

A landlord owns a 10-unit apartment building and lives in one of the apartments. A uniformly enforced provision in every apartment lease prohibits all pets. A tenant with a serious hearing impairment asked permission from the landlord to keep a hearing-assistance service dog in her apartment to alert and assist her in the event of fire or other emergency. The landlord refused.

Is the landlord's refusal likely a violation of the federal Fair Housing Act?

- A. No, because the landlord lives in an apartment in the building.
- B. No, because the tenant agreed to the "no pets" provision in her lease.
- C. Yes, because the landlord's refusal is arbitrary.
- D. Yes, because the tenant is entitled to a reasonable accommodation for her disability.

Correct

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Explanation:

Fair Housing Act

Applicability Prohibits discriminatory actions in sale/renting of dwelling based on race, color, religion, sex, handicap, national origin, or familial status—including:

- refusing bona fide offer
- discriminating in terms, conditions, privileges, or services of purchase/rental
- advertising preference for or discrimination against buyer/renter
- falsely representing dwelling's availability for inspection, sale, or rental
- inducing sale/renting with discriminatory representations about neighborhood
- denying reasonable modifications to accommodate handicap at occupant's expense

Exceptions Act does not apply to:

- religious organizations
- private clubs that incidentally provide lodging to members
- familial status for senior housing
- owner of ≤ 3 single-family dwellings*
- owner-occupied dwellings with ≤ 4 units*
- sale/rental of single-family home by private owner

*These exceptions do not apply to discriminatory advertisements or when owner is assisted by a real estate agent, broker, or salesman.

The federal **Fair Housing Act prohibits discrimination** in the sale, **rental**, and financing of homes as well as other housing-related transactions based on race, color, religion, national origin, sex, familial status, or **disability**. Prohibited discrimination can take various forms (see table above), such as **denying reasonable accommodations** for a handicap. An accommodation is reasonable if it does not impose undue financial or administrative burdens on the entity making the accommodation.

Here, the tenant has a serious hearing impairment, which is a handicap under the Fair Housing Act. There is no indication that an accommodation for the tenant's trained service dog would impose an undue financial or administrative burden on the landlord. And since the tenant's need for a trained service dog outweighs any concerns underlying the landlord's prohibition of pets, the landlord's refusal to make a reasonable accommodation likely violates the Act.

(Choice A) The Fair Housing Act does *not* apply if the owner occupies a unit in a building with four or fewer units. But here, the landlord must comply with the Act because the landlord lives in an apartment in a building with 10 units.

(Choice B) The fact that the tenant agreed to the "no pets" provision in the lease does not relieve the landlord from making a reasonable accommodation for the tenant's handicap.

(Choice C) The landlord's refusal to permit the tenant to have a service dog may be arbitrary. But even if it was not arbitrary, the Fair Housing Act would still require the landlord to make a reasonable accommodation for the tenant's hearing impairment.

Educational objective:

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of homes as well as other housing-related transactions based on race, color, religion, national origin, sex, familial status, or disability—including the denial of reasonable accommodations for a handicap.

References

Fair Housing Act, 42 U.S.C. §§ 3601 et seq.

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