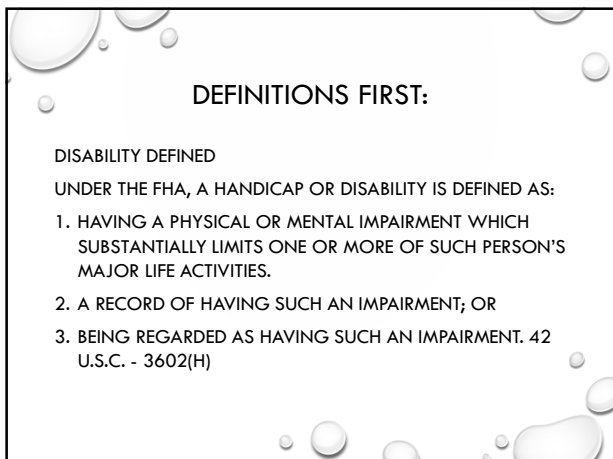




COMPANION & EMOTIONAL SUPPORT ANIMALS

WITH MORE THAN 73 MILLION AMERICANS LIVING IN CIC'S, IT IS IMPORTANT FOR RESIDENTS AND THE BOARD MEMBERS WHO GOVERN THESE COMMUNITIES TO RECOGNIZE THE DIFFERENCE BETWEEN SERVICE ANIMALS AND EMOTIONAL SUPPORT ANIMALS.

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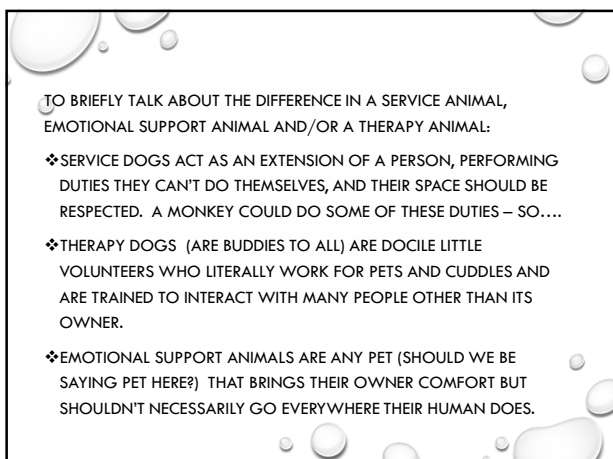
DEFINITIONS FIRST:

DISABILITY DEFINED

UNDER THE FHA, A HANDICAP OR DISABILITY IS DEFINED AS:

1. HAVING A PHYSICAL OR MENTAL IMPAIRMENT WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF SUCH PERSON'S MAJOR LIFE ACTIVITIES.
2. A RECORD OF HAVING SUCH AN IMPAIRMENT; OR
3. BEING REGARDED AS HAVING SUCH AN IMPAIRMENT. 42 U.S.C. - 3602(H)

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TO BRIEFLY TALK ABOUT THE DIFFERENCE IN A SERVICE ANIMAL, EMOTIONAL SUPPORT ANIMAL AND/OR A THERAPY ANIMAL:

- ❖SERVICE DOGS ACT AS AN EXTENSION OF A PERSON, PERFORMING DUTIES THEY CAN'T DO THEMSELVES, AND THEIR SPACE SHOULD BE RESPECTED. A MONKEY COULD DO SOME OF THESE DUTIES – SO....
- ❖THERAPY DOGS (ARE BUDDIES TO ALL) ARE DOCILE LITTLE VOLUNTEERS WHO LITERALLY WORK FOR PETS AND CUDDLES AND ARE TRAINED TO INTERACT WITH MANY PEOPLE OTHER THAN ITS OWNER.
- ❖EMOTIONAL SUPPORT ANIMALS ARE ANY PET (SHOULD WE BE SAYING PET HERE?) THAT BRINGS THEIR OWNER COMFORT BUT SHOULDN'T NECESSARILY GO EVERYWHERE THEIR HUMAN DOES.

