

# Million-Dollar Dog Bite

Litigation Tactics for Emotional Support  
Animals and HOA Liability

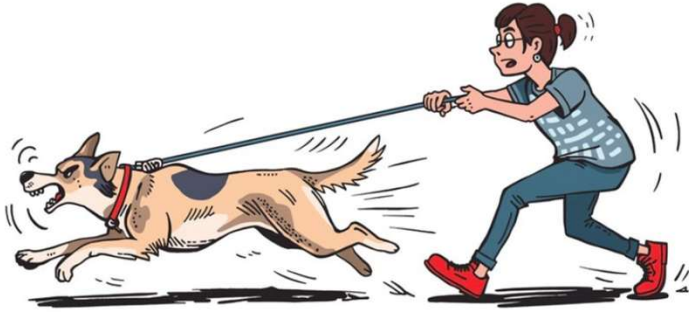


**Alyssa Lettman**

The Tinstman Law Firm

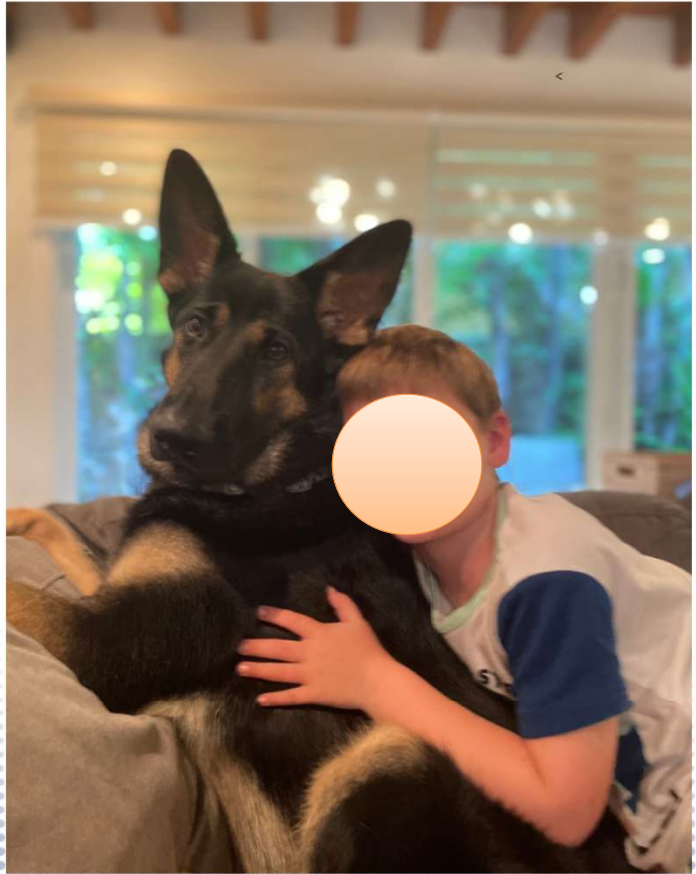
[Alyssa@TheTinstmanLawFirm.Com](mailto:Alyssa@TheTinstmanLawFirm.Com)

239-488-2178



**Q5: What is the pet policy at Floral Lakes, Delray Beach?**  
**A:** Floral Lakes is a **pet-friendly community**. Residents are permitted to have **two pets per household**, and there is a **weight limit of 40 pounds per pet**. It's always advisable to confirm the most current and specific pet regulations with the HOA directly before purchasing.

