

From: Stephen Dane
Sent: Friday, May 1, 2020 10:27 AM
To: Garrett Humes <GHumes@kamancus.com>
Subject: RE: Carillon House Pet Policy

Garrett – My clients are still not completely comfortable with the revised language. However, they have indicated that these further revisions to that paragraph would be acceptable:

The Fair Housing Act (FHA) makes it unlawful for housing providers, including condominium associations, to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling. One common request housing providers receive is for a reasonable accommodation to providers' pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing, including public and common use areas. Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities. Residents with disabilities may request reasonable accommodations to any rules and deed restrictions in order to have equal opportunity to enjoy and use a dwelling. Accommodation requests should be submitted to via email to gwyn@applemgmt.com or by mail to Apple Property Management, PO Box 752108, Dayton, OH 45475.

This language is taken nearly verbatim from HUD's Notice issued January 28, 2020 regarding certain obligations of housing providers, including condominium associations, under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. (See attached PDF document). We don't see why there would be an objection to quoting directly from the HUD guidance.

What do you think? The rest of the brochure is fine.

Steve Dane

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419-873-1814

Sent: Thursday, April 23, 2020 2:34 PM
To: Stephen Dane <sdane@fairhousinglaw.com>
Subject: RE: Carillon House Pet Policy

Mr. Dane,

As we discussed, I have made some revisions to the draft rules in an attempt to resolve this matter. Please review the revised rule with your client and let me know if this will address their concerns.

Regards,

Garrett Humes, Esq.

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Sent: Wednesday, April 22, 2020 2:04 PM
To: Garrett Humes
Subject: RE: Carillon House Pet Policy

Garrett – I have a call already scheduled at 10 am tomorrow, but I could talk at 11. Does that work for you?

I've appeared before Judge Liebenweber, the author of the opinion you attached. He's a pretty cautious guy, and I think he's wrong on a few things -- but I get your point.

Steve Dane

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419-873-1814

From: Garrett Humes <GHumes@kamancus.com>
Sent: Wednesday, April 22, 2020 9:16 AM
To: Stephen Dane <sdane@fairhousinglaw.com>
Subject: RE: Carillon House Pet Policy

Hi Mr. Dane,

How about we chat tomorrow. Does around 10 am work for you?

I wanted to share the attached case (and if necessary a few other items) with you prior to our conversation. As you can see from the attached 7 Circuit case, the Court indicates that housing providers may limit the location on the property where emotional support animals are taken absent a link between the resident's disability related need to take the animal to that particular location. While there are many instances where a housing provider will need to allow a service or emotional in an area of the property where animals are otherwise prohibited (See e.g., *Sanzaro v. Ardiente Homeowners Association, LLC*, Nevada District Court), it appears the issue is much more nuanced than the position outlined in your email below.

Looking forward to speaking with you.

Regards,

Garrett Humes, Esq.

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From: Stephen Dane [mailto:sdane@fairhousinglaw.com]

Sent: Monday, April 20, 2020 1:02 PM

To: Garrett Humes

Subject: RE: Carillon House Pet Policy

Hey, Garrett – Sorry for the delayed response. Press of other matters, etc.

I'm ready to discuss this issue further with you, and in anticipation of that call I am sending the attached materials:

- The Ohio Civil Rights Commission's Statement of Policy re Emotional Support Animals in Housing. Please note the discussion of telemedicine on page 2. Although MVFHC agrees that on-line "certificates" obtained from non-medical sources with no prior relationship with the disabled individual are insufficient verification, the OCRC's position is relevant to the "verification" issues we discussed previously.
- Notice of a complaint recently filed by the U.S. Department of Justice against a condominium association for unlawful animal policies. Looks like some issues may be similar to what we are discussing.
- A previous draft of the Carillon "Pets Policy."

There are still objections to the updated draft of the Policy that you attached to your email below. For instance, in the far right of the brochure:

"Any disabled resident who (1) is unable to comply with these rules because of their disability related needs,"

- This misses the point that disabled individuals cannot be forced to use a designated entrance/exit simply because they have a Service Animal or ESA. This is attempting to create a nexus between the disabled individual's needs and the rules rather than accepting that the Board cannot regulate Service Animals or ESAs the way they do pets.

"(2) needs an animal to accompany them when using areas of the condominium property where animals are prohibited under these rules, or (3) otherwise requires an accommodation to any Association deed restriction, rule, or policy of the condominium property may submit an accommodation request to the Association's manager for the Board of Directors consideration."

- Disabled individuals do not have to request an accommodation to use common areas of the property. They have a right to use the common areas without obtaining permission. And this still requires that anyone with a service animal or ESA must go in and out of the building along a route that is longer than other exits and through what is the basement garage door, past the car wash and dumpsters.

MVFHC is also concerned that the board may be attempting to “reset” pre-existing accommodations and require new submissions of reasonable accommodations that have been in place for years, which is an undue imposition upon the tenured disabled residents. In contrast, the “Pet Etiquette” draft policy attached hereto seems acceptable.

If the Board is trying to figure out the best way to handle complaints about miscreant pet or animal behavior, perhaps sharing the nature of those complaints with MVFHC may trigger suggestions on less discriminatory means of dealing with them. Maybe I did not fully comprehend the nature of the complaints when you and I talked previously. The only notes I took had to do with dog-walkers who themselves were not disabled, but that perhaps could be handled in a different, more precise manner.

Finally, there are privacy concerns with people revealing the existence, nature, and extent of their disabilities to the entire Board, at Board meetings that are supposed to be open to the public (i.e., unit owners). Requests for accommodations must be handled discreetly by a single person, if possible by a single individual like the building manager, who can be delegated the responsibility to handle such requests without full Board approval.

So let's find a time to discuss further. This week is good for me.

Steve Dane

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419-873-1814

From: Garrett Humes <GHumes@kamancus.com>

Sent: Wednesday, April 8, 2020 9:58 AM

To: Stephen Dane <sdane@fairhousinglaw.com>

Subject: RE: Carillon House Pet Policy

Hi Mr. Dane,

In anticipation of our call this morning, I wanted to send you the draft of the revisions the Board and I have prepared based on the prior communications with MVFH.

Regards,

Garrett Humes, Esq.

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FOR CLARITY AND CHRONOLOGICAL ORDER, BEGIN HERE AND READ UP