



Animals in Housing

Emily Harvey, Staff Attorney



**DISABILITY LAW
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Definition of Disability

- ▶ Disability (Handicap) means:
 - ▶ Physical or mental impairment that substantially limits a major life activity (an *actual disability*); or
 - ▶ *Record of* a disability; or
 - ▶ *Regarded as* a person with a disability



Different Classifications of Animals



- ▶ **Service Animals** - *individually trained* to perform a task or service to help an individual with a disability
- ▶ **Assistance Animals** - ameliorate (help) one or more symptoms of a person's disability (do not have to be trained)
 - ▶ Includes companion and emotional support animals
- ▶ **Therapy Animals** - provide benefits to people other than owner (visit people in hospitals, nursing homes, etc.)
- ▶ **Pets** - catch-all provision that includes all animals that any person, with or without a disability, may have if they do not fall into one of the other categories



Service Animals

- ▶ Must be a dog or miniature horse
- ▶ Must be *individually trained* to perform a task or service to help the person with a disability
- ▶ Can be trained by the owner
- ▶ Does not require licensing, certifications, or a vest
- ▶ Service animals in training are also covered in Colorado
- ▶ Do not pet - they are working
- ▶ Allowed in places of public accommodation & housing (different documentation requirements for the latter)



Assistance Animals

- ▶ Not specifically defined in Americans with Disabilities Act or Fair Housing Act
- ▶ HUD guidance and case law defines assistance animals as animals that ameliorate (help) one or more symptoms of a person's disability
- ▶ Includes companion and emotional support animals



*Assistance animals are not required to have any specific training; they just have to help the person with a disability

Assistance Animals, Cont.

- ▶ Assistance animals are allowed in housing
- ▶ There is no limit on the type of animal or even how many animals are allowed
 - ▶ Though local ordinances may play a role (but not with regard to weight/breed/size restrictions)
 - ▶ Must be reasonable



In Housing, both service & assistance animals *must be allowed* - this includes companion and emotional support animals (Fair Housing Act)



What Housing is Covered?

- ▶ Dwelling means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. 42 U.S.C. § 3602(b)
- ▶ In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members



Tenant Must Make the Request

- ▶ If it is a no pets building or if the animal does not meet the standard pet guidelines, the tenant must request that the animal be allowed
- ▶ No particular form is required
- ▶ Tenant must provide
 1. Proof of disability (from a medical provider) *and*
 2. Proof that the animal alleviates one or more symptom of disability (not required to be from a medical provider)
- ▶ Cannot require anything else & cannot even require this if the disability and disability-related need is obvious

This is the tenant requesting a reasonable accommodation due to their disability

What can the Landlord Require from the Tenant?

- ▶ Proof of disability (if not obvious) - from medical provider
- ▶ Proof that the animal will help with the person's disability - from medical provider OR anyone "in the know"
- ▶ Proof that the animal is registered and vaccinated
- ▶ The tenant to take care of the animal
- ▶ The animal cannot pose a real threat or a nuisance



What Can't the Landlord Require from the Tenant?

- ▶ Additional security deposit or pet rent
- ▶ Proof of training or certification
- ▶ Full medical records



Duties Related to Service & Assistance Animals in Housing

- ▶ A tenant must:
 - ▶ Take care of the animal - it is not considered reasonable to ask the housing provider to assist
 - ▶ Clean up after the animal
 - ▶ Ensure the animal does not pose a *real* threat or *significant* nuisance
 - ▶ Pay for any damages done by the animal
 - ▶ As long as management typically charges for damages



Colorado's New Law: Intentional Misrepresentation of an Assistance Animal

- ▶ Violation of this law is a class 2 petty offense
 - ▶ 1st offense = fine of \$25
 - ▶ 2nd offense = fine of \$50 to \$200
 - ▶ 3rd offense = fines of \$100 to \$500
- ▶ Nothing about this law changes the documentation requirement for individuals who request an assistance animal in housing - still need proof of disability and disability-related need, the latter of which does not have to be from a medical provider
- ▶ However, if you do have a letter from a medical provider verifying BOTH factors, that serves as an affirmative defense if you are charged under this law
- ▶ This law went into effect on January 1, 2017



A few things to watch out for...

- ▶ Be Careful About Sharing Tenant Information
 - ▶ Landlords cannot give out personal information about their tenants - this includes information on disability or any requests for accommodation
 - ▶ Tenants can discuss things with each other - *if they want to*
- ▶ Allergies are No Excuse - *housing provider must try to find a solution that allows the person with disability to have the animal*
- ▶ Don't Make Assumptions - *not all disabilities are visible*
- ▶ Don't assume that an animal is or is not a service or companion animal - *Some people's disabilities make them feel safer with a large dog or a tiny gerbil*
- ▶ Don't assume that anyone and everyone can have an assistance animal - *they must have a disability and a need for the animal*
- ▶ Don't assume a dog in a vest is truly a service dog - *you can ask for proof if it is not obvious*





Hypothetical #1: Steve

- ▶ Steve has PTSD and he would like to get a cat to help provide him with emotional support. Steve submits a letter to his landlord from his doctor stating that he has a disability and the doctor believes the cat will help alleviate the symptoms of his disability. The specific disability is not mentioned in the letter.
 - ▶ Is this documentation sufficient?
 - ▶ Must the landlord allow Steve to have an emotional support cat?



Hypothetical #2: Mary

- ▶ Mary has anxiety and her dog is trained to sense when her breathing changes and then to nudge her in the leg so she will sit down to do breathing exercises. By doing this, Mary can avoid more serious effects of her anxiety, including panic attacks. Mary has a hard time picking up after her dog because of mobility issues.
 - ▶ Which type of animal is Marys' dog - service, assistance, or emotional support?
 - ▶ Is Mary allowed to take her dog out with her to places like restaurants and movie theaters?
 - ▶ Can Mary's landlord require that she provide documentation regarding her disability and her need for her animal?
 - ▶ Can Mary ask her landlord to pick up after her dog because she has a hard time doing it?



Hypothetical #3: George

- ▶ George is blind and has a Pitbull that is trained to guide him. George lives in a city that bans certain breeds, including Pitbulls.
 - ▶ Can George's landlord require documentation stating that George has a disability and needs his dog for his disability?
 - ▶ Can George's landlord prohibit the dog on the basis that it is a Pitbull?
 - ▶ Can George's landlord prohibit the dog because he believes Pitbulls are a threat to other tenants?



Hypothetical #4: Suzie

- ▶ Suzie asked her landlord about how she could have an emotional support guinea pig living in her apartment with her. Suzie's landlord gave her a reasonable accommodation request form that required her to get documentation from a doctor licensed in the state of Colorado and further required that the doctor's signature be notarized.
 - ▶ Must Suzie use this form from her landlord in order to have an emotional support guinea pig?
 - ▶ Should Suzie's landlord be using this form?



Thank you!



455 Sherman Street, Suite 130

Denver, CO 80203

Phone: (303) 722-0300

Toll Free: (800) 288-1376

Fax: (303) 722-0720

eharvey@disabilitylawco.org

www.disabilitylawco.org

www.facebook.com/disabilitylawco