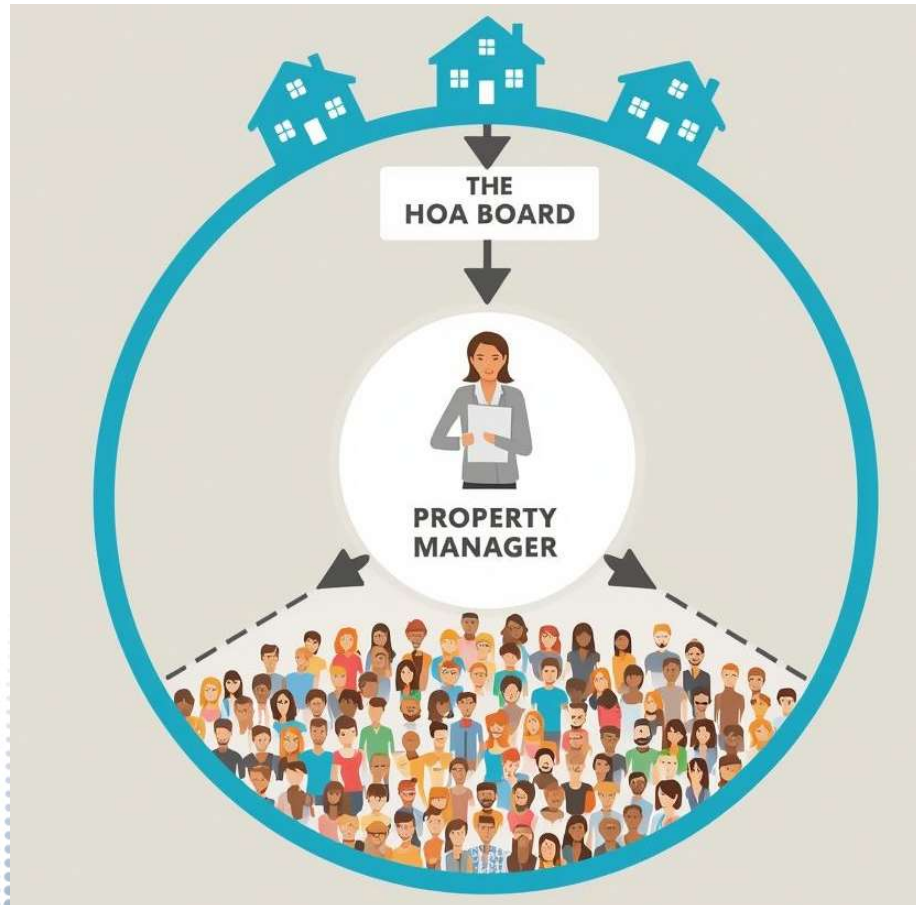




# Cast of Characters



**Dog Owner, Dog Walker**



# Cast of Characters



**Dog Owner, Dog Walker**



# Property Managers



# Property Managers

## FREQUENTLY ASKED QUESTIONS

- Can a person have more than one ESA?
- What kind of pets are considered ESAs? Pigs? Snakes? Even turkeys?
- What can be done if the emotional support animal is being a nuisance (i.e. destroying property, barking, aggression)?



Emotional Support Animals Update with Siegfried Rivera - Campbell Property Management



Campbell Property Management

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Thank you for joining Bill Campbell and Dan Tiernan from Campbell Property Management and Laura Manning Hudson from Siegfried Rivera for this "Emotional Support Animals Update" Webinar. This recording is from July 29, 2020 and was hosted on Zoom.

...more

# Property Managers

## FREQUENTLY ASKED QUESTIONS



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Request a Consultation

You will not receive CEU credits, but you can view the recording from our recent ESA webinar [here](#)



### APPROVAL PROCESS:

When can an association reasonably deny a reasonable accommodation request?

### ANSWER:

1. The person has not provided the documentation that was reasonably requested from them; and/or
2. The animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others, which threat cannot be reduced or eliminated by another reasonable accommodation.

property, barking, aggression)?

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Thank you for joining Bill Campbell and Dan Tiernan from Campbell Property Management and Laura Manning Hudson from Siegfried Rivera for this "Emotional Support Animals Update" Webinar.

This recording is from July 29, 2020 and was hosted on Zoom.

...more

# Property Managers

## FREQUENTLY ASKED QUESTIONS



### “Reasonable” Accommodation

- Whether it is reasonable to provide an accommodation is a question of fact, determined by a close examination of the circumstances.
- Must make the accommodation unless it imposes an undue financial or administrative burden, or it requires a fundamental alteration in the nature of the housing.



All About Assistance Animals Webinar with Rosenbaum PLLC - Campbell Property Management



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Additional Support Animals Update" Webinar.

g, aggression)?



