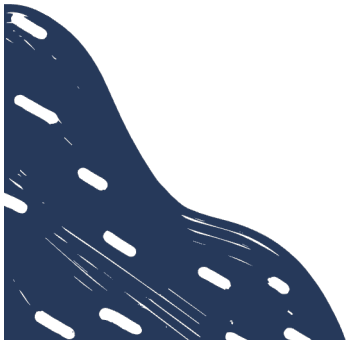




THE ANIMAL LAW FIRM  
FIGHTING FOR THE UNDERDOG





# The FHA

The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. [Additional protections](#) apply to federally-assisted housing.



# Assistance Animals

Three kinds:

- Service Animals
- Emotional Support Animals (a/k/a ESAs)
- Therapy Animals



# Service Animals

Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.



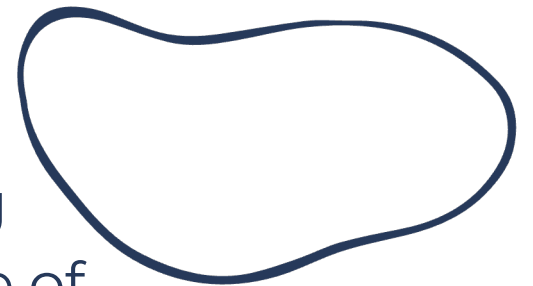


# The Questions

There are only 2 Questions that can be asked:

- Is the dog a service animal required because of a disability?
- What work or task has the dog been trained to perform?

Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.





# Emotional Support Animals

Animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.



# Accommodation under the FHA

Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA.



# Guidance for Accommodation Requests

Under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.







# Guidance for Accommodation Requests

(continued)

An accommodation also may be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation.

- In writing or oral
  - On someone's behalf that they live with
- 



# Definition of Disability

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities.



# Visible/Observable Disability

- Blindness or low vision,
- deafness or being hard of hearing,
- mobility limitations,
- other types of impairments
  - intellectual impairments (including some types of autism),
  - neurological impairments (e.g., stroke, Parkinson's disease, cerebral palsy, epilepsy, or brain injury),
  - mental illness, or other diseases or conditions that affect major life activities or bodily functions

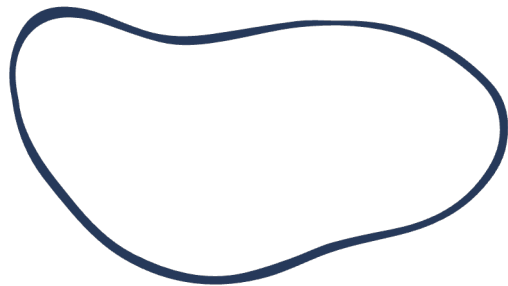
# Invisible Disabilities

- Depression
- Anxiety
- PTSD (can be service animal-related, too)
- A housing provider may request information regarding both the disability and the disability-related need for the animal.
  - Housing providers are not entitled to know an individual's diagnosis.





# Documentation

- A federal, state, or local government agency determination.
    - Disability benefits or services (Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65
    - Veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
    - Housing assistance/voucher because of disability.
- 



# Documentation

## Doctor's Note



- Letter confirming a disability from a health care professional
  - physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

# Documentation

(continued)

A determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.



# Documentation from the Internet

- Certificates - have no legal value
- Letter from a medical professional is best: confirming a person's disability and/or need for an animal when the provider has personal knowledge of the individual.
  - Internet companies that do both: what do I do?
    - Not much, unfortunately.

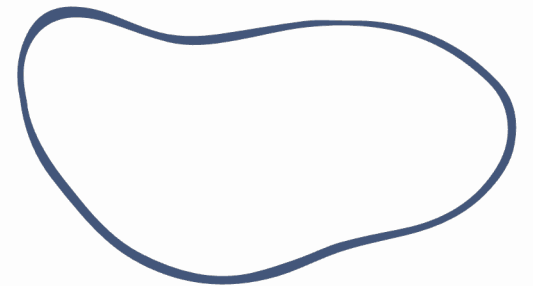






# Housing Provider Protections

A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.





# Housing Provider Protections

## (continued)

- A relationship or connection between the disability and the need for the assistance animal must be provided.
  - necessary for invisible disabilities
  - easy to get around with a note from a doctor



# Housing Provider Protections

(continued)

Direct the requester to the [Guidance on Documenting an Individual's Need for Assistance Animals in Housing](#).





# Housing Provider Protections

(continued)

- Substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal.
- Nothing new:
  - Doctor's note
  - That's it



# Housing Provider Protections

(continued)

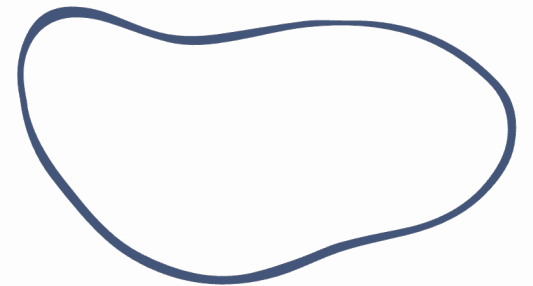
- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
  - Dog bites
  - Snakes/exotic animals - check local state laws or municipal ordinances/codes (zoning laws are your friend)





## If the Threat can be Nullified

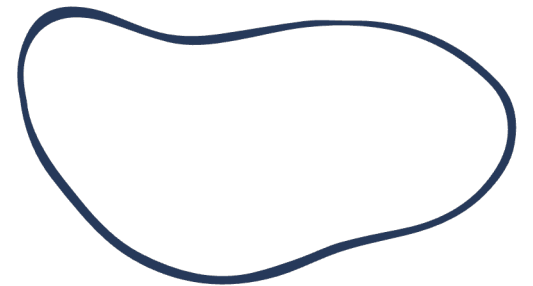
- If the threat posed by the animal can be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal, then the accommodation must be granted
  - Cages/enclosures
  - Muzzles/leashes





# Denying a Request

Housing provider is encouraged to engage in a good-faith dialogue with the requestor called the “interactive process.”



# Denying a Request

(continued)

- If the accommodation would cause a fundamental alteration to the nature of the provider's operations or impose an undue financial and administrative burden
  - BUT provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.





# Land Use/Zoning, and HOA/COA/Co-op

A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.



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