Good afternoon and thanks for joining us; I'm Judy Simpson. Federal statistics show that approximately one in five American adults has a disability. Among Vermonters over the age of 65, one in three has a disability. The critical issue for anybody with a disability is accessibility so this afternoon we called on two legal experts to discuss issues and laws related to accessibility for people with disabilities. Joining me is Rachel Batterson the manager of the housing discrimination law project of Vermont legal aid and Sam Abel Palmer is a staff Atty. with Vermont legal aid's disability law. Thanks so much for being with us. Rachel let's start by talking in terms of the law. What does accessibility mean?

Rachel.: Accessibility means that everyone can access different public spaces and housing are the two laws were focusing on today. It means that there are not step up's and curb cuts exist to allow people using wheelchairs to access them and other modifications happens to how we used to do things to make places more accessible to people with disabilities but also everyone. It could be someone pushing a stroller as well.

Judy.: Those are called reasonable modifications?

Rachel.: There are reasonable accommodations which are changes in rules or policies. Reasonable modifications are changes in physical structures.

Judy.: So curb cuts are an example of making public spaces accessible. Sam can you give us an example of what does not involve a physical change?

Sam.: It's that physical change I think people generally say how does someone with a wheelchair get in the door or move around the space but there are lots of other ways or barriers that people with disabilities face. Somebody who has a service animal where a store might not let in a dog or an apartment with no pet policy having the ability to have your service animal with you out in public in your home that a kind of accessibility because it allows the person to have access to the facility. Another big area that's very common and coming up a lot more these days is accessibility in communication the special electronic communication. There are ways people can set up web sites and make them either accessible or inaccessible. People who are blind frequently have programs that will read aloud the content of a website. But those programs if there's a graphic with text in it on the website the reader can’t read the text on the graphic because it's imbedded. It has to be written out as text in order for those programs to work. There actually other programs that can check websites for accessibility and help you modify your web site so that it is accessible to the public and somebody who is shopping on your website or is getting information that everybody is able to use it equally and be able to access that.
Excellent so Rachel from a legal perspective and there's two separate laws the Americans with Disabilities Act and the Fair Housing Act that cover accessibility issues?

That's correct in I primarily work on issues that come up under the Fair Housing Act which has to do with housing and access to housing. Sam does both Fair Housing Act and Americans with Disabilities Act cases which involve more public spaces that we were talking about.

Can you give me some examples of some of the cases you've worked on in general?

Sure. One of the most common types of reasonable accommodations that we have and that's a change in rules or policies is something Sam mentioned which is a lot of landlords have a no pet or no animal policy. A person with a disability say a mental health issue may need a dog or a cat to help them with that by either their Dr. has said it helps me get out of the house it helps them to say stable. Taking care of the cat or dog helps them maintain a schedule and assist them with their disability and being able to use the housing their living in the same as if they didn't have a disability. That's one of the more common ones we see.

Tell us about the ways Vermont Legal Aid can help or support Vermonters?

Sure; Vermont Legal Aid is a statewide legal services program. We represent people for free and we help people with disabilities and other Vermonters. I manage the housing discrimination law project. We're focused on discrimination and people with disabilities in that project we also help other people with different prohibited basis under the fair housing act race color national origin and so on. Sam works for the disability law project which focuses on not just the fair housing act and the ADA but any laws that govern people's behavior regarding disabilities.

Who is required to make public spaces and housing accessible for people with disabilities?

Really pretty much everybody. In housing there are basic standards for accessibility. Any building that was constructed has been constructed since 1990 is required to have certain basic accessibility features and then beyond that if people make requests for modifications for older buildings depending how what's called readily achievable those are depends on whether those are required to be made. Similarly any kind of public building anything with the public having general access anything built since the passage of the American Disabilities Act has to be made broadly accessible but there's also an ongoing obligation for people and businesses that are in older spaces and public services government buildings to do what they can within reasonable financial limits to make those spaces accessible and that's an ongoing obligation. If they can't afford to do it now but they can budget for later you have to keep that in mind and keep working on it until things are fully accessible.

Rachel can you give me an example of a typical reasonable accommodation?

Besides the companion animals any change in a rule or policy that you normally have so another one might be for example a subsidized housing provider has an application form that's seven pages long and writing. The housing authority would either need to provide that in Braille someone who's blind or go over the form with them in person orally so the person can answer the questions so it would not be a barrier for them to access that subsidized housing.

In the area of housing legal aid has just completed an audit I understand on discrimination in Vermont’s Rental Housing market. What did you find?
Rachel.: We conducted 300 telephone tests 95 site visits and 18 accessibility site assessments. We found that in 38% of the cases that we were testing on race color the white tester was preferred and in 40% of the cases we were testing national origin the white tester was preferred and 36% of the time the tester without children was preferred.

Judy.: Can you explain to our viewers a little bit how that works. You said the tester that you actually sent people around?

