

Fair Housing Tips on Welcoming Service Animals

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MIAMI VALLEY

FAIR HOUSING

Resources

- www.mvfairhousing.com
- www.mvfairhousing.com/rental
 - CLICK ON THE TAB LINKS TO HUD GUIDANCE AND SELECT THE LINKS TO THE JOINT STATEMENTS
- www.mvfairhousing.com/realtor
- www.gdaa.org

Additional Resources

- HUD's new Service Animal Policy

http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcf_ho2013-01.pdf

- MVFHC Service Animal Policy Page

<http://mvfairhousing.com/serviceanimal.php>

Fair Housing Prohibitions

- Refuse to sell or rent
- Discriminate in the terms, conditions
- Discriminate in advertising
- Misrepresent the availability of housing
- Engage in blockbusting or steering
- Refuse people w/disabilities modifications
- Discriminate in making loans, insurance policies, appraisals, & other real estate transactions
- To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of a fair housing right

It is illegal to discriminate based on:

- Race
- Color
- Religion
- National origin
- Sex
- Disability
- Familial Status
- Ancestry & Military Status – Ohio
- Age and Marital Status – Dayton
- Sexual Orientation and Gender Identity – 23 Ohio Jurisdictions

Service Animal Policy Update 2013

- (HUD) issued a Notice reaffirming that housing providers must provide reasonable accommodations to persons with disabilities who require assistance animals on April 25, 2013.

Service Animal Policy Update 2013

- The Notice, among other things, discusses how the Fair Housing Act and the Americans with Disabilities Act (ADA) intersect regarding the use of service or assistance animals by persons with disabilities.

Service Animal Policy Update 2013

- The Americans with Disabilities Act requires equal access for people with disabilities using trained service dogs in public accommodations and government facilities.

Service Animal Policy Update 2013

- Under the Fair Housing Act, housing providers have a further obligation to accommodate people with disabilities who, because of their disability, require trained service dogs or other types of assistance animals to perform tasks, provide emotional support, or alleviate the effects of their disabilities

Service Animal Policy Update 2013

- The guidance also describes the Department of Justice’s revised definition of “service animal” under the ADA, as well as housing providers’ obligations when multiple nondiscrimination laws apply.

Multiple Laws apply to

- These entities include, but are not limited to, public housing agencies and some places of public accommodation, such as rental offices, shelters, residential homes, some types of multifamily housing, assisted living facilities, and housing at places of education

Definition

- An assistance animal is not a pet.
- It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Definition of Disability

Under both the ADA and FHA, an individual is considered disabled if:

- they have any physical or mental impairment that substantially limits one or more major life activities like walking, talking, caring for oneself, learning, working, etc.
- they have a record of physical or mental impairment
- they are regarded as having an impairment

Accommodations and Modifications

- Accommodations are **changes in the rules, services, practices or policies** that allow individuals with disabilities equal enjoyment of housing, but do not change the nature of the program.
- Modifications are **changes to the physical characteristics** of a residence or to the common areas of a building.

Cautionary Quote

- “For purposes of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified.”
- “While dogs are the most common type of assistance animal, other animals can also be assistance animals.”

Cautionary Quote

- A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether or not the person seeking the accommodation has a disability or a disability-related need for an assistance animal.

Cautionary Quote

- Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal

Cautionary Quote

- If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal

Example from 2013 HUD Guidance

- “the housing provider may ask persons who are seeking a reasonable accommodation **for an assistance animal that provides emotional support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional** that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability”

Example Guidance continued

- Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

Other Guidance Tips

- Each request a “individualized assessment.”
- No fees, no deposits, no financial conditions,
- “a response may not be unreasonably delayed”

The term medical is not in our housing dictionary!

- A housing provider also may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments.

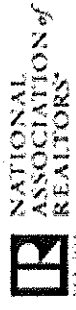
Apparent or Known

- a housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider

NAR Film based on HUD Guidance

Emotional Support and
Other Assistance Animals
and Fair Housing
Accommodations

January 29, 2014



Central Ohio
Fair Housing Association



Additional Guidance from MVFHC website - Links

- Guidelines for housing providers
- Guidelines for tenants
- Link to download page in a PDF(Have this available at end of course)
- Insurance Policy Restrictions
- HUD clarification of DOJ ADA rules
- Ohio Legal Rights fact sheet

Additional Guidance from MVFHC website

- No restrictions on size, weight, and type of pets allowed
- an accommodation may involve more than one service animal.
- If your insurance provider says you have to restrict breeds, you should contact HUD, a fair housing center, or an attorney about this possible infraction of the law.

Additional Guidance from MVFHC website

- Good property management will ensure that staff and other tenants are properly trained in the facility's service animal policies
- Let's turn to the website

Other HUD Guidance

- Harassment in Housing is Illegal – Final Rule issued September 14, 2016 and includes these notes on Unwelcome Conduct: “threatening physical harm to an individual, family member, assistance animal or pet.”

Other HUD Guidance

- 2004 Joint Statement on Reasonable Accommodation –
- Use all applicable guidance including the 2004 guidance for third party verifications for reasonable accommodations and the 2013 Service Animal Guidance for third party verifications of “emotional support animals”

Third Party Verifications

- 2004 General Guidance for RA's
 1. Doctor/Medical professional
 2. Non-Medical Service Provider
 3. Peer Support Group or
 4. “a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability.”
- 2013 Guidance for Assistance Animal for Emotional Support:
 1. a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability”

Reminders from HUD/Justice Departments

- A provider has an obligation to provide **prompt responses** to reasonable accommodation requests.
- An **undue delay** in responding to a reasonable accommodation request may be **deemed to be a failure** to provide a reasonable accommodation.

Reminders from HUD/Justice Departments

- An **interactive process** which renders an **individual assessment** in which the housing provider and the requester “discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all”