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REASONABLE ACCOMMODATION REQUEST:

A "REASONABLE ACCOMMODATION" IS A CHANGE, EXCEPTION, OR ADJUSTMENT TO A RULE, POLICY, PRACTICE, OR SERVICE THAT MAY BE NECESSARY FOR A PERSON WITH A DISABILITY TO HAVE AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING, INCLUDING PUBLIC AND COMMON USE SPACES. IT IS CONSIDERED DISCRIMINATORY UNDER FHA AND MOST STATE LAWS TO REFUSE TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES, WHEN SUCH ACCOMMODATIONS MAY BE NECESSARY TO AFFORD SUCH PERSON AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING "LIKE SERVICE DOGS". 42 U.S.C. - 3604 (F) (3) (B).

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MANY ASSOCIATIONS HAVE RESTRICTIONS ON PETS THAT EITHER PROHIBIT THEM ALTOGETHER OR LIMIT THE TYPE, NUMBER AND/OR SIZE OF A PET THAT IS PERMITTED IN A UNIT. AS A RESULT, BOARDS OFTEN SEE RESIDENTS REQUESTING AN ACCOMMODATION FROM THE PET RULES FOR A SERVICE OR EMOTIONAL SUPPORT ANIMAL.

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PUBLIC POLICY ON PETS AND ASSISTANCE ANIMALS

1. PLEASE REMEMBER TO KEEP PETS AND ASSISTANCE OR COMFORT ANIMALS SEPARATELY IN YOUR MIND, AS ASSISTANCE ANIMALS ARE NOT CLASSIFIED AS PETS.
2. CAI SUPPORTS ANY LEGISLATION THAT SPECIFICALLY ALLOWS CIC'S TO REQUEST DOCUMENTATION TO VERIFY THE NEED FOR AN ACCOMMODATION FOR AN ASSISTANCE ANIMAL. THEY ALSO SUPPORT LEGISLATION THAT IMPOSES PENALTIES FOR FRAUDULENT REQUEST FOR SERVICE OR EMOTIONAL SUPPORT ANIMALS.
3. CAI DOES NOT SUPPORT LEGISLATION THAT CONTAINS PROVISIONS PROHIBITING CIC FROM FAIRLY ADOPTING RULES GOVERNING ANIMALS.

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• **SERVICE ANIMAL VS. COMPANION ANIMAL**

A SERVICE ANIMAL IS DEFINED AS ANY DOG (OR MINIATURE PONY) THAT IS INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING A PHYSICAL, SENSORY, PSYCHIATRIC, INTELLECTUAL, OR OTHER MENTAL DISABILITY.

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• A SERVICE DOG MUST BE INDIVIDUALLY TRAINED TO PERFORM WORK OR TASKS DIRECTLY RELATED TO THE HANDLER'S DISABILITY, WHILE A THERAPY AND EMOTIONAL SUPPORT DOG MERELY PROVIDES COMFORT TO AN INDIVIDUAL IN SOME FASHION. THERAPY DOGS ARE OFTEN THE PETS OF THE THERAPIST OR PSYCHIATRIC PERSONNEL OF THE PARTICULAR INSTITUTION OR HOSPITAL WHERE THEY BRING COMFORT. THERAPY AND EMOTIONAL SUPPORT DOGS ARE ALLOWED IN HOUSING UNDER THE FAIR HOUSING ACT (FHA), BUT ARE NOT PERMITTED IN PUBLIC PLACES AS ARE LIKE SERVICE DOGS.

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• COMPANION ANIMALS ARE NOT INDIVIDUALLY TRAINED TO PERFORM A SPECIFIC KIND OF TASK. INSTEAD, THE PRINCIPLE SERVICE THAT COMPANION ANIMALS PROVIDE IS SIMPLY THAT - COMPANIONSHIP. WHILE SERVICE ANIMALS ARE TRAINED TO BEHAVE FLAWLESSLY IN PUBLIC, COMPANION ANIMALS MAY OR MAY NOT BE AS WELL-BEHAVED. AS A RESULT, COMPANION ANIMALS ARE VIRTUALLY INDISTINGUISHABLE FROM THE FAMILY PET.

