

Chapter Eleven

Frequently Requested Procedural Accommodations and Structural Modifications

78 Reserved Parking Space

For mobility-impaired individuals, the parking arrangements at a property may have a direct impact on their "equal opportunity to use and enjoy their dwelling units." For this reason, requests for reserved parking spaces are probably the most frequently requested procedural accommodations faced by managers.

Such requests are generally for a parking space in close proximity to the resident's dwelling and permanently assigned to the resident. Once you have verified the existence of the disability and have established a link between the nature of the disability and the need for an assigned parking space you should identify an appropriate space and designate it for that particular individual. Once the space is assigned to an individual it should remain with that individual for as long as the disabling condition lasts. Some unacceptable (but common) reasons for attempting to deny an assigned space include:

- Refusal on the ground that it would cause too radical a departure from the existing policies and procedures governing assignment of parking spaces. This is unacceptable even if there is a waiting list for parking and the policy is to assign an available space to the person at the head of the waiting list.
- Fear that granting one request will unleash a "floodgate" of similar requests that the property must agree to, with the result that it no longer has any meaningful policy on the matter.

See questions 66 and 67.

See question 62.

If parking is assigned to accommodate a disability it may be a good idea to ask the resident for re-verification of the disability annually because some disabilities are not permanent.

In response to a request for an assigned parking space you should not ask an individual to use an existing accessible space obtained originally for the use of the leasing office in order to meet either ADA or Section 504 requirements because spaces near the leasing office are regarded as meeting accessibility requirements for the public and not for specific residents.

If you are managing a property that has a high demand for limited, reserved parking you may have to institute a waiting list.

Fair Housing

A Guidebook for Owners and Managers of Apartments

This situation is most likely to occur in a high-rise property serving seniors, where many residents could legitimately request reserved spaces. It is recommended that if there are competing requests from residents who all have a disability that justifies a reserved parking space being assigned that priority be determined solely with reference to the date when the request was received. Further, expert managers recommend date stamping all such requests.

Managers are not competent to determine whether, for example, a resident who suffers from rheumatoid arthritis is more mobility impaired than one suffering from multiple sclerosis and therefore more in need of reserved parking. Furthermore the Fair Housing Act neither authorizes nor requires that such a determination be made. Rather than engaging in a guessing game about which disabilities and impairments are more serious, the prudent course is to assign parking on a first-come-first-served basis.

The purpose and litmus test of a reasonable accommodation (including a reserved, accessible parking space) is that it afford the resident “equal opportunity to use and enjoy the dwelling unit.” Consequently, a resident’s visitors can also reserve a parking space, to the extent that their need for the parking is related to the resident’s need for an accommodation. Therefore, it would be reasonable to reserve a space for use by a caregiver or aide who must pick-up and drop-off the resident on a regular basis. On the other hand, it would not be necessary to reserve a space only for use by friends of a disabled resident.

Guests, including visiting caregivers, do not always require accommodation. In one case,ⁱ an appeals court held that parking fees charged to a visiting caregiver need not be waived,

“It is not unusual for any working person to incur parking expenses at their place of employment. The fact that some of these people may work with handicapped individuals does not require that their parking fees be waived.”

i. US v. California Mobile Home Park; U.S. Court of Appeals for the Ninth Circuit; No. 95-55599