

# Landlord News

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## Companion Animals - An Evolving Area of the Law

### Part I of a Two Part Article

Many residents request "companion animals". There are many pitfalls associated with such requests. Companion animals are also known as "companion pets", or "therapeutic pets" or "emotional support pets". This is misleading. The first pitfall to avoid is thinking of a companion animal as a pet. If an animal truly is a "companion animal" or a "therapeutic animal" or an "emotional support animal" under fair housing laws, then the animal is not a pet at all. The animal should always be thought of in the same way as a true service animal. Fair housing laws determine whether or not you will allow a Seeing Eye dog. Similarly, fair housing laws determine whether or not you must allow a companion animal.

Requests for companion animals pose unique challenges, and confront onsite personnel with difficult questions. Answers to these questions are frequently not obvious. Companion animal questions are difficult for several reasons. These reason include who is making the requests, how the requests are being made, and how often the requests are being made. On the surface, you frequently observe that residents make requests for "companion animals" for apparently no other reason than to get around your community's pet policies such as no pet, pet rent or fees, and restricted breed.

Your conclusion is supported by numerous facts that almost always seem to exist when residents make these types of requests. The resident making the request does not appear to be disabled. Nor does the requested animal ever appear to be a "service animal". Often the

## 2006 WORKSHOP SCHEDULE ANNOUNCED

The dates for the Firm Sponsored Workshops for 2006 have been set. Once again we will be offering Basic Fair Housing, Advanced Fair Housing, Basic Evictions and Non Monetary Evictions Workshops. All attendees receive a workbook and outline of the material covered in the workshop. In the schedule below the green color denotes Fair Housing Workshops and the blue color code denotes Eviction Workshops.

Tuesday Jan 17	Basic Evictions
Tuesday Jan 31	Basic Fair Housing
Tuesday Feb 21	Advanced Fair Housing
Tuesday Feb 28	Non-Monetary Evictions
Tuesday April 11	Basic Evictions
Tuesday April 18	Basic Fair Housing
Tuesday May 16	Non-Monetary Evictions
Tuesday May 23	Advanced Fair Housing
Tuesday June 20	Basic Evictions
Tuesday July 18	Basic Fair Housing
Tuesday July 25	Non-Monetary Evictions
Tuesday Aug 15	Advanced Fair Housing
Tuesday Sept 19	Basic Evictions

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# Companion Animals -

## Part I of a Two Part Article

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resident suffers emotionally to the extent that the resident needs not just one, but multiple companion animals. Many of the requests involve “exotic” animals

such as snakes, fish, bird, and even pigs.

Finally, if you have breed restrictions, the request frequently involves an

animal, such as a pit bull, that just happen to be on your restricted breed list.

Jurisdictional restrictions on animals provide one easy and definitive answer to a common companion animal scenario. If your community is located in a jurisdiction that restricts breeds, you may deny a resident’s request for a “reasonable accommodation” for a companion animal because the requested companion animal would be illegal in the



jurisdiction where you are located. In other words, if Aurora bans pit bulls, you do not have to allow a pit bull at your Aurora property as a reasonable accommodation. Fair housing laws require you to accommodate residents; they do not require you to break

the law.

Unlike companion animal scenarios, traditional service animal requests are straightforward. A resident who is obviously disabled and who obviously needs the service animal makes the request. The classic example is a blind resident who needs a Seeing Eye dog. If a resident meets these criteria (obviously disabled, and obviously needs the service animal), you must allow the service animal. Further, if you allow a traditional service animal, you may not charge pet rent, pet fees, pet charges, extra security deposits, etc. The “if allowed, no charge rule” applies to all requests for reasonable accommodations involving animals. Thus, if you allow a companion animal or companion animals, you may not charge traditional pet rent, pet fees, or pet deposits. Remember, the animal is not a

pet, but an animal, and is not being allowed at the community pursuant to the pet policies, but rather as an exception to them.

Companion animal scenarios are not so easily resolved. The starting place for resolving companion animal situations is the HUD/DOJ Guidelines On Reasonable Accommodations (“the guidelines”). HUD (Department of Housing and Urban Development) is the governmental department charged with enforcing federal fair housing laws. The DOJ (Department of Justice) are HUD’s lawyers, and thus the DOJ has offered its “legal opinions” regarding the guidelines. If you do not have a copy of the guidelines and would like one, the guidelines may be downloaded from the firm’s website in PDF format at [htspc.com](http://htspc.com).