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EMOTIONAL SUPPORT ANIMALS - ESA'S

- PUBLIC PERCEPTION OF THESE TWO TYPES OF ASSISTANCE ANIMALS IS QUITE DIFFERENT.
- MORE SKEPTICISM ABOUT ESA'S LIKELY FOR THE SAME REASONS THAT WE ARE SEEING MORE AND MORE REQUIREMENTS FOR ACCOMMODATING ESA'S.
- MORE SUBJECTIVITY INVOLVED WHEN DETERMINING IF SOMEONE IS DISABLED.
- MUCH EASIER FOR A RESIDENT TO CLAIM TO HAVE A MENTAL OR EMOTIONAL DISABILITY WITHOUT HAVING TO PROVIDE MUCH PROOF.
- HARDER FOR A CIC TO CHALLENGE THIS CLAIM.

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ACCORDING TO THE NEW HUD NOTICE, TWO THRESHOLD QUESTIONS MUST BE ADDRESSED WHEN A PERSON ASKS FOR AN ACCOMMODATION FOR A COMPANION ANIMAL:

1. DOES THE PERSON SEEKING TO USE AND LIVE WITH THE ANIMAL HAVE A DISABILITY? i.e., A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES?

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2. DOES THE PERSON MAKING THE REQUEST HAVE A DISABILITY-RELATED NEED FOR AN ASSISTANCE ANIMAL?
IN OTHER WORDS, DOES THE ANIMAL WORK, PROVIDE ASSISTANCE, PERFORM TASKS OR SERVICES FOR THE BENEFIT OF A PERSON WITH A DISABILITY, OR PROVIDE EMOTIONAL SUPPORT THAT ALLEVIATES ONE OR MORE OF THE IDENTIFIED SYMPTOMS OR EFFECTS OF A PERSON'S EXISTING DISABILITY?

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• EMOTIONAL SUPPORT ANIMALS PROVIDE THERAPEUTIC NURTURING AND SUPPORT AND HAVE PROVEN EXTREMELY EFFECTIVE AT AMELIORATING (TO MAKE MORE TOLERABLE OR BETTER) THE SYMPTOMS OF PSYCHIATRIC DISABILITIES, INCLUDING DEPRESSION, ANXIETY, AND POST-TRAUMATIC STRESS DISORDER.

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WHAT DO WE NEED TO BE CONCERNED ABOUT IF WE SAY NO?

IF THE ANSWER TO QUESTION (1) OR (2) IS "NO," THEN THE LAW DOES NOT REQUIRE A MODIFICATION OF AN EXISTING "NO PETS" POLICY, AND THE REASONABLE ACCOMMODATION REQUEST MAY BE DENIED.

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WHAT DO WE DO IF THEY ANSWER YES?

• IF THE ANSWER TO THESE QUESTIONS IS "YES", THE ASSOCIATION MUST MODIFY OR PROVIDE AN EXCEPTION TO A "NO PETS" POLICY TO PERMIT A PERSON WITH A DISABILITY TO LIVE WITH AND USE AN ASSISTANCE ANIMAL(S) IN ALL AREAS OF THE PREMISES WHERE PERSONS ARE NORMALLY ALLOWED TO GO, UNLESS DOING SO WOULD IMPOSE AN UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN OR WOULD FUNDAMENTALLY ALTER THE NATURE OF THE ASSOCIATION'S POLICIES.

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• A REQUEST FOR COMPANION ANIMAL ALSO MAY BE DENIED IF: (1) THE SPECIFIC ASSISTANCE ANIMAL IN QUESTION POSES A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHERS THAT CANNOT BE REDUCED OR ELIMINATED BY ANOTHER REASONABLE ACCOMMODATION, OR (2) THE SPECIFIC ASSISTANCE ANIMAL IN QUESTION WOULD CAUSE SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS THAT CANNOT BE REDUCED OR ELIMINATED BY ANOTHER REASONABLE ACCOMMODATION. BREED, SIZE, AND WEIGHT LIMITATIONS MAY NOT BE APPLIED TO AN ASSISTANCE ANIMAL.

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• THE ASSOCIATION 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.

