

WHEN MAY A LANDLORD BE REQUIRED TO AUTHORIZE A COMPANION ANIMAL IN HIS/HER BUILDING DESPITE A NO-PET POLICY?

By: Gael Bizel-Bizellot, Esq.

The short answer is whenever a tenant's disability requires such an accommodation in the landlord's policy.

Fair housing laws prohibit landlords from discriminating against tenants with disabilities. Under these laws, the term "disability" is broadly defined and includes, for example, any form of depression, whether temporary or permanent. But fair housing laws go even further and may require landlords to do more than to neutrally apply the landlord's established no-pet policy to a disabled tenant. Under these laws, a landlord may be required to make "reasonable accommodations/modifications in rules, policies, practices or services, when such accommodations/modifications may be necessary to afford [a person with a disability] equal opportunity to use and enjoy a dwelling". Practically, a landlord may have to allow a disabled tenant to keep a pet in his/her unit despite the no-pet policy in the building. In *Auburn Woods I Homeowners Association v. FEHC* (2004) 121 CA4th 1578, a Homeowner Association (HOA) was charged with violating the California Fair Employment and Housing Act for its failure to waive a "no-pet" policy rule in the Declaration of Conditions, Covenants and Restrictions (CC&Rs) to accommodate a depressed owner's emotional need for her dog. An important element of this case is that the failure of the HOA to timely act upon the condominium owner's request for a reasonable accommodation was deemed discriminatory. (Note that while the case concerned a condominium project, the court's ruling may be applicable in the same manner to rental properties.). Also, in *Janush v. Charities Hous. Dev. Corp.* (ND Cal 2000) 169 F Supp 2d 1133, the court ruled that allowing two birds and two cats as companions may be necessary to reasonably accommodate a severe mental health disability.

However, landlords need not automatically accept a demand for a reasonable accommodation - the request must be reasonable and landlords may request proof of the tenant's disability. The determination is to be made on a case-by-case basis.

Landlords must remember that due to strong protections afforded to tenants under fair housing laws, landlords may not ignore nor unduly delay a tenant's request for a "reasonable accommodation" and/or modification in a building's house rules. Even if the tenant's request does not contain the words "reasonable accommodation/modification", landlords should act promptly upon receipt of such requests or they may be charged with illegal discrimination, which may result in severe consequences.

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