Rachel.: Yes it's modeled on a scientific study so there's a control and a subject. Two people are matched in their exactly the same except for the variable that we're trying to test in this case a prohibited basis under the fair housing act. We send them out we send the person who's is the subject first, and then we send out the control. And get reports back independently from each of them and see how they were treated and how those things matched up and if there were differences.

Judy.: What happens with this information now that you have it. Are the landlords that's committed against a certain test are charged with anything?

Rachel.: Not generally. Generally we are doing this as an educational thing and as a baseline to understand what the statistical prevalence is. That can happen but in some cases we do bring those cases into state or Federal Court or at the human rights commission.

Judy.: Are you surprised by those findings? It seems like in today's day and age that wouldn't be happening still.

Sam.: From my understanding because there was a similar test done awhile back the statistics haven't changed very much. It's pretty consistent that 25 to 35% has been pretty consistent over the years. I think part of it there's a certain amount of intentional discrimination I think there's also a lot of subconscious discrimination where people say you're really going to be much more comfortable being with people like you and people get steered. An immigrant family might get steered towards a more low income community that already has a higher base of similar immigrant population whether or not they can afford the house in the other area. There's just this assumption that people make about where people ought to be living. The general term for that is steering. That can happen intentionally but I think a lot of times it happens without people thinking about it.

Judy.: Let's talk about accommodations. How to ask for an accommodation or modification? What would be some of the ways to do that?

Sam.: Anytime somebody's looking to have a change in policy or a change in the physical structure. Adding a ramp where there's a step for the front door or anything like that. Any change like that is an accommodation request. Whenever somebody simply says I need this in order to be able to access it that's an accommodation for us you don't have to say the words a reasonable accommodation. We like to say there's no magic words it simply have to make a request in the landlord or the business owner is supposed to have to have enough information to recognize this as a request for an accommodation and then either simply say sure we're going to do that or if there are legitimate reasons why they can't do that or why they maybe want to do it in a different way then that opens up a dialog with the person who's made the request and the person who is offering the accommodation to find out how we can make this work.

Judy.: It is OK to ask for a request or change?
Sam.: Absolutely and that is the important piece and there are very few circumstances. Courts have found there's an obligation where a need is so obvious that you don’t even have to ask but in most cases the law requires even if a person with a disability or somebody assisting that person or helping that person to request some kind of change in a way that's pretty clear and says yes I need this to be done differently because of my medical condition.

Judy.: Rachel what should someone do if they need help with the asking for an accommodation or someone is saying they can’t have an accommodation?

Rachel.: It should be fairly easy as Sam describe to ask for one. You say I have this need I need you to do this and the other party should come back and say I can't do that but I can offer you this. There are organizations throughout the state that can help people. Vermont Center for Independent Living, Disability Rights Vermont. Vermont Legal Aid, The Community Action Program all are able to help people make the initial request. If that request is denied Vermont Legal Aid represents people who have been denied that reasonable accommodation or modification so they can call us and we have a statewide 800 number at (800)-889-2047. Judy.: What if you’re in a situation where you have an apartment and all the sudden something has changed for you. You've had an accident all the sudden you're in a wheelchair or you're on crutches and you go to your landlord and say now you have to make this accommodation or I'd like you to. And the landlord says gee this is no fault of mine but all the sudden your this way.

Sam.: The obligation is still there typically. Again if the person suddenly finds himself in this position in this happens to a lot of people. Somebody lives on a second floor apartment and they have a stroke suddenly they can go up and down the stairs. There are different options you can look at and the obligation is to try to brainstorm how is this going to work. The person may need a first floor apartment there may not be a first floor apartment available yet but you can put somebody on a waiting list. You can see if there's an alternate place they can live if the landlord has more than one property. You can ask about installing a stair glider to help somebody get up to the second floor. There's usually more than one solution to a problem.

Judy.: For the general public is there something they can do to make housing and public spaces more accessible?

Rachel.: I think it’s just awareness. If you don't have a disability or a mobility impairment just walking around your town and observing the sidewalks. And so I wonder if someone with a wheelchair could go here and if that's not the case talking to your town or your neighbors or to other people so that we do have communities that are accessible to everybody.

Sam.: An example that has come up recently is somebody who's come to us who was trying to get in the front door of a store in the store wasn't enforcing the no smoking policy. There's somebody there with a cigarette and she has a respiratory problem couldn't walk in the front door while the person was standing there. The policy was there for no smoking but nobody was telling the guy you have to leave.

Judy.: Once again the toll free number for Vermont Legal Aid's housing discrimination law project and disability law project. Is 1-(800) 889-2047 and their website is on your screen vtlegalaid.com. Rachel and Sam thanks so much for joining me today. That’s our program for today. I’m Judy Simpson we’ll see you again next time on Across the Fence.

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