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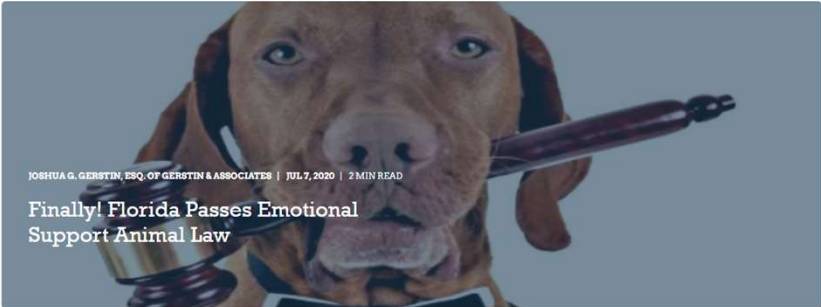
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# Property Managers

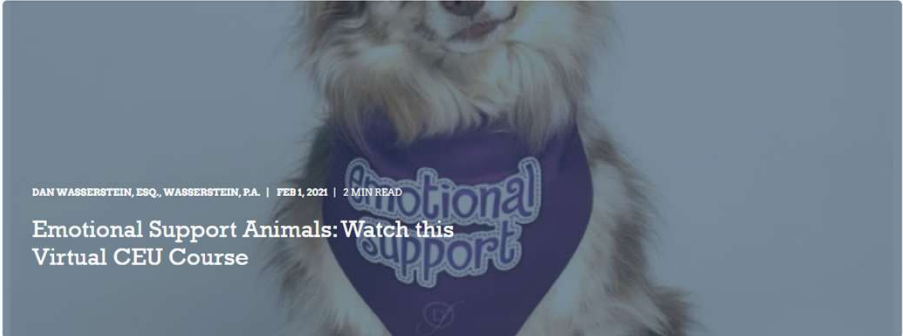
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JOSHUA G. GERSTIN, ESQ., OF GERSTIN & ASSOCIATES | JUL 7, 2020 | 2 MIN READ

## Finally! Florida Passes Emotional Support Animal Law

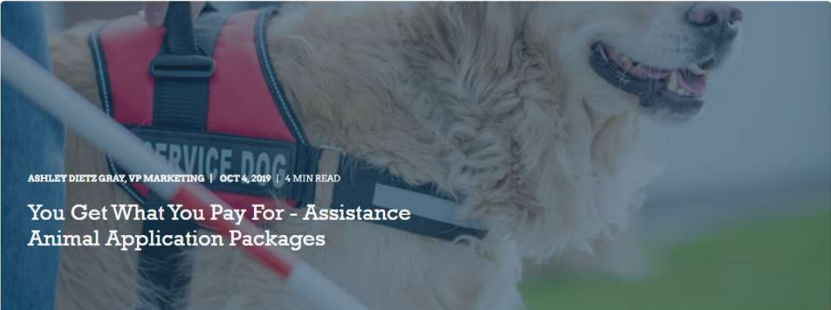
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DAN WASSERSTEIN, ESQ., WASSERSTEIN, P.A. | FEB 1, 2021 | 2 MIN READ

## Emotional Support Animals: Watch this Virtual CEU Course

[Services](#) [Who We Serve](#) [About](#) [Education](#) [Request a Consultation](#)



ASHLEY DIETZ GRAY, VP MARKETING | OCT 4, 2019 | 4 MIN READ

## You Get What You Pay For - Assistance Animal Application Packages

[Services](#) [Who We Serve](#) [About](#) [Education](#) [Request a Consultation](#)



PAULA S. MARRA, SENIOR ASSOCIATE, ROSENBAUM PLLC | AUG 13, 2019 | 2 MIN READ

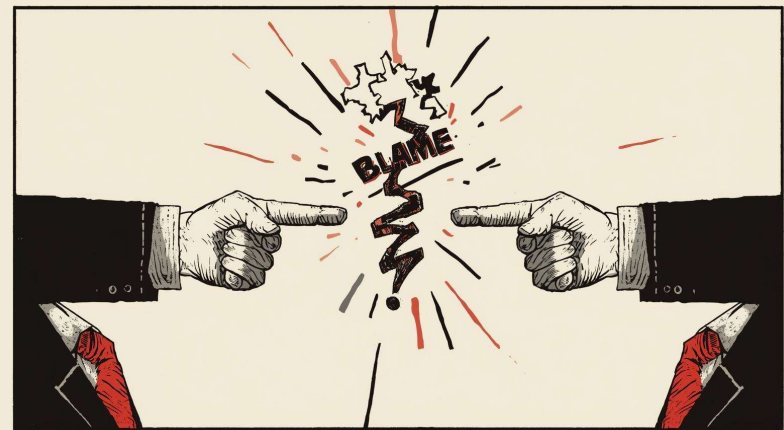
## Staying Out of the "Dog House" - How to Handle Reasonable Accommodation Requests Under the Fair Housing Act

# Property Managers

1. It was an  
Emotional Support Dog,  
Nothing I could do



2. I didn't know there  
was a problem.



# Property Managers

1. It was an  
Emotional Support Dog,  
Nothing I could do

Q Okay. Would it be a safety concern within Townhomes 1, to have dogs that are bigger than 35 pounds?

