

What the Law Says About Service Animals **by Ruth E. Wheeler**

Your rights and responsibilities as a rental property owner with respect to service and support animals are described on this city government web site:
www.sfgov.org/site/uploadedfiles/mod/SvcSupportAnimal.pdf.

A service animal is any animal trained to perform tasks for the benefit of a person with a physical disability. A support or comfort animal provides assistance to a person with a psychological disability. Such animals are not considered pets. A person with a disability uses a service or support animal as an auxiliary aid, similar to the use of a cane, crutch or wheelchair.

Allowing service or support animals in a rental unit is considered a “reasonable accommodation” under the Americans with Disabilities Act. (ADA). People with support or comfort animals have the same rights as people with service animals.

Contradictory Laws Confuse the Issue

Under the ADA, property owners are prohibited from asking for documentation that a renter’s animal is, in fact, a service or support animal, but under the Fair Employment and Housing Act, they may. Clearly, with two contradictory laws at play, one might well ask: how do I navigate this legal minefield? There is no easy answer; just be careful in asking for documentation from an applicant, and make sure that your application contains these two simple questions:

1. Do you have an animal? Yes or No
2. If yes, what kind of animal? _____

Are Renters Really Taking Unfair Advantage of ADA with Regard to Service/Support Animals?

In an earlier issue, we asked members what they thought of a law proposed by the Animal Welfare and Control Commission that would prohibit exclusion of any “non-dangerous” pet from a rental unit. The response was huge, and was overwhelmingly opposed to such legislation.

Previously, we ran an article on a related topic – the story of a property owner who had been victimized in a service/support animal scam. Given the ambiguous definition of service and support animals, and the apparent ease with which a perfectly healthy, pet-desiring renter might take advantage of the ADA to skirt a prohibition on pets, we wanted to know to what extent this was really a problem.

Judging by the hug response we received, our members clearly are wary of any law that would force them to accept pets. But from the small number of responses we received, the problem appears to be more “potential” than “actual.” But that does not mean that we should be any less vigilant in dealing with the issue of animals in our rental properties.

One of our members wrote in with an interesting tale. She explained that she received the following letter from her renter’s VA hospital doctor:

“This letter is to inform you hat my patient does indeed have a service cat. The cat is a service animal as my patient has an alcohol dependency problem and the cat keeps him from drinking. Any questions or concerns, feel free to call me...”

In reality, the cat in question does nothing to keep his patient from drinking as evidenced by his continual drinking, thus putting him in even less of a position to be a responsible cat owner. The big problem here is the difference between a “service animal” and a “comfort animal.” All of my renters with service animals fall into the comfort animal category. They’ve learned that all they have to do is ask any doctor or counselor; all are apparently willing to write such a letter on their letterhead or prescription pad with no thought to the potential consequences to the property owner.

The ADA was clearly intended to apply to animals trained to provide physical assistance, but comfort animals are the majority. As a result, I now have cats and dogs of all descriptions in many of my units. Although I’d like to challenge the validity of some of the claims, I dare not, because I could not afford the cost of losing, or for that matter, waging such a battle even if I were to prevail.

So the rehab costs on my on my units is significantly increased due to these animals and there are continual conflicts between animal owners and renters without animals. What do you do when a service animal tears things up or misbehaves? Nothing, because the renter simply threatens to sue under the ADA.

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