

## **SERVICE ANIMALS:** **THE ADA vs. THE FAIR HOUSING ACT**

***The Americans with Disability Act (ADA) was recently changed with regard to service animals. How does this affect disability-related animals in housing?***

The ADA is not the Fair Housing Act (FHA). Changes to the ADA have no affect on the FHA. In fact, to a great extent, the ADA has little to do with housing at all. Unfortunately, the ADA has been in the news a good deal and articles about it rarely delve into the fact that disability-related animals in housing is a different critter all together.

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The ADA deals with civil rights in public accommodation in public places such as businesses, restaurants, buses, and the like. The only place it touches the housing industry is where is speaks to:

1. the accessibility needs of model homes and sales / rental offices and
2. the accessibility requirements of any publicly available places within a housing complex (for example, a community center available for anyone to rent for private functions).

The FHA, on the other hand, deals only and specifically with housing. The portion of this federal law that addresses disability as a protected class includes provisions for reasonable accommodations and modifications. The request for a disability-related animal despite a no-pets (or other pet-restricted) policy is, in fact, one of the more common reasonable accommodation requests we see. And it's not surprising given the range of services such animals can provide and knowing that an even broader array of medical conditions that can benefit from such treatment is staggering.

In housing, under the FHA, it doesn't matter what you call them (service animals, companion animals, therapy animals, working animals, etc.); if the animal exists to serve the individual's disability, it is not legally a pet and may not be treated as such. That means no pet fees, pet deposits, or pet rent. Housing providers (landlords, homeowners associations, home insurers, etc.) may not restrict such animals by breed or species in housing. One may not be asked or required to provide proof of training or certification for such animals in housing.

Housing providers may have assistance animal rules as long as they're no more restrictive any pet rules at the same property. Now, as with any other accommodation / modification request, the disability-animal request must, too, be "reasonable" and the resident is responsible for their animal. That means that housing providers would be within their rights to respond to the service bird that shrieks at two in the morning, the companion cat that attacks other residents, or the seeing-eye dog that soils the carpet.

For a wealth of information on disability as a protected class visit [www.FHCO.org/disability.htm](http://www.FHCO.org/disability.htm). For service animal-specific information look to [www.FHCO.org/serviceanimals.htm](http://www.FHCO.org/serviceanimals.htm) which includes a memo from HUD on the new ADA regulations and what that means for service animals in housing under the FHA and Section 504 of the Rehabilitation Act.

You can download and pass on our Reasonable Accommodation / Modification Guide for Perplexed Medical or Therapeutic Professionals at [www.FHCO.org/pdfs/RAguide.pdf](http://www.FHCO.org/pdfs/RAguide.pdf). And, check out several related sample documents at [www.FHCO.org/forms.htm](http://www.FHCO.org/forms.htm).

Article by Fair Housing Council of Oregon Staff

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**NOTE: For fair housing resources related to properties  
in the state of Washington, see  
[www.kingcounty.gov/exec/CivilRights/FH/HPresources.aspx](http://www.kingcounty.gov/exec/CivilRights/FH/HPresources.aspx)**