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• UNLIKE SERVICE DOGS, WHICH ARE PERMITTED UNDER THE AMERICANS WITH DISABILITIES ACT AND CAN BE TAKEN TO MOST PUBLIC PLACES, EMOTIONAL-SUPPORT ANIMALS UNDER THE FAIR HOUSING ACT AND THE AIR CARRIER ACCESS ACT DO NOT HAVE TO BE TRAINED TO PERFORM SPECIFIC TASKS AND CAN ONLY BE KEPT AT HOME OR BROUGHT ON PLANES. THEY ARE CONSIDERED A LEGITIMATE COPING METHOD FOR PHYSICAL AND MENTAL HEALTH ISSUES, INCLUDING ANXIETY, DEPRESSION, AND POST-TRAUMATIC STRESS.

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HOW DO WE DEAL WITH THE FOLLOWING:

1. CAN WE LIMIT AN ANIMAL TO APPROPRIATE PORTIONS OF THE PROPERTY (EXAMPLE: ARE THEY ALLOWED INTO THE POOL ITSELF, NOT THE JUST THE DECK?
2. HOW CAN WE DEAL WITH A DISABLED PERSON WHO WANTS TO HAVE HIS OR HER SEVERAL NEIGHBORS, WHO LIVE IN THE COMMUNITY, TO HOUSE THE ANIMAL WHEN THEY ARE GONE?
3. CAN WE REQUIRE EVIDENCE OF CONTINUING THE NEED FOR ACCOMMODATION?
4. SUITABILITY OF THE DESIRED ANIMAL FOR THIS CIC?

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WHAT ABOUT DUELING DISABILITIES?

- A PERSON MOVED INTO THE NO PET COMMUNITY BECAUSE OF ALLERGIES TO THE EXTENT THAT THEY WOULD END UP IN THE HOSPITAL IF EXPOSED TO ONE. WHO GETS THE ACCOMMODATION IF SOMEONE MOVES IN ASKING FOR AN ACCOMMODATION FOR AN ASSISTANCE ANIMAL?
- IT DEPENDS, UNFORTUNATELY!!!

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SCENARIO

- HIS DOCTOR PRESCRIBES JOHN A DOG TO HELP ALLEVIATE SOME OF HIS SYMPTOMS. JOHN ASKS THE ASSOCIATION IF HE CAN HAVE A DOG IN A NO PET COMMUNITY AS A REASONABLE ACCOMMODATION FOR HIS DISABILITY. THE ASSOCIATION SAYS YES, BUT TELLS JOHN HE'LL NEED TO PAY A \$250 PET DEPOSIT AND MUST PROVIDE PROOF THAT THE ANIMAL IS TRAINED.
- **WHAT DO YOU THINK AND WHAT IF JOHN WANTED A CAT, ALLIGATOR (AS ONE DID IN FLORIDA) OR FERRET INSTEAD?**

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WHO IS NOT PROTECTED?

- JUVENILE OFFENDERS AND SEX OFFENDERS.
- PERSONS CURRENTLY ENGAGING IN ILLEGAL USE OF CONTROLLED SUBSTANCE
- INDIVIDUALS WHOSE RESIDENCY WOULD CAUSE A DIRECT THREAT TO OTHER INDIVIDUALS OR THE PROPERTY SUCH AS ALLERGIES AND/OR A VICIOUS ANIMAL.

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IN CONCLUSION:

- UNLIKE SERVICE ANIMALS, EMOTIONAL SUPPORT ANIMALS (ESA) ARE NOT TRAINED TO PERFORM TASKS, BUT THEY STILL ASSIST PEOPLE WITH CERTAIN DISABILITIES.
- THERE IS A FINE LINE BETWEEN EMOTIONAL SUPPORT ANIMALS AND PETS. UNDERSTANDING THE DIFFERENCE IS IMPORTANT FOR ENFORCING "PET" RESTRICTIONS.
- WHEN MAKING REASONABLE ACCOMMODATIONS FOR ESA'S, THE ASSOCIATION SHOULD LOOK AT THE FHA GUIDELINES. THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) OVERSEES THE FHA.
- WHILE AN ASSOCIATION MAY REQUEST CERTAIN INFORMATION, THEY MAY NOT REQUEST ACCESS TO MEDICAL RECORDS.
- THE BOARD SHOULD BE VERY CAREFUL WHEN HANDLING THESE REQUESTS.

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QUESTIONS?

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