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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 – December 2020***

### **My Emotional Support Animal is a Pit Bull**

#### ***Fair Housing Law Prohibits Rejecting a Reasonable Accommodation Request for an Emotional Support Animal Based on Breed Reputation***

**Tenant: “I have anxiety and depression, and I live in an apartment building with a no-pets policy. One of my friends has a dog that has helped me tremendously with my mental health issues, but my friend can no longer care for the dog, so I want to adopt the dog to be my emotional support animal. I made a reasonable accommodation request to my landlord and explained that I need the animal for my mental health disability. The landlord seemed inclined to accept my request until learning that the dog is a pit bull. The landlord said that I can’t have the dog because pit bulls are “violent.” This dog is so sweet and supportive – not dangerous at all. Is it legal for the landlord to reject my reasonable accommodation request?”**

**The law says:** No, the landlord may conduct an individualized assessment of the actual risk posed by your specific animal, but fair housing law prohibits making the decision based on breed reputation. Landlords are required to make reasonable accommodations for people with disabilities in order to provide equal access to housing. One such accommodation is to permit a tenant with a disability to have an emotional support animal despite a “no-pets” rule. A person with a mental health disability may need an emotional support animal because the animal provides support which minimizes the effects of the disability, allowing them to better use and enjoy their housing. The law does not allow a landlord to deny a request for a needed support animal unless granting the request would be too difficult or expensive (an “undue burden”), change the nature of the landlord’s business (a “fundamental alteration”), pose a direct threat to the health or safety of others, or would cause substantial property damage.

A landlord cannot deny a reasonable accommodation request for an emotional support animal based on the reputation of its breed. The law permits your landlord to evaluate only the behavior of your specific animal. For example, if the landlord has evidence that your specific emotional support animal has previously bitten someone, they could consider that when determining whether to grant an accommodation for that animal. In that situation, the landlord would also have to consider (1) the nature, duration and severity of risk of future injury; (2) the probability that injury will actually occur; and (3) whether any reasonable accommodations can significantly reduce the threat. A dog that had previously bitten someone, for example, might be expected to pose significantly less of a threat in the future if its owner agrees to muzzle the animal in common areas.

**What to do:** You have already asked for an accommodation and explained how the dog lessens the effects of your disability. Your landlord may assess your dog’s conduct and consider whether it would be unduly burdensome or unsafe for other tenants or the property and, if so, whether it can be made safe through a reasonable accommodation. If your support animal will not be unduly burdensome and does not present a direct threat that cannot be mitigated, your landlord must grant your accommodation request.

If the landlord denies your reasonable accommodation request, you may file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

To file a complaint with HUD, call 800-669-9777, or visit [www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/complaint-process](http://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/](http://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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