

Pets Special

Learning to live with the FHA

Expect requests for pets as accommodations under the Fair Housing Act to increase as the boomers age.

BY DEBRA LEWIN

When board members of the Castillo Condominium Association in Puerto Rico discovered that Carlo Bianco had a dog in his unit, the no-pets association advised him to get rid of the dog or be fined. Bianco said the dog was an emotional support animal that alleviated the symptoms of his depression and anxiety, and he backed up his claim with a letter from his psychiatrist. He asked for a reasonable accommodation to the no-pets rule. The board said “no,” believing Bianco had failed to prove that he had a mental impairment.

Bianco complained to the U.S. Department of Housing and Urban Development (HUD) that the association had violated the Federal Fair Housing Act by denying him a reasonable accommodation.

HUD agreed and found that the association not only failed to grant Bianco a reasonable accommodation, it had failed even to discuss possible alternatives to a requested accommodation. Consequently, HUD hit the association with the maximum fine—\$16,000 for violating the FHA and \$20,000 for Bianco’s emotional distress.*

PEACEFUL CO-EXISTENCE

The number of residents requesting pets as accommodations for disabilities is likely to increase for some time to come as the boomers age and pet ownership numbers continue to soar. Processing these requests can be problematic for boards, but managers can encourage associations to establish procedures that work for both pet owners and non-owners alike by following a few basic steps:

- Pet-free associations should specify how to request a reasonable accommodation for service, therapy, or support animals. Include a list of required documents, such as physician statements and information about the animal.
- Take every request seriously regardless of how the situation appears. Remember that disability covers a surprising number of conditions—many that aren’t clearly apparent.
- Investigate each request using the same criteria, and grant temporary approval while you investigate.
- Conduct a hearing and apply the FHA’s criteria to each case. (See “Reasonable Accommodations Under the Fair Housing Act” at www.portal.hud.gov)

■ Documentation from a physician need only state an animal is necessary to alleviate the symptoms of a disability. Accept the physician’s qualifications, statements, or opinions on face value.

■ Make every effort to reach a reasonable accommodation.

Associations that proactively develop an “accommodation policy” based on these steps are likely to have greater success with community residents and their pets.

The pull-out poster at left explains the differences between service animals, therapy animals, and emotional support animals and—especially critical for association managers and boards—what pet restrictions may not apply to each animal’s category.

Debra Lewin is senior director of CAI Press.

**Castillo Condominium Association v. U.S. Dept. of Housing & Urban Dev., Case Nos. 14-2139, 15-1223 (1st cir. May 2, 2016)*



COMMON GROUND COVERS IT!

For a lot more about pets in community associations, don’t miss the May/June issue of *Common Ground* magazine. Available in your mail box and inbox in early May, the issue will look at the surge in pet-friendly amenities in associations; some non-traditional pets, like pot-bellied

pigs, goats, chickens, and reptiles; details on how to establish appropriate—and enforceable—rules regarding pets and pet owners; and much more. Visit www.caionline.org.



SIT, STAY, GOOD RULE!

Service animals, therapy animals, assistance animals, emotional support animals! Dogs, cats, ponies! Trained, not trained! FHA, ADA! Ahhhhh! Understandably, even when associations think they’re on solid ground, they sometimes find themselves in court. To help you figure it all out, CAI has prepared *Pets in Community Associations: Advice for Keeping the Tail from Wagging the Dog*. This new anthology of articles and court cases—from *Common Ground* magazine, *Community Manager* newsletter, and *Law Reporter*—details how associations can develop and apply rules related to pets and pet owners, including how to make accommodations for pets under the Fair Housing Act.

» Available from CAI Press at www.caionline.org/shop. Member price: \$12.

Pet or Service Animal?



A handy reference guide to service animals and their classifications.



Pet or Service Animal?



service animal
dogs; in some cases,
miniature horses



therapy animal
any legal species



emotional support animal
any legal species

	alternate names	certification	training	trainer	handler	socializing	function	legal status	subject to pet restrictions	documentation
Working, guide, signal, medical alert, psychiatric service animal.	None.*	Required. Rigorous, task-specific, individual.	Professional service-dog trainer.	Owner/disabled partner.	Prohibited while on duty.	Works, provides assistance, performs specific tasks in partnership with one person with a disability.	Protected under the ADA and FHA.	No.	OK to request if the disability-related need isn't apparent. Health-care provider statement that the animal is trained to assist the resident with a disability. (see Function)	
Assistance animal.	None.*	Not always required, but usually necessary.	Anyone.	Owner.	Essential while on duty.	Provides psychological or physiological benefit to individuals or groups in a clinical environment. May also provide benefits to an individual in the home. Example: Interacts with people in nursing homes, hospitals, special-needs schools, rehab facilities.	Reasonable accommodations are required.	No, if the handler/owner is receiving the benefit, and unless aggressive, destructive, uncontrolled, or unhygienic. Yes, if the handler/owner does not have a disability, but works with the animal outside the home.	OK to request if the disability-related need isn't apparent. Health-care provider statement that the animal is needed to alleviate the symptoms of a disability is sufficient.	
Comfort animal, companion animal.	None.*	None.	N/A.	Owner.	N/A.	Exerts a positive effect on a person with a disability. Example: Proximity or contact alleviates depression or anxiety symptoms.	Reasonable accommodations are required.	No, unless aggressive, destructive, uncontrolled, or unhygienic.	OK to request if the disability-related need isn't apparent. Health-care provider statement that the animal is needed to alleviate the symptoms of a disability is sufficient.	

*There is no nationally recognized certifying agency and no certification granted to service, therapy, emotional support, or other assistance-type animals. Neither the Federal Housing Administration nor the Americans with Disabilities Act require service animal "certification." A number of reputable agencies certify that an animal has participated in their programs, completed training courses, or otherwise meets the criteria for a service animal. These are legitimate, but not official, and they offer no guarantee of an animal's status. Beware of fraudulent service-animal certifications that are easily available for purchase online.

Information in this chart does not constitute a legal opinion. Some state and local statutes may differ from the information presented here. Questions regarding pet issues and service animals should always be referred to an attorney when legal advice is needed.