A Yes. If because it's, you know, we have requirements of 35 pounds and you shouldn't have a dog more than 35 pounds if you're going to be living in townhomes 1.

Q Why is that a safety concern?

A Maybe a large animal might be difficult to control.

Q So, what is the HOA trying to protect against?

A I don't know, I didn't put this 35 pounds limit in there. I would think they're trying to protect people from having harm from a dog.

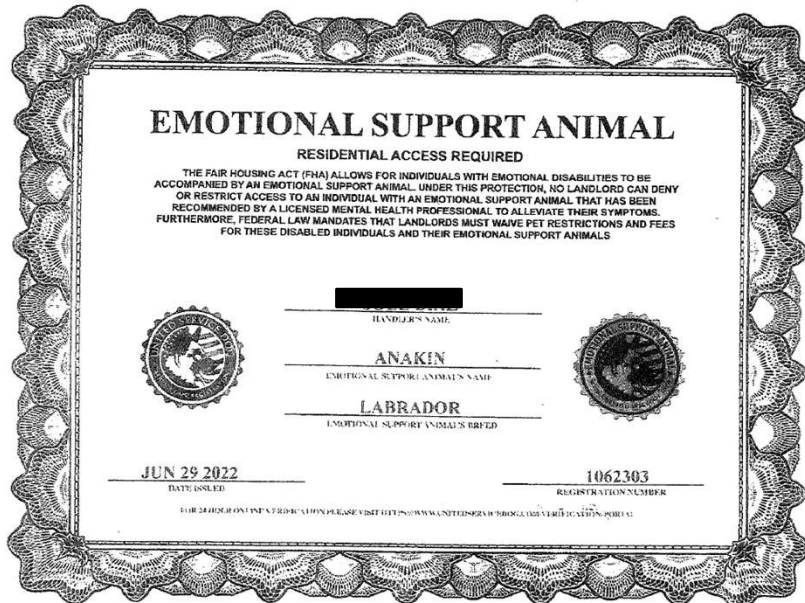
A If it's over 35 pounds, then we wouldn't approve it unless they are an emotional support animal in which case our hands are tied. And it -- I don't know how we could ascertain that information on a -- on an application or there's no spot on the application to list, dog aggressive attack history on the application.





Juan Ruiz-Unger, MD., PA. FAAP  
Pediatric, Adolescent & Young Adult Medicine

Do you have any pets who will be residing in the unit? Yes X No \_\_\_\_\_ If So, Please List: Type, Breed,  
Age, Weight Of Each (Non-Aggressive Breed only) \_\_\_\_\_  
Service dog (certificate attached), Labrador , 10yo



7/12/22

Re: [REDACTED]

DOB= 9/30/99

To whom It May Concern:

This letter certifies I have been the pediatrician for the above captioned person since birth.

[REDACTED] has been recently diagnosed with anxiety and depression. The company of a service animal will definitely aid his condition. Presently he has a dog Labrador named Anika that serves this purpose.

Please allow full contact with his dog.

Please contact this office if more information is needed.

Sincerely,

J Ruiz-Unger, MD

**D. Florida's Fair Housing Act Required the Association and Management Company to Reasonably Accommodate Mr. Diaz' ESA while Mr. Diaz Resided in the Castle Pines Community**

**i. The Association and Lang Management Could Not Legally Deny Mr. Diaz' Request to Keep an ESA at his Castle Pines Residence**

The Association and Lang Management are also entitled to final summary judgment in their favor since the Dog qualifies as an “emotional support animal (ESA)” who a housing provider must reasonably accommodate under Florida’s Fair Housing Act.

Florida Statutes § 760.27 (2000) prohibits discrimination in housing against individuals with a disability-related need for an ESA. In pertinent part, the statute provides that:

**(2) REASONABLE ACCOMMODATION REQUESTS.-**

...it is unlawful to discriminate in the provision of housing to a person with a disability or disability-related need for, and who has or at any time obtains, an emotional support animal. **A person with a disability or disability-related need must, upon the person's request and approval by a housing provider, be allowed to keep such animal in his or her dwelling as a reasonable accommodation in housing.**

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**ESA Immunity Negates Any Negligence**

# Fla. Stat. 760.27

Prohibits discrimination in housing provided to persons with a disability or disability-related need for an emotional support animal.

