

NMHC/NAA Viewpoint

NMHC and NAA strongly support the rights of persons with disabilities to make reasonable accommodation requests so they may have equal opportunity to use and enjoy a dwelling. However, a lack of clarity in the law governing emotional support animals allows for abuse and imposes an unfair burden on property owners. This undermines the intent of the Fair Housing Act to help those truly in need of an emotional support animal.

In some cases, residents supply reasonable accommodation request documentation for an emotional support animal to property owners in the form of a letter purchased online for a fee.

EMOTIONAL SUPPORT ANIMALS

Emotional support animals – also known as companion animals – are a type of assistance animal and provide emotional support to alleviate symptoms of a person’s disability. Emotional support animals and service animals are both defined as assistance animals. However, service animals are different because they are typically trained to work, provide assistance or perform tasks for the benefit of a disabled person. For a disabled person who requires an emotional support animal, the simple presence of the animal provides a benefit. According to the federal Fair Housing Act, disabled persons who require an assistance animal may request a reasonable accommodation for the animal from their rental housing provider.

If a resident is eligible for the request, the property owner is required to permit the disabled person to live with and use an assistance animal in all areas where the resident is normally allowed to go. Any conditions and restrictions that housing providers apply to pets, including pet deposits or fees, may not be applied to assistance animals. Under the Act, refusal to make reasonable accommodations in rules, policies, practices or services to provide a disabled individual with equal opportunity to use and enjoy a dwelling is a prohibited form of discrimination.

Property owners have seen a significant increase in reasonable accommodation requests for emotional support animals in recent years. In cases where a property owner may request documentation on the disability-related need for an emotional support animal, federal regulations allow for a broad range of individuals to provide the verification. These individuals include a physician, psychiatrist, social worker or other mental health professional. A lack of clarity in the regulations opens the door for abuse and imposes an unfair burden on property owners, undermining the intent of the Act to help those truly in need of an emotional support animal.

Among the concerns, the individual certifying the resident’s need for an emotional support animal is not required to have an actual treatment relationship with the resident. In some cases, residents supply reasonable accommodation request documentation to property owners in the form of a letter purchased online for a fee. This documentation may be provided with little or no contact with a mental health professional, other than a brief consultation, and not as the result of an actual treatment relationship.

NMHC/NAA urge HUD to revise its regulations regarding emotional support animals or take other steps to mitigate potential abuse. The goal is to help ensure that the benefit of a reasonable accommodation applies only to those who are legitimately in need.