

HUD Issues New Guidance On Reasonable Accommodations For Assistance Animals *By: Brenda Richardson, Forbes*

The U.S. Department of Housing and Urban Development released [guidance](#) today that clarifies how housing providers can comply with the Fair Housing Act when assessing a request from a person with a disability to have an assistance animal.

The federal Fair Housing Act prohibits discrimination in housing against individuals who have disabilities that affect a major life activity. Under the law, a disability is defined as a physical or mental impairment that

substantially limits one or more major life activities. The act requires housing providers to permit a change or exception to a rule, policy, practice or service that might be necessary to provide people with disabilities equal opportunity to use and enjoy their homes. In most circumstances, a refusal to make such a change or exception, known as a reasonable accommodation, is unlawful.

A common reasonable accommodation is an exception to a no-pet policy. A person with a disability that affects a major life activity may require the assistance of an animal that does work, performs tasks or provides therapeutic emotional support because of the disability. Housing providers may confirm, if it is not apparent, whether the requested accommodation is needed because of a disability that affects a major life activity and is a reasonable request.

A 2019 survey by the American Pet Products Association found that 67 percent of U.S. households own at least one pet, an estimated 84.9 million homes. The assistance animal notice is designed to help housing providers by offering a step-by-step set of best practices for complying with the Fair Housing Act when assessing accommodation requests involving animals and information that a person may need to provide about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

The new guidance provides information on the types of animals that typically may be appropriate and best practices for when the requested animal is one that is not traditionally kept in the home. It also provides information for housing providers and people with disabilities regarding the reliability of documentation of a disability or disability-related need for an animal that is obtained from third parties, including internet-based services offering animal certifications or registrations for purchase.





Legislative News



HUD Issues New Guidance On Reasonable Accommodations For Assistance Animals (Cont'd)

A host of dubious and predatory service and emotional support animal registries have developed over the years for assistance animal certifications. Landlords and property managers are entitled to reliable verification of a tenant's need for an assistance animal and can require documents other than an online certification.

“Countless Americans rely on assistance animals to fill a void, providing individuals with disabilities with the means to have a home that supports their quality of life,” stated HUD Secretary Ben Carson. “In my many discussions with housing providers and residents impacted by the need for assistance, I recognized the necessity for further clarity regarding support animals to provide peace of mind to individuals with disabilities while also taking into account the concerns of housing providers. Today’s announcement responds to the ambiguity surrounding proper documentation for assistance animals with clarity and compassion to provide an equal opportunity for a person living with a disability to use and enjoy their home.”

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) released the following statement on HUD’s new animal assistance guidance:

“The apartment industry strongly supports the rights of persons with disabilities to make reasonable accommodation requests so they may have equal opportunity to use and enjoy a dwelling. However, a lack of clarity in the law currently governing emotional support animals allows for abuse and imposes an unfair burden on property owners. This undermines the intent of the Fair Housing Act to help those truly in need of an emotional support animal. NMHC and NAA believe the new guidance is a step in the right direction toward providing a clearer understanding of emotional support animal rules.

“Prior to the issuance of this new guidance, it was often difficult for owners and operators to determine legitimate requests from illegitimate ones. HUD’s guidance will help rental housing providers mitigate abuse, ensure better compliance with fair housing laws, and, vitally, improve the ability of owners and operators to protect the rights of disabled persons to live with their service animals and emotional support animals.”

Anna Maria Farías, HUD’s assistant secretary for Fair Housing and Equal Opportunity pointed out that HUD has recognized for decades the rights of individuals with disabilities to keep an assistance animal in the home where it is a reasonable accommodation.

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“Housing is unique, and a person with a disability that affects a major life activity might need an animal that provides support in ways that is not readily apparent to housing providers,” said Farías. “For example, veterans or senior citizens may need the assistance or therapeutic support of an animal to help them cope with the symptoms of a disability that affects a major life activity. This guidance will help housing providers to recognize the important way assistance animals can improve the lives of persons with disabilities and to meet their obligation to grant such accommodations.”