Under the guidelines, if a resident is not obviously disabled, and the need for the pet is not obvious, you may request information as to both disability and need.

How to handle companion animal requests as all requests for reasonable accommodations are very important, but not the subject of this article.

If you would like more information on this topic, attend one of the firm’s fair housing classes. The firm regularly addresses handling requests for reasonable accommodation at its fair housing classes. Given the number of requests for reasonable accommodations made by residents, knowing how to properly handle them is an essential property management skill.

Because disability and need are usually not obvious, you will almost always request more information from the resident in companion animal cases. If the resident is able to document both disability and need, you should grant the request for the companion animal. Sounds pretty straightforward. However, it is not. What if the resident’s medical documentation is from an acupuncturist? What if the resident’s neurologist says that the only animal that provides emotional support is a rottweiler which is on your restricted breed list? Unfortunately, the courts are divided on what constitutes adequate documentation, evidence, or proof of need for a companion animal. To illustrate this point, one only needs to look at one of the most common, but certainly most difficult companion animal request scenarios.



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**Companion Animals -  
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One of our clients was recently confronted with this scenario. The resident is not obviously disabled. The resident is seeking an exception



from the community's breed restrictions against rottweilers. The resident supposedly needs the dog for her "emotional well being". The resident's sole

documentation is a note from her neurologist to that effect. Under these circumstances, do you have to allow the animal? The safest and quickest solution would be to allow the animal. However, if you want to make your decision based on the law, courts do not agree on the answer.

**To Learn How Court's Rule on These Issues, and for other answers, please be sure to read Part II in next month's Newsletter.**

**PART II Companion Animals and the Law in January Newsletter**



**2006 WORKSHOP SCHEDULE  
ANNOUNCED**

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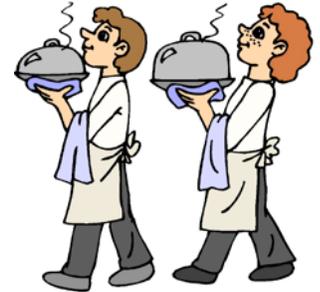
Tuesday Oct 10	Non-Monetary Evictions
Tuesday Oct 17	Basic Fair Housing
Tuesday Nov 7	Basic Evictions Advanced Fair
Tuesday Nov 14	Housing

Anyone wishing to attend a workshop can either sign up on line at our website [htspc.com](http://htspc.com) or [milehighsevictions.com](http://milehighsevictions.com) or call Nancy at 303-699-3484. All classes begin at 8:45 a.m. and are held in the Hopkins Tschetter Sulzer Meeting Room in Pavilion Tower I located at 2851 South Parker Road lower level. Remember space is limited and it is never too early to register for a workshop.



**2006 CLIENT LUNCH DATES**

The Firm anticipates that attendance at our monthly free client luncheons will again be popular in 2006. In order for you to make plans to attend the luncheons we are publishing a list of the dates and locations for the luncheons. All luncheons scheduled SOUTH will be at Piccolos Restaurant located at East Hampden and South Monaco. The NORTH luncheons will be held at the Rock Bottom Restaurant and Brewery located at 10633 Westminster Blvd. It is never too early to make reservations. You can make a reservation on line at our website [htspc.com](http://htspc.com) or [milehighsevictions.com](http://milehighsevictions.com) or you can call Nancy at the office 303-699-3484. There is a new topic discussed at each luncheon and there is always opportunity for those in attendance to ask questions and exchange their thoughts with their industry peer. We look forward to seeing you at our 2006 luncheons.



January 20 <sup>th</sup>	North	June 16 <sup>th</sup>	South
February 17 <sup>th</sup>	South	July 21 <sup>st</sup>	North
March 17 <sup>th</sup>	North	August 18 <sup>th</sup>	South
April 21 <sup>st</sup>	South	Sept 22 <sup>nd</sup>	North
May 19 <sup>th</sup>	North	October 20 <sup>th</sup>	South

**ALL COURTS WILL BE  
CLOSED ON  
MONDAY DECEMBER 26<sup>TH</sup>  
FOR THE  
CHRISTMAS HOLIDAY**



## The Attorneys

Mark-Vic-Tim-Wes-Pete-Lindsay

And

## The Staff

Terry-Tracy-Colleen-Janet-Nancy-Sanyia-

Eve-Jade-Matt-Tom

Extend Our Best Wishes

for a

Happy Holiday Season

and a

Bright and Prosperous New Year