(1)(a)

**“Emotional support animal”** means an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support

(1)(b)

**“Housing provider”** means any person or entity engaging in conduct covered by the federal Fair Housing Act ... including the owner or lessor of a dwelling.

# Fla. Stat. 760.27

## REASONABLE ACCOMMODATION REQUESTS

(2)(a)

Deny a reasonable accommodation request for an emotional support animal if such animal poses a **direct threat to the safety or health of others** or poses a **direct threat of physical damage to the property of others**, which threat cannot be reduced or eliminated by another reasonable accommodation.

(2)(b)

If a person's disability is not readily apparent, **request reliable information** that reasonably supports that the person has a disability.

## “direct threat” to the safety or health of others

Housing Providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed but can limit based on **specific issues** with the **specific animal’s conduct** because it poses a direct threat or a fundamental alteration.



## **“direct threat” to the safety or health of others**

### ***Giaculli v. Bright*, 584 So. 2d 187 (Fla. 3d DCA 1991)**

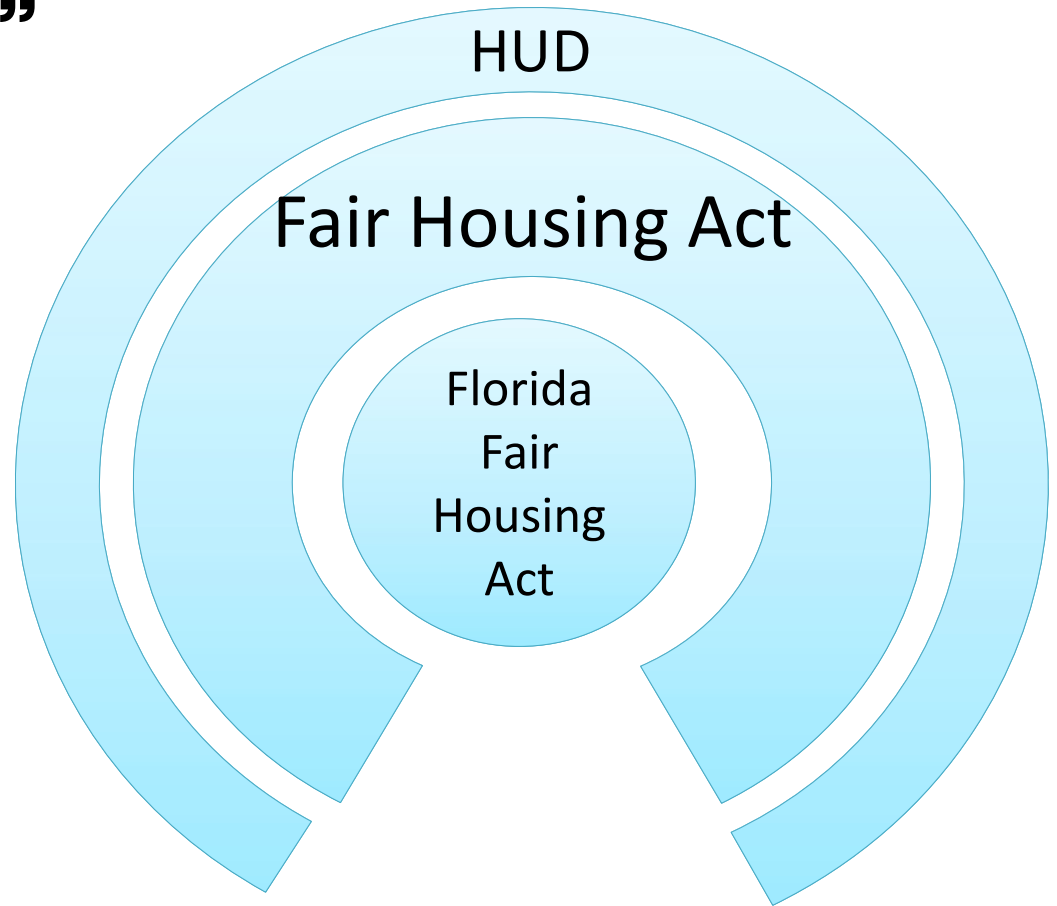
Landlord could be liable if he knew or should have known of tenant's dog's *dangerous propensities* **and** *had a reasonable opportunity to take preventative measures*.

