

SERVICE ANIMALS: A Fair Housing Reasonable Accommodation



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Fair Housing & Disability Laws

- Federal Fair Housing Act
- Washington State Law Against Discrimination (RCW 49.60)
- Section 504, Rehabilitation Act of 1973
- Americans with Disabilities Act (ADA)
- Local fair housing ordinances



Who Must Comply?

- Property owners
- Property managers
- Real estate brokers or agents
- Housing developers and contractors
- Mortgage lenders, financial institutions
- Advertising media
- Homeowner Associations (HOAs)
- Public Housing Authorities
- Social Service Agencies who are providing housing
- Maintenance
- Contractors (ie: outside companies like plumbing, landscaping, etc)
- Other residents

Who Has a Disability?

Someone who:

- Has a physical or mental condition that substantially limits a major life activity
- Has a record or history of disability
- Is regarded as having a disability

NOTE: Local fair housing laws may have broader definitions.

"Physical or mental condition" includes, but is not limited to, such diseases and conditions as

- Orthopedic, Visual, Speech and Hearing Impairments
- Cerebral Palsy
- Autism
- Epilepsy
- Muscular Dystrophy
- Multiple Sclerosis
- Cancer
- Heart Diseases
- Diabetes
- HIV infection
- Mental Retardation
- Emotional Illness
- Drug Addiction (other than addiction caused by current, illegal use of a controlled substance)
- and Alcoholism.

Joint Statement of the Department of Housing and Urban Development and the Justice Department. *Reasonable Accommodation Under the Fair Housing Act*. May 17, 2004: 3



Reasonable Accommodations

- Reasonable accommodations are changes in housing rules, policies, practices, or services.
- Accommodations enable a person with a disability to have an equal opportunity to use and enjoy a dwelling unit and common areas.

Accommodations Process

- Applicant or resident must request an accommodation
- Accommodation requests do not have to be made in writing – a verbal request is sufficient
- Consider all accommodation requests
- Engage in an interactive process
- Provide accommodations promptly

If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?

- Verification that the person meets the Act's definition of disability
 - by the individual (SSI or SSDI)
 - a doctor or other medical professional,
 - a peer support group,
 - a non-medical agency,
 - or a reliable third party who is in a position to know about the individual's disability.
- Description of the need of accommodation
- Relationship between the disability and requested accommodation (the "necessity")



Joint Statement of the Department of Housing and Urban Development and the Justice Department.
Reasonable Accommodation Under the Fair Housing Act. May 17, 2004: 13-14

Common Reasonable Accommodations

- Waiving No Pet Policy, Other Pet Policies, Pet Fees
- Explaining what is in the lease agreement and what the rules of the complex are
- Providing a reserved parking stall
- Transferring from upstairs unit to ground floor
- Early release from lease
- Providing tenant written information vs. verbal
- Meeting in an accessible location



**Most Common Reasonable
Accommodation = Service Animal**

WHAT IS A SERVICE ANIMAL?

Animals which assist persons with disabilities
with the outcomes of their disabilities

Service Animal

Assistance Animal

Therapeutic Animal

Companion Animal

Emotional Support Animal

SAME



Fears?

More than one animal?

- Animals may provide different support
 - Seizure support dog and a cat for emotional support for mental disability
- May have adverse outcome on disability to get rid of an animal
- Transitioning – training new animal

Breed Restrictions?

- Open to an accommodation
- May have to make accommodation request to insurance company
- HUD Memo, June 12, 2006 – Insurance Policy Restrictions as a Defense

How to mitigate fear?

1. Established RA and Service Animal Policy/Practice
2. Trained Staff
3. Written Statement/Agreement
 - Under direct control
 - Clean up
 - Responsible for behavior
 - Responsible for damage

**Possible Reasonable
Accommodation Requests**

- Waiver of no pet policy
- Waiver of pet deposit
- Waiver of monthly pet rent
- Waiver of cat only policy
- Waiver of size restriction/maximum pounds
- Waiver of breed restrictions
- Etc.....

**Focus on the Human,
not the animal**

- Does the person meet disability definition?
- Is it necessary for the animal to live with them because of their disability?
- No "certification" of animal is necessary
- Person with disability may provide the training

Scenarios

- Is this a fair housing law issue? If yes, how?
- What is/are the reasonable accommodation(s)?
- What are your next steps?
- What questions, if any, may you ask?
- What are the possible outcomes?

Fair Housing Resources

Fair Housing Partners of Washington

Guidebooks, Sample Policies, Healthcare Verification Sample, etc.
<http://www.kingcounty.gov/exec/CivilRights/FH/HPresources.aspx>

HUD/DOJ Guidance on Reasonable Accommodations & Modifications
<http://www.hud.gov/offices/fheo/library/hudjojstatement.pdf>

http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf

HUD Memo on Insurance Restrictions (Animal Breeds) in a Fair Housing Investigation
<http://www.fairhousing.com/include/media/pdf/insuranceguidance.pdf>

HUD Guidance on Service & Assistance Animals (2013)
http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf

Northwest Fair Housing Alliance
www.nwfairhouse.org

Questions

**Thank
You!**


