**Service Animals and Housing:**

**What a Tenant Needs to Know**

**What laws protect my rights to keep my service animal or assistance animal in residential housing?** It is important to note that different laws apply to different living environments. Individuals that utilize service animals or emotional support animals are encouraged to understand the laws and also convey these laws to their housing providers. Laws that may apply to individuals with service animals in housing include:

* Fair Housing Act (FHA) of 1988
* Section 504 of Rehabilitation Act of 1973
* Title II Americans with Disabilities Act (ADA) Revised 2010
* Title III Americans with Disabilities Act (ADA) Revised 2010
* Department of Housing and Urban Development “Pets in Elderly Housing” Regulation
* In Iowa*: Iowa Code 216C*

**Fair Housing Act (FHA)**

**When is the FHA utilized in residential housing?** The FHA offers a broad scope of protection to individuals that utilize assistance animals in residential housing, including both private and federally owned dwellings. Under the FHA, assistance animals are also referred to as service animals, assistive animals, support animals, and therapy animals, and are not required to be a specific species or breed. The FHA defines a dwelling as “any building, structure or part thereof which is intended for occupancy as a residence by one or more families”. Such places may include:

* Apartments
* Condominiums
* Cooperatives
* Nursing homes
* Group homes
* Seasonal facilities
* Residential facilities
* Mobile Homes
* Trailer Parks

**What are the requirements to qualify for protection under the FHA?**

* You must have a disability (defined by one of the following: physical or mental impairment, documentation of an impairment, or perceived to have an impairment);
* You must utilize an animal whose function directly relates to your disability;
* You must inform the housing provider of the disability; and
* Your request to have a service animal is not unreasonable.

**Are any types of housing exempt from the FHA?** Yes. There are circumstances when a landlord or housing provider is exempt from accommodating your service animal or emotional support animal. This may happen if:

* You live in a building with four or less units, one of which the landlord occupies.
* You rent from a private owner who owns less than (3) single family homes and does not use brokers/agents.

**Section 504 Rehabilitation Act (1973)**

**When is the Section 504 of the Rehabilitation Act utilized in residential housing?** Section 504 offers protection to individuals who utilize assistance animals (including service animals and emotional support animals) that are living in federally funded residential housing programs through the US Department of Housing and Urban Development. Such places may include:

* Subsidized housing
* Rental assistance programs
* Non-profit housing
* Co-operative housing

**What are the requirements to qualify for protection under Section 504?**

* You must have a disability.
* You are unable to participate in services, programs or activities.
* The reason you cannot participate is due to your disability.
* Your request to have a service animal is not unreasonable (i.e. the service animal must not cause fundamental alternation or undue burden).

**Are any types of housing exempt from Section 504?** If you rent from a landlord who rents only to tenants with Section 8 rental assistance, they are not obligated to accommodate with Section 504. (However, in such cases your rights may be protected under FHA.)

**Title II & Title III: Americans with Disabilities Act (ADA)**

It is important to understand that the definitions and requirements of a service animal are different under the ADA than they are under FHA or Section 504. While FHA and Section 504 categorize assistance animals as a request for reasonable accommodation, the ADA requires animals to fit a specific definition of “service animal” to be allowed entrance. Under the ADA, a service animal is a dog (or miniature horse) that has been trained to do work or perform tasks that directly mitigate an individual’s disability. Unlike the FHA and Section 504, therapy and support animals (such as emotional support animals) are NOT covered under Title II or III of the ADA.

**When is Title II of the ADA utilized in residential housing?** Title II offers protection to individuals who utilize service animals that are living in residential housing programs owned or managed by state or local government. Such places may include:

* Public Housing Agencies
* State/Local Government Housing
* Public Institutions (i.e. housing provided by certain colleges and universities)

**When is Title III of the ADA utilized in residential housing?** Title III offers protection to individuals who utilize service animals that are living in or using places of public accommodation. Such places may include:

* Rental or Leasing offices
* Homeless Shelters
* Assisted Living Facilities
* Non-Profit Institutions

**What are the requirements to qualify for protection under the ADA?**

* You must have a disability.
* You are unable to participate in services, programs or activities.
* The reason for your lack of participation is due to the disability.
* Your request to have a service animal is not unreasonable.

**Are any types of housing exempt from Title II and Title III of the ADA?** Yes.There are situations where your service animal could be excluded if their presence alters the available goods and services or poses a safety risk to other individuals. In regards to housing, such places may include: sterile hospital rooms, churches, jails or prisons, private clubs, and private residences.

**Tenants: Commonly Asked Questions**

**How do I request an animal-related accommodation from my landlord or housing provider?** A landlord or housing provider must be aware of the tenant’s disability in order to provide an accommodation to existing policies. Therefore, it is suggested that the tenant or applicant request the accommodation in writing.

**What if my housing provider denies my request for accommodation?** There may be circumstances when a landlord or housing provider does not respond to your request, or denies your request outright. In such situations you may file a complaint with a government agency, such as Department of Housing and Urban Development or the Department of Justice, or you pursue the matter in court with a private attorney.

**Is a landlord allowed to ask about my disability or have access to my medical records?** Yes and no. If your disability is not readily apparent, the landlord or property manager may be unclear regarding the role of your service animal or assistance animal. In such cases, they are allowed to ask for documentation that establishes your disability and explains how the animal will mitigate symptoms of the disability. Most often, this letter can come from a member of your health care team (such as a physician, psychiatrist, nurse practitioner or caseworker). However, landlords and housing managers are not allowed to ask the nature or extent of your disability, or require medical records pertaining to your disability.

**Can my landlord or housing provider charge a pet fee for my service or assistance animal?** No. Pet fees and deposits are examples of modifications to existing policies that must be waived by the landlord if you qualify for a service or assistance animal in your housing unit.

**Are there certain rules that my service animal must pertain to?** A service or assistance animal cannot alter the environment for other tenants, and must always be leashed or controlled in all public areas of the dwelling. In certain cases, violating these rules may be subject to eviction.

**Is my landlord or housing provider required to create an outdoor space for my service or assistance animal?** No. You must be able to clean up after your animal on the property (picking up animal feces) just like other tenants. If your disability makes such tasks difficult, it is your responsibility to obtain assistance from someone who can perform these acts.

**Does my service or assistance animal have to be easily identified with special badges or tags?** No. Landlords and property managers cannot require that service animals undergo specific training or wear visible identification such as collars, harnesses, vests, or badges. In addition, they cannot demand the animal completes a specific credentialing program.

**Do I have to pay for any animal-related damages to my dwelling?** Yes. Even though you are utilizing a service or assistance animal to assist with your disability, you are still responsible for that animal’s conduct. If your animal damages the unit (i.e. teeth marks on wood, torn or soiled carpet), you will be held financially responsible.

**What if I live in a hotel or motel?** Hotels and motels are not considered dwellings, but are considered places of public accommodation. Therefore, if you utilize a service animal under these circumstances, the service animal would have to comply with the definition as such under the ADA (see above).

**For more information:**

**Iowa Department of Human Rights**

**Office of Persons with Disabilities**

**Lucas State Office Building, Second Floor**

**321 E. 12th Street**

**Des Moines, Iowa**

**1-888-219-0471 (V/TTY)**