Prior *aggressive acts short of a bite* can establish notice – barking aggressively, lunging at people, bad dog signs put up by tenants.

### ***Ward v. Young*, 504 So. 2d 528 (Fla. 4th DCA 1987)**

Although the lease expressly prohibited dogs on the premises, the landlord failed to take any action to remove the animal after knowledge of its presence was imputed to them, and before the dog's first bite occurred.

# “Our Hands Were Tied”



*Hawn v Shoreline Towers Phase 1 Condominium Ass'n, Inc.*, 347 F.App'x 464 (11th Cir. 2009)  
*Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1219 (11th Cir.2008)  
*Overlook Mut. Homes, Inc. v. Spencer*, 415 Fed.Appx. 617, 621 (6th Cir.2011)  
*Bhogaita v. Altamonte Heights Condominium Ass'n, Inc.*, 765 F.3d 1277 (11th Cir. 2014)

# HUD Guidance



OFFICE OF FAIR HOUSING  
AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000

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**SPECIAL ATTENTION OF:**

HUD Regional and Field Office Directors of  
Public and Indian Housing (PIH); Housing;  
Community Planning and Development  
(CPD); Fair Housing and Equal Opportunity;  
and Regional Counsel; CPD, PIH, and  
Housing Program Providers

FHEO Notice: **FHEO-2020-01**

Issued: January 28, 2020

Expires: Effective until Amended,  
Superseded, or Rescinded.

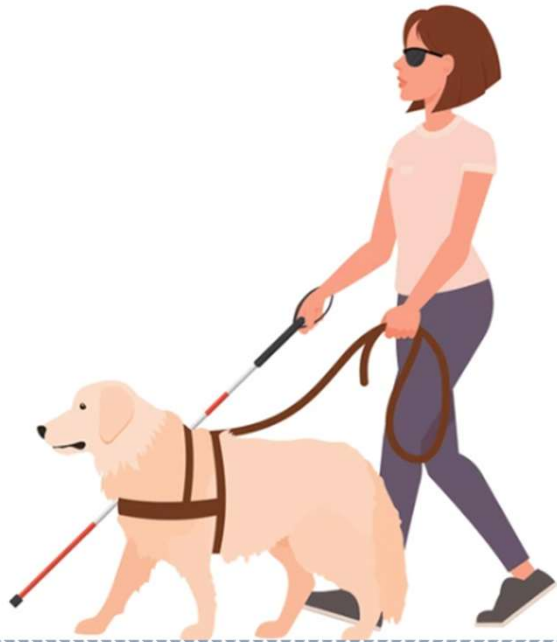
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Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under  
the Fair Housing Act

2. **Applicability:** This notice applies to all housing providers covered by the FHA.<sup>1</sup>

# HUD Guidance: Service Animals

## Service Animals



ADA definition of a “service animal” is:

[A]ny **dog** that is **individually trained** to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

The ADA's definition of a service animal specifically provides that “the provision of emotional support, well-being, comfort, or companionship” by an animal does not constitute work or tasks under the ADA's definition of a service animal.

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

# HUD Guidance: Support Animals

## Criteria for Assessing Whether to Grant the Requested Accommodation:

1. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
2. Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?

Dr. Doctor Name  
QUALIFICATION

Certification 12345-67

Patient Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Age: \_\_\_\_\_ Date: \_\_\_\_\_  
Diagnosis: \_\_\_\_\_

Rx

DOG

SIGNATURE

HOSPITAL  
SLOGAN HERE

65 47 79 94 15  
65 47 79 94 18  
Address Here Number 123

email\_here@gmail.com  
www.website.com

# HUD Guidance: Support Animals

## What kind of Doctor?

“Reasonably supporting information often consists of information from a licensed health care professional –

*e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse –*

**general** to the condition but **specific** as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.”

Dr. Doctor Name  
QUALIFICATION

Certification 123456-78

Patient Name: \_\_\_\_\_

Address: \_\_\_\_\_

Age: \_\_\_\_\_ Date: \_\_\_\_\_

Diagnosis: \_\_\_\_\_

Rx

DOG

SIGNATURE \_\_\_\_\_

HOSPITAL  
SLOGAN HERE

55-43-75 94 12  
55-43-75 94 18

Address Here Number 123 456 789 1011 1213 1415 1617 1819 2021 2223 2425 2627 2829 3031 3233 3435 3637 3839 4041 4243 4445 4647 4849 5051 5253 5455 5657 5859 6061 6263 6465 6667 6869 7071 7273 7475 7677 7879 8081 8283 8485 8687 8889 9091 9293 9495 9697 9899

email: hospital.com

www.hospital.com

# HUD Guidance: Support Animals

## What does the letter need to say?

A relationship or connection between the **disability** and the **need** for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.

