



FAIR HOUSING LAWS PROTECT CERTAIN ANIMALS

For Condominiums and Planned Communities
ARS 41-1491 to 1491.37

The Fair Housing Act (FHA) prohibits discrimination on the basis of disability, among other things. The FHA regulates HOAs. Violations are serious and result in judgments that can exceed hundreds of thousands of dollars. One would think that as long as the governing documents say so, a board can prohibit oversized dogs. They may be wrong.

In a nut shell, any animal that provides assistance to, or accommodates an individual with a disability, may be protected by the FHA. This means that a dog that exceeds the weight limits in the CC&Rs can remain on the property if its presence accommodates an individual's disability. This is because the FHA protects not only service animals (i.e. common example being a guide dog) but "emotional support animals." This class of animals is even broader. It can cover those that are depressed who need to come home to their oversized, dog, iguana or chicken. The FHA doesn't define what animals are protected so the list of protected animals is very broad.

As crazy as it sounds, the FHA is very liberal when it comes to animals, irrespective of how odd the animal is. As long as it is meant to specifically accommodate that person's particular disability, chances are the animal is immune from HOA demands that it be removed from the property, even when that animal's presence technically violates the governing documents.

In summary, the protections afforded to the disabled under the Fair Housing Act are very broad. This means that an HOA may not require an animal's removal from a home or unit even if the animal violates the CC&Rs- no matter how odd or unique the animal.

IMPORTANT

It is very important that anytime an association receives a request to waive a rule to accommodate a disability, that the request is carefully reviewed. Because these issues are a minefield it is highly recommended that you use us to help you navigate FHA questions.

EXAMPLE

An association sends an owner a violation letter demanding he remove his oversized dog from the condominium because the dog exceeds the weight limitations in the CC&Rs. The owner sends the association a letter from a qualified physician that says he suffers from depression and the dog is needed to keep his depression at bay. Absent other facts and circumstances, the association should waive the oversize limitations as to this particular owner or risk violating the FHA.

TIMES WHEN ANIMALS ARE NOT PROTECTED!

Associations can demand any animal be removed from the property *irrespective of the FHA* if it can be shown that the pet poses a health or safety threat to the community.