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Edward D. Boyack
Patrick A. Orme
Christopher B. Anthony
Colli C. McKiever

Jennifer L. Taylor, *Of Counsel*

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Guide for Use of Non-Discrimination Policy and FHA Policy Forms

To Whom It May Concern:

Recently, we have seen a significant increase in federal Department of Housing and Urban Development (“HUD”) complaints against HOAs (as well as from HUD’s state equivalent, the Nevada Equal Rights Commission). These claims usually arise out of resident requests for reasonable accommodations/modifications being handled incorrectly (including emotional support animal requests) or when the resident believes they are victims of discrimination. When a HUD complaint is filed, the respondent HOA is typically placed in a poor position with an uphill battle ahead of it. Afterall, HUD is an advocate for protected classes of persons, and it does not necessarily act in the best interest of HOAs. Additionally, HOAs do not typically maintain information that a HUD investigator would want to see in order to “prove its innocence” (for example, statistical information showing how many people of different races received violation notices).

With this in mind, we believe that the implementation of non-discrimination policies and reasonable accommodation/modification policies prior to a claim can work toward leveling the playing field for HOAs when HUD starts an investigation. A non-discrimination policy is a basic affirmative statement that states the HOA is committed to upholding the ideals of the Federal Housing Act (“FHA”) by promoting equality among persons of different age, sex, race and other protected classes. A reasonable accommodation/modification policy essentially sets forth the guidelines the HOA will use when evaluating resident requests to accommodate disabilities, such as ramps, handrails, special parking spaces and support animals. With these policies in place prior to a HUD claim being filed, the association will be in a much better position to defend itself.

Because of the importance of these policies, we want to ensure all our communities have access to them. Accordingly, we are providing these policies to you free of charge. For a small fee, we would be happy to customize these forms for your association, as well as provide you with additional documents that will assist your community manager and board with the intake and evaluation of these matters, including accommodation requests, requests for additional documentation from doctors, support animal forms, and others. Please feel free to contact us if you need assistance with FHA issues and any other general counsel or litigation issues your association may have.

Very Truly Yours,

Chris Anthony

Christopher B. Anthony, Esq.