Dr. Doctor Name  
QUALIFICATION

Certification 12/28/20

Patient Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Age: \_\_\_\_\_ Date: \_\_\_\_\_  
Diagnosis: \_\_\_\_\_

Rx

DOG

SIGNATURE

HOSPITAL  
SLOGAN HERE

55-43-75 94 12  
55-43-75 94 18  
Address Here Number 123 456 789 1011 1213 1415 1617 1819 2021 2223 2425 2627 2829 3031 3233 3435 3637 3839 4041 4243 4445 4647 4849 5051 5253 5455 5657 5859 6061 6263 6465 6667 6869 7071 7273 7475 7677 7879 8081 8283 8485 8687 8889 9091 9293 9495 9697 9899 10000

email:help@animal.com  
www.help@animal.com

# HUD Guidance: Support Animals

## What if they don't have a doctors letter?

The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

Dr. Doctor Name  
QUALIFICATION

Certification 123456-78

Patient Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Age: \_\_\_\_\_ Date: \_\_\_\_\_  
Diagnosis: \_\_\_\_\_

Rx

DOG

SIGNATURE

HOSPITAL  
SLOGAN HERE

65 47 79 94 15  
55 47 79 94 18

Address Here Number 123

email\_here@gmail.com  
www.website.com

# HUD Guidance: Support Animals

**720.27(3)(c)**

## Internet Certificates/Registration

(c) An emotional support animal registration of any kind, including, but not limited to, an identification card, patch, certificate, or similar registration obtained from the Internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal.

**Dr. Doctor Name**  
QUALIFICATION

Certification 12345-67

Patient Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Age: \_\_\_\_\_ Date: \_\_\_\_\_  
Diagnosis: \_\_\_\_\_

**R.**

SIGNATURE

**HOSPITAL**  
SLOGAN HERE

66.47.79.94.16  
66.47.79.94.18

Address Here Number 123

email\_here@gmail.com  
www.website.com

# HUD Guidance: Support Animals

## Catch-All

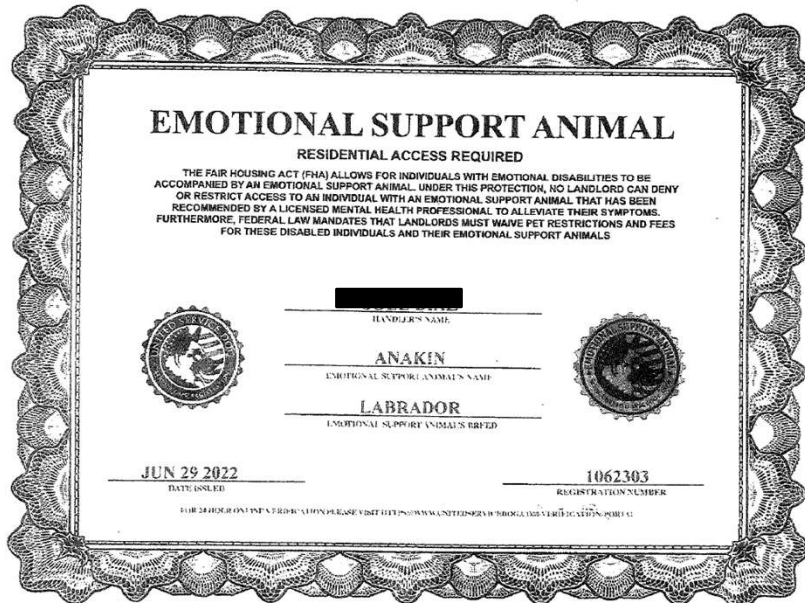
“A housing provider, at its discretion, may require the accuracy of information provided during the process **part of the** **accuracy of information** **made by the tenant** under a lease or similar housing agreement to **lease or agreement requires the truth and** accuracy of other material information.”

