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**FAIR HOUSING:
IT'S THE LAW!**

A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

Fair Housing Tip of the Month – April 2021

My Emotional Support Animal is a Pit Bull, Part 2: Insurance

TENANT: *“I have an emotional support animal that helps me with my anxiety and depression. I applied for an apartment at a building that has a “no pets” policy, and I asked the landlord if I could have my emotional support animal. The landlord said yes, as long as I could provide proof that I need it because of my disability. But then when I mentioned that my dog is a pit bull, the landlord said they wouldn’t grant my request because their insurance policy does not cover ‘dangerous dog breeds,’ including pit bulls. Is the landlord allowed to do this?”*

The law says: The landlord may not lawfully deny your reasonable accommodation request for an emotional support animal (ESA) based solely on the breed exclusions in their current insurance policy without first determining whether they can obtain comparable insurance that will accommodate your ESA.

Fair housing laws require landlords to make reasonable accommodations for people with disabilities to ensure equal access to housing. A reasonable accommodation is a change in rules, policies, practices, or procedures needed by a person with a disability in order to fully enjoy or use a dwelling. An accommodation is reasonable if it is necessary due to the person’s disability, does not impose an undue burden or fundamentally change the landlord’s business, and does not pose a direct threat.

If a tenant with a mental health disability needs an emotional support animal, the landlord may be required to waive their no-pets policy as a reasonable accommodation. The law prohibits your landlord from denying a reasonable accommodation request for an emotional support animal because they think it poses a direct threat solely due to its breed. Denial for direct threat posed by an animal must be based on the behavior of that specific animal (for example, if a specific dog has a documented history of inflicting dangerous bites, and the biting can’t be controlled).

The U.S. Department of Housing and Urban Development (HUD) states that if a landlord’s insurance carrier would cancel, substantially increase the cost of, or adversely change the terms of the landlord’s insurance policy because of the carrier’s dog breed restrictions, it could be unduly burdensome to the landlord. However, it will likely not be considered an undue burden if there is comparable insurance on the market that would cover the breed in question. In California, it has been reported that several insurers offer insurance that covers pit bulls. Furthermore, HUD and/or the California Department of Fair Employment and Housing (DFEH) may launch an investigation into any insurance company that excludes certain breeds and will not make exceptions for assistance animals.

What to do: You indicated that your landlord denied your verbal reasonable accommodation request due to the reported limitations of their insurance. Follow up in writing with another reasonable accommodation request that the landlord (1) ask their current insurance company to make a reasonable accommodation for your ESA, and (2) if the current insurance company refuses, to seek comparable insurance that complies with fair housing laws. If you have evidence that your dog is well-behaved (for example, a graduation certificate from a training class or a Canine Good Citizen Certificate), you should include that documentation with your request.

If the landlord denies your reasonable accommodation request or refuses to engage with you in an interactive process to meet your disability-related housing needs, you may file a complaint with a local fair housing agency, DFEH, or HUD.

If the landlord’s the insurance company refuses to make an accommodation to their breed restrictions, you may file a complaint against the insurance company as well.

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: *The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.*

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