

FAIR HOUSING – PET ACCOMMODATION RULING

Court Rules in Favor of Association after Board Requests More Information Regarding Need for Service Animal: [Hawn v. Shoreline Towers Phase I Condominium Association, Inc. et. al](#)

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[U.S. District Court, Northern District of Florida](#)
[Case No.: 3:07-cv-97-RV/EMT](#)

On March 12, 2009, the United States District Court for the Northern District of Florida ruled in favor of a condominium association in a discrimination claim brought by one of its members.

Background

Shoreline Towers Phase I had a long-standing “no pet” policy. Mr. Hawn knew that at the time he purchased his unit in 2004. However, in 2005, he urged the Board to allow owners to keep pets on the property after he adopted a puppy. The Association took no action in response to that plea.

Over a year later, Mr. Hawn requested permission for a reasonable accommodation due to a disability. [Fair Housing laws](#) require community associations to make reasonable accommodations in policies or practices and allow reasonable modifications to the physical property if necessary to afford a disabled person the equal opportunity to use and enjoy the dwelling. Mr. Hawn claimed he was disabled (within the meaning of the law) and his dog ‘Booster’ was a trained, certified service animal. He also provided the Board with two letters; one from a psychologist who indicated Mr. Hawn suffered from severe panic attacks and prescribed a service animal to help him cope with his disability. The other letter was from a chiropractor who said a service animal would assist Mr. Hawn with mobility issues.

Mr. Hawn likewise addressed this issue again with the board at a meeting, describing how important ‘Booster’ was to him.

The Board requested documentation to support Mr. Hawn’s claim. It also asked for the qualifications of the medical providers that supplied the two letters. There was no response.

A few weeks later the Board requested more information specifically about: 1) the nature of the impairments; 2) how the pet was necessary to overcome the impairments; and 3) whether there were other corrective measures that would serve the same or functionally equivalent purpose. The request for permission to keep the pet was denied pending receipt of further information.

Instead of providing additional information, Mr. Hawn filed a complaint with the [Florida Commission on Human Relations \(FCHR\)](#). The investigator issued a finding of “Reasonable Cause” to believe a discriminatory act occurred, which prompted Mr. Hawn to file a lawsuit in Federal Court for discrimination in violation of both the Federal and Florida Fair Housing Acts. Mr. Hawn also sought damages for Intentional or Reckless Infliction of Emotional Distress and Injunctive Relief.

Someone is entitled to damages, injunctive relief, or both, from a housing provider for discrimination if he/she shows:

1. The person is disabled (as defined by the law) & the housing provider knew or should have known of the disability; and
2. An accommodation (or modification) is necessary to afford the disabled person the equal opportunity to use and enjoy the dwelling; and
3. The requested accommodation (or modification) is reasonable; and
4. The housing provider denied or refused to make the requested accommodation.

Court Decision

The Court found that the Board was perfectly well within its right to question the disability claim, especially since Mr. Hawn obtained the dog a year earlier, lobbied to change the rules without any mention of a disability, and failed to provide further information upon request. Once discovery took place, the Association learned that Mr. Hawn only had two appointments each with the psychologist and chiropractor who wrote the initial letters. The Court found that the information initially provided was not sufficient to prove that the Board “knew or should have known” that Mr. Hawn was disabled, and therefore, failed to show that the Board knew the accommodation was reasonably necessary.

The Court stressed the requests for additional information and the temporary nature of denial, concluding that Mr. Hawn could not show the Board wouldn’t make an accommodation if he was able to show the accommodation was necessary to ameliorate the effects of the disability.

Community associations should learn important lessons from this favorable case. First, it is important for all community leaders and members of the management team to be aware of the obligations of housing providers pursuant to Federal, state and local fair housing laws. Second, requests for reasonable accommodations or modifications cannot be ignored and must be addressed in a logical way. Finally, it is important to consult with legal counsel as these are highly charged and sensitive issues.