**Their Hands Are NOT Tied!**



Juan Ruiz-Unger, MD., PA. FAAP  
Pediatric, Adolescent & Young Adult Medicine

Do you have any pets who will be residing in the unit? Yes X No \_\_\_\_\_ If So, Please List: Type, Breed,  
Age, Weight Of Each (Non-Aggressive Breed only) \_\_\_\_\_  
Service dog (certificate attached), Labrador , 10yo



7/12/22

Re: [REDACTED]

DOB= 9/30/99

To whom It May Concern:

This letter certifies I have been the pediatrician for the above captioned person since birth.

[REDACTED] has been recently diagnosed with anxiety and depression. The company of a service animal will definitely aid his condition. Presently he has a dog Labrador named Anika that serves this purpose.

Please allow full contact with his dog.

Please contact this office if more information is needed.

Sincerely

J Ruiz-Unger, MD

Service dog (certificate attached)

## RESIDENTIAL ACCESS REQUIRED

HANDLER'S NAME.

# ANAKIN

EMOTIONAL SUPPORT (ANIMAL'S NAME)

## LABRADOR

EMOTIONAL SUPPORT ANIMALS BREED

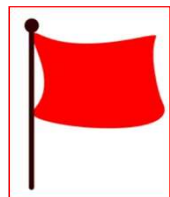
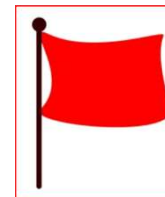
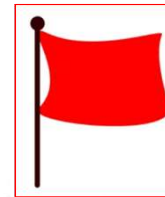
JUN 29 2022

DATE ISSUED

1062303

REGISTRATION NUMBER

FOR 24 HOUR ON-DEMAND VERIFICATION PLEASE VISIT [HTTPS://WWW.NITEDOT.GOV/DOCX/TXM-VERIFICATION-PORTAL](https://www.nitedot.gov/docx/txm-verification-portal)



Pediatrician



Juan Ruiz-Unger, MD., PA. FAAP  
Pediatric, Adolescent & Young Adult Medicine

Same Day Lease was Approved

7/12/22

23 year old

Re: [REDACTED]  
DOB= 9/30/99

Company of a  
Service animal

Personal Knowledge

To whom It May Concern:

This letter certifies I have been the pediatrician for the above captioned person since birth.

By who?

[REDACTED] has been recently diagnosed with anxiety and depression. The company of a service animal will definitely aid his condition. Presently he has a dog Labrador named Anika that serves this purpose.

How? Nexus?

Please allow full contact with his dog.

Please contact this office if more information is needed.

"Anakin"

Full contact?

Sincerely

J Ruiz-Unger, MD

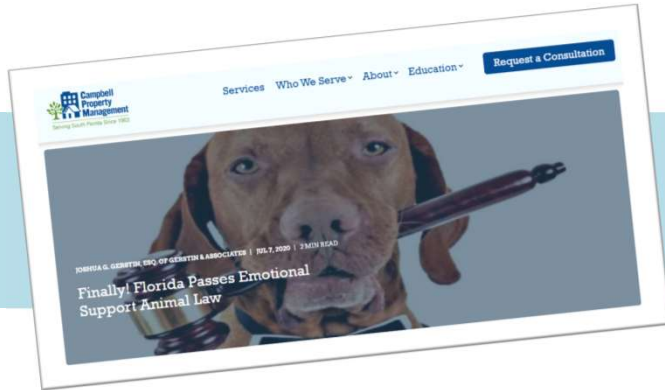
No License Number



# Emotional Support Peacock



# In Conclusion



The HOA is people

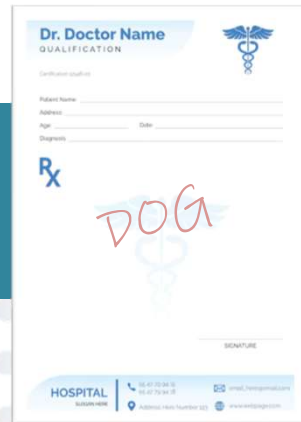


Property Managers Know Better

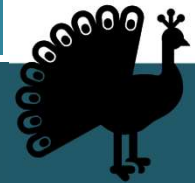
Conflict is King



Their Hands Are Not Tied



Emotional Support Peacock



# Thank You



**Alyssa Lettman**

The Tinstman Law Firm

[Alyssa@TheTinstmanLawFirm.Com](mailto:Alyssa@TheTinstmanLawFirm.Com)

239-488-2178