and federal fair housing laws and the disability anti-discrimination provisions of Sec.504 of the Rehabilitation Act of 1973. If they receive direct state or local government funding, then they also are covered by the Americans with Disabilities Act (ADA). All PHA- or a Sec. 8-administering agency staff including but not limited to managers, maintenance staff and inspectors must provide reasonable accommodations to person with disabilities in a manner compliant with state/federal fair housing, Sec. 504 and the ADA.

### **5. What is hoarding?**

Compulsive hoarding is (**Frost & Hartl, 1996**):

- the acquisition of, and failure to discard, a large number of possessions that appear to be useless or of limited value;
- living spaces that are sufficiently cluttered so as to preclude activities for which those spaces were designed;
- the presence of significant distress (to any concerned party) or impairment in functioning caused by the hoarding.

### **6. Why would persons who hoard be covered under fair housing laws?**

Someone who hoards is considered a person with a disability because they meet the definition of

disability under both state and federal fair housing laws:

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities (seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working),

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

**7. How can a person who is hoarding prove that they have a disability?**

Documentation is not necessary if a person's disability is known or apparent. If the housing provider is aware that the person meets the definition of hoarding as stated in Question 5, then the disability is apparent. If the disability is not apparent or unknown to the housing provider, documentation can be requested from a health care provider. The health care provider can be a primary physician, nurse, nurse practitioner, licensed social worker, counselor, psychologist, etc. The documentation does not need to disclose the nature or severity of the disability. It need only say that their patient is a person with a disability and due to that disability, a reasonable accommodation is needed.

**8. What types of protections does a person with a disability have under fair housing laws?**

Hoarders, as persons with disabilities, are protected in almost every type of housing transaction, from advertising, screening, terms & conditions, amenities, reasonable modification but most importantly the right to request reasonable accommodation. A reasonable accommodation is a request for a waiver or change in policies, practices, procedures and services to provide equal access and opportunity in housing for persons with disabilities or for those associated with persons with disabilities. There must be a direct connection between the person's disability and the reasonable accommodation request.

**9. What is an example of a reasonable accommodation that could assist a person whose housing is at risk due to hoarding?**

If the housing provider is considering eviction of a person with a disability due to the hoarding, a remedy plan can be offered as a reasonable accommodation to preserve the tenancy. This remedy plan could include support services plus an individualized schedule for cleanup and inspections.

**10. Must the housing provider approve a reasonable accommodation request?**

The request must be approved as long as it does not cause an undue administrative and financial burden or change the basic nature of the housing program.

**11. Can a reasonable accommodation in a hoarding situation be beneficial to the housing provider as well?**

Depending on the actual request, a reasonable accommodation could remedy the hoarding situation as well as avoid the costs of the eviction process and finding a new tenant for that unit. If one of the support services secured for the individual is the actual cleanup, then the housing provider could be spared that expense.

**12. If there was a reasonable accommodation in place that initially remedies the situation but the hoarding happened again, is there any recourse?**

Due to the nature of hoarding, it would be practical to make it flexible enough to accommodate any future set-backs. While neither the state nor federal fair housing laws limit the number of times a reasonable accommodation can be requested, if it causes an undue administrative and financial burden to the housing provider, then it can be denied. Failure to meet the sanitation and/or building codes could be interpreted as an undue financial and administrative burden for the housing provider.

**13. Does MBHP provide technical assistance on hoarding and fair housing?**

For assistance with clients with hoarding, contact MBHP Case Management Specialist at (617) 425-6658. For assistance with fair housing, Sec. 504 or ADA, contact MBHP Fair Housing Manager at (617) 425-6681.