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Therapy Animals under the Fair Housing Act

Christine L. Welton

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Companion animals are increasingly being used to aid people with disabilities, which is creating tension with widespread “no-pet” policies in housing developments. Both federal law and state law prohibit discrimination on the basis of disability. These laws apply not only to direct providers of housing (landlords), but also to associations that either set terms and conditions for housing or provide services and facilities related to housing, including condominium and homeowners associations.

Among other things, the law requires housing providers to make reasonable accommodations in rules, policies, practices, or services, when such accommodations are necessary to allow a person with a disability an equal opportunity to use and enjoy a dwelling.

The process begins with a request for accommodation from the person with the disability. The person requesting the accommodation can be required to document the diagnosed disability, but can't be questioned about the details of the disability. The person requesting the accommodation may be required to document the necessity of the accommodation. If the person has been diagnosed with a qualifying disability and if the accommodation will in some way mitigate the impact of the disability on the person, then usually the accommodation should be granted. An accommodation can only be denied if the accommodation would (1) fundamentally alter the nature of the housing provider's operations, or (2) result in an undue hardship on the housing provider, financially or administratively.

Reasonable accommodation has been interpreted to include requiring the waiver of a “no-pet” policy to allow a person with a disability to keep an emotional support/therapy pet when it's recommended by medical professionals to ameliorate symptoms of the disability. Furthermore, unlike service animals under the Americans with Disabilities Act (which are almost always trained dogs), the fair housing statutes do not limit which types of animals can serve as emotional support/therapy animals or require the animal to be trained or certified. While the housing provided may not assess any fees associated with the accommodation, the person granted an accommodation is liable for any damage the companion animal may cause. The person must also follow all laws of animal ownership (vaccinations, licenses, leash restrictions, damage, clean-up, noise, safety, etc.) and can be required to confirm the animal's good health.

Knowing your rights and obligations under the law can prevent small issues from snowballing into big problems.