THE LEGAL REALITY

Getting that parking place

by Helen Russon, Esq.

In this new feature focused on legal issues and MS, we'll follow "Meredith," a fictional 31-year-old woman who recently learned that she has MS. We'll look at problems that come up and how she resolves them—legally.

The first problem: parking and walking

There were just two "handicapped" spaces at Meredith's 150-unit complex available on a "first-come, first-served" basis. Meredith was rarely able to grab one of them, which often meant a long and exhausting walk to her apartment.

She asked the apartment manager to either designate a parking place for her or increase the number of handicapped spaces in the lot. The manager refused, saying, "I've seen you get in and out of your car and it doesn't seem that you're having any trouble."

People with MS have more legal power than they think, Helen Russon has found. The question is how to make it work.

The action

Meredith contacted the National MS Society and learned about the federal Fair Housing Amendments Act (FHAA). The law, administered by the U.S. Department of Housing and Urban Development (HUD), prohibits discrimination on the basis of disability by a "person in the business of selling or renting dwellings."

The chapter gave her HUD's Web site, **www.hud.gov/groups/disabilities.cfm**, where Meredith learned that the FHAA requires landlords to reasonably accommodate tenants with disabilities, as long as it would not create an "undue burden" or "fundamentally alter" the premises.

The Society also referred her to a local Legal Aid office for more advice. The attorney encouraged Meredith to make a formal, written request to her landlord based on a case that was virtually identical to hers.

The precedent

In a 1996 case, **Jankowski Lee & Associates v. Cisneros**, a tenant with MS had requested a closer parking space. When the property manager refused, the tenant filed a complaint with HUD. After an investigation, HUD decided in favor of the tenant. When the property manager appealed, the federal circuit court affirmed HUD's decision. The court found that the manager did not have the right to refuse the request out of hand, based upon uninformed stereotypes and personal opinions.

The result

Meredith wrote a respectful but firm letter to her landlord, reiterating her parking request, explaining that she believed it would be the kind of reasonable accommodation required under the FHAA. She asked for a written response from the landlord within 10 days. That was on a Tuesday. On Friday evening she pulled into her new parking space.

Helen Russon is an attorney who has MS. She teaches disability law at Willamette University College of Law in Salem, Oregon, conducts seminars, and writes newspaper columns for the Oregon Bureau of Labor & Industries.

This information is not legal advice. Readers are encouraged to contact an attorney for help with specific legal issues.
—H. Russon, Esq.