

Is Fluffy Just a Pet? Or a Protected Service Animal?

Generally, HOAs can restrict pets unless the pet is a service animal protected by the Fair Housing Act, commonly known as the FHA. But what is a protected "service animal?" A service animal is a disabled individual's pet that is trained to accommodate his or her disability. A trained guide dog for the blind is the perfect example. But sometimes a person's disability is not so obvious. Perhaps the person has epilepsy and needs a trained animal to act if they have a seizure.

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While the FHA is meant to protect the disabled, the law is being taken advantage of by some, including residents in HOAs. More and more, residents in HOAs say the HOA can't do anything about their pet violating the rules because it is a service animal. When this happens the HOA does not have to take the resident's word and can ask follow up questions to determine whether the pet is, in fact, a service animal.

When the disability is not readily observable, the HOA may request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual's diagnosis." A homeowner requesting an accommodation must be given reasonable opportunity to provide such information "that reasonably supports that the person seeking the accommodation has a disability." The HOA can deny the accommodation if they fail to provide such information within a reasonable time.

What counts as a disability? Generally, a condition that imposes a "substantial limitation on a major life activity resulting in the determination of a disability. Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia. This does not mean other conditions are not disabilities. It simply means in virtually all cases these conditions will be covered as disabilities."

continued on next page



IN THIS ISSUE

Is Fluffy Just a Pet? Or a Protected Service Animal?

Page 1



Diverse Opinions Can Help HOA Boards

Page 2

HOAMCO + SmartWebs = Better Architectural Review

Page 3



If someone requesting an accommodation does not provide proper information establishing the foregoing, HUD says, “the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.” HUD’s guidelines provide:

Reasonably supporting information often consists of information from a licensed health care professional – e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – general to the condition but specific to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.

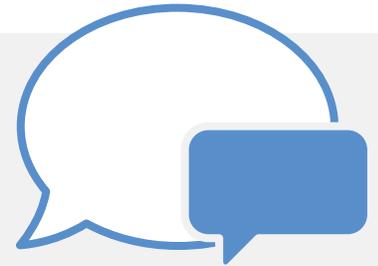
A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.

HUD also says the health care provider must have “personal knowledge of the individual.” Thus, you shouldn’t be able to go on a web site and have a therapist create a form letter for a fee to qualify.

An accommodation should be provided if everything else is met and the animal is “dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure.” The threshold for exotic animals is: “If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal.”



DIVERSE OPINIONS CAN HELP HOA BOARDS



HOA boards are run by multiple people for a reason. Decisions should not be left to the sole discretion of a single leader. However, with multiple Board Members come individual opinions and perspectives on community living. While this has the potential to cause tension, if everyone is respectful and open to working together, having many perspectives on your Board can benefit your HOA.

Differing opinions bring fresh ideas. It’s good to have multiple perspectives. With fresh ideas come new thoughts and ways of doing things. Opportunities for improvement can be brought to light which were possibly previously overlooked. These changes can bring greater efficiency and improvement to the daily life of the community.

Differing opinions encourage discussion. When the Board agrees about everything, decision making is easier, however may lack the careful discussion necessary to make the right decision for a community. More robust discussion can ensure the board is making well thought-out decisions in alignment with the HOA’s mission, vision, and governing documents.

Differing opinions promote problem solving. When Board Members have different ideas they must work together to find common ground. Members must listen to one another, and be willing to compromise. When the Board has the ability to work through conflict of opinions, they build a rapport which helps them work together as a stronger team when it comes to solving bigger issues down the road.

Unique opinions lead to more thorough review. When a Board member questions a decision, it can cause the Board to look more carefully at the issue at hand. The Board may gather additional data or compare other solutions to resolving an issue. The first idea is not always the best idea.

Being respectful of one another is the key to resolving conflict. Board members who learn not to take it personally when someone has an opinion that disagrees with their own are stronger team members who carefully consider other Board member’s thoughts and perspectives. Consider working with a skilled property manager who can help can help your HOA stay on track and grow as a team while providing access to valuable resources such as advice on conflict resolution. **Connect with HOAMCO.com to learn how we can help you facilitate thriving HOA communities.**





HOAMCO + SmartWebs = **BETTER** **ARCHITECTURAL** **REVIEW**

At HOAMCO, we realize the value of having a streamlined architectural process and it is always our priority to make the lives of Board and Committee members easier. That's why we have a dedicated Architectural Review department and on-staff licensed architect. It's also why we've recently partnered with SmartWebs to bring our clients SmartArchitecturals, the complete online solution for the architectural review process.

With SmartArchitecturals, homeowners can submit their architectural review requests online and have 24/7 access every step of the process. Their cloud-based technology lets your Association review and vote on architecture requests from anywhere, then automatically notifies the homeowner of any progress. The software sends status updates through email and automated letters - utilizing exclusive Zero-Touch Communication - keeping the Homeowner, Board and/or ARC, and HOA management all in-step. And, with automated and cloud-based record-keeping, all documents are archived and easily accessible for your management team.

With SmartArchitecturals, everyone can easily access and process architecture requests in your HOA community.

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