

Comfort Pets

Owners and management companies may, at their discretion, decide whether or not to implement no-pet policies at a particular apartment community. A no pet policy prohibits tenants from keeping pets of any kind in their apartments; however, owners and management companies have certain legal obligations to make accommodations to allow certain specific types of animals to reside with a tenant in an apartment even when those apartments are in communities with clear no pet policies.

The law views service and comfort animals, not as pets, but as day-to-day needs of individuals suffering from physical and/or mental disabilities. Because of this, management is required to make reasonable accommodations to allow the presence of the animals in the homes of those who can show the requisite need.

Service Animals

A service animal is one which is individually trained to the requirements of an individual with a disability, such as protection, rescue, pulling a wheelchair, or fetching dropped items. Guide animals for the blind or visually impaired, signal animals for the deaf or hearing impaired, and service animals for other disabled people are all service animals and not considered pets under the law. The law (both at the federal and state level) specifically prohibits management from refusing to rent to a disabled person who needs a service animal. Instead, the law requires that management make reasonable accommodations to allow the disabled individual the use and assistance of the dedicated service animal.

Comfort Animals

Unlike service animals, there is no law or regulation which specifies that management must allow a disabled person to have a comfort animal. While a service animal is trained to perform physical acts to aid a disabled person, a comfort animal provides love, reassurance, social interaction and other emotional benefits. Advocates of comfort animals say that they provide substantial health benefits, particularly to emotionally disabled persons.

While comfort animals are not within the specific protections afforded service animals under federal and state disability and housing laws, disabled tenants are provided rights to keep comfort animals in apartment communities with no pet policies if they can provide documentation which shows that a medical professional believes that the animal is necessary for the individual's health, use, and enjoyment of the apartment.

What Management Should Do

Prior to accepting a service or comfort pet in an apartment community with a no pet policy, the tenant should be asked to provide proof of the disability and of the need for the animal. The tenant is not required to provide any particular kind of proof, but must present some evidence that an accommodation by management is necessary. If the animal has an official tag or license showing that it is a service animal, management can probably rely on that as evidence. However, since comfort animals are not eligible for such tags or licenses, tenants who need a comfort animal must show it is necessary by order of a physician or mental health professional.

Interestingly and importantly, in communities where pets are allowed with a pet deposit, pet deposits should not be charged for tenants with service or comfort animals as they are not considered pets.

A landlord who receives a request to allow a service or comfort animal is best served seeking legal counsel. Each situation is unique and the ever changing law and particular tenant's circumstance may alter management's ultimate decision.