HUD General Counsel Paul Compton added, “With the Assistance Animals Notice, both housing providers and individuals with disabilities will better understand their rights and obligations under the Fair Housing Act regarding assistance animals, particularly emotional support animals. For housing providers, this is a tool that can be used to help them lawfully navigate various sets of sometimes complex circumstances to ensure that reasonable accommodations are provided where required so that persons with a disability-related need for an assistance animal have an equal opportunity to use and enjoy their housing. The guidance will help ensure that these important legal rights are asserted only in appropriate circumstances.”

Proposed: Seattle to Ban Residential Evictions During Winter

Seattle City Councilmember Kshama Sawant introduced legislation Monday that would ban residential evictions during the colder months of the year. Sawant hopes the council will take action later this month or next month, she said.

Her legislation would add to the city’s just-cause eviction law, which dictates the circumstances under which landlords can evict tenants.

Under her proposal, “regardless of whether just cause for eviction may exist,” evictions would be prohibited “from November 1 through March 31.”

Sawant said Seattle would be the first city in the U.S. to adopt such a law, though a San Francisco law protects school employees and families with children from school-year evictions when landlords want to occupy, remodel or demolish units.

As currently written, her proposal would apparently cover all evictions, including those for nonpayment of rent. Sawant indicated she may be open to refinements.

Proposed: Seattle to Ban Residential Evictions During Winter (Cont'd)



The District 3 council member, who won reelection last month, drew up the legislation in response to a recent letter from the Seattle Renters' Commission urging the council to pause evictions. The appointed advisory commission said a wintertime moratorium would "keep neighbors from being displaced to the streets during the months with the harshest weather and poorest living conditions."

"Tonight, in this extraordinarily wealthy city of ours, thousands of people will shiver in the cold, be forced to sleep in cars, ride public transit or gather in overcrowded shelters," Sawant said in a statement announcing her plan, describing the proposal as a step toward "the humane approach to the homelessness crisis that voters have called for."

Evictions disproportionately affect women and people of color, and people can die while living on the streets, she said.

"It's just heartless to evict people onto the streets," District 3 constituent Greg Colucci said during a public comment period at the council's Monday meeting. "This does include families, as well."

"I'm pleading with you to pass this legislation," added Violet Lavatai, with the Tenants Union of Washington State. "The winter is cold ... just imagine the people on the streets."

Xochitl Maykovich with Washington Community Action Network urged the council to consider Sawant's proposal. Though some tenants would have their evictions temporarily blocked, any debts could remain on the books, she said.

Sawant has consulted with Seattle City Attorney Pete Holmes' office on legal questions related to her proposal, she said. Holmes spokesman Dan Nolte declined to comment, citing attorney-client privilege.

"They're giving us a well-rounded description of what we're up against," Sawant said Monday. "I don't believe this is something that we cannot do."

Mark Prentice, a spokesman for Mayor Jenny Durkan, said Friday that Durkan believes Seattle "must continue to work to protect tenants and build more affordable housing."

"We will wait to see Councilmember Sawant's proposal as well as legal analysis by the City Attorney's Office," Prentice said in a statement.

Proposed: Seattle to Ban Residential Evictions During Winter (Cont'd)

In response to a request for comment, the Rental Housing Association of Washington provided a statement from Delaney Wyingle, a Seattle landlord.

“Nobody should be without a safe place to stay during the winter — or any time of year,” Wyingle said.

But the city and the Seattle Housing Authority already have allocated money for rental-assistance programs that can prevent evictions and that don’t “put my affordable rental home at risk by asking me to cover my tenant’s housing costs,” he said.

Were Seattle to adopt Sawant’s legislation, the city would likely be sued, Council President Bruce Harrell said Monday, suggesting the proposal could prove “somewhat problematic” on legal grounds.

Harrell described the proposal as “a great policy,” saying, “We don’t want people evicted during the cold months.” But he said the council may want to investigate what money the city has allocated to help tenants avoid wintertime evictions.

There were about 3,200 evictions ordered across King County in 2017. More than 85% of Seattle eviction filings were for nonpayment of rent and in more than 50% of those filings the amount of money owed was one month’s rent or less, according to a study by the Seattle Women’s Commission and the King County Bar Association’s Housing Justice Project that analyzed 1,218 cases.

The mayor and council in September passed new laws requiring landlords to allow rent payments to be made by cash or check and to register with a city inspection program before issuing eviction notices to tenants.



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