

ISSUE #1
5.3.11

MARKUP #1 ->

Raise or keep pets or animals or living things in derogation of the following:

- (a) Owners may keep and raise no more than two usual and ordinary household pets (exclusive of caged birds) in the Project subject to the provisions of the Rules and Regulations including restrictions on the size and/or breed of such pets; provided, however, that no Owner or other occupant of a Lot may raise or keep pet or living thing which interferes with, or has a reasonable likelihood of interfering with, the rights of any Owner or other occupant of a Lot to the peaceful and quiet enjoyment of the Lot. In the event the Board determines that any pet or other living thing creates an unreasonable annoyance or nuisance to any Owner or other occupant of a Lot, or ~~there is otherwise any violation of the Governing Documents which~~ violation is caused or contributed to by the keeping of any pets or living thing, the raising or keeping thereof shall be discontinued within such time after such determination as the Board shall decide in its discretion.
- (b) No pets or animals shall be permitted in the Common Area except as specifically permitted by the Rules and Regulations, and then only when on a leash held by a person capable of properly controlling and who does so control the animal.
- (c) No Owners may raise or keep animals for commercial purposes.
- (d) The Association, its Board, Officers, employees and agents shall have no liability to any Owner, their family members, guests, invitees, tenants and contract purchasers, or any other person on the Project, for any damage or injury to persons or property caused by any pet, or living thing absent any willful or wanton negligence on the part of the Association, or its Board, Officers, employees and agents.

- 5.3.12 Allow rubbish, trash, and garbage to accumulate within the Lot or Common Area or allow such to be kept otherwise than in sanitary, customary containers which contents shall be properly and hygienically disposed of outside the Project at least once weekly in accordance with all legal requirements.
- 5.3.13 Engage in any illegal, noxious or offensive activity in any part of the Project, or do any act which unreasonably threatens the health, safety and welfare of other residents of the Project.
- 5.3.14 Engage in any type of harassment, illegal, noxious or offensive activity toward any Owners, residents, Association representatives, management representatives, Board members and/or vendors working in the Project.
- 5.3.15 Alter, attach, construct, or remove anything on or from the Common Area (excluding the Yard Areas), except upon the written consent of the Board. No permanent structures or similar

MARKUP #1 · FAIR HOUSING ACT (FHA) LIABILITY RISK

BOARD & COUNSEL REVIEW

Sec. i (p. 22): Pet restriction clause lacks mandatory statutory carveout for assistance and emotional support animals.

Statutory / Legal Reference: 42 U.S.C. § 3604(f)(3)(B) & 24 C.F.R. § 100.204 (Fair Housing Act - Assistance Animals) & HUD FHEO-2020-01

Statutory Comparison: Under federal Fair Housing Act regulations (42 U.S.C. § 3604(f)(3)(B), 24 C.F.R. § 100.204, and HUD Notice FHEO-2020-01), associations cannot apply pet restrictions, breed bans, weight limits, or pet fees/deposits to an individual with a disability who requires a service animal or emotional support animal.

CURRENT WORDING IN DOCUMENT:

including restrictions on the size and/or breed of such pets; provided, however, that no Owner or other occupant of a Lot may raise or keep pet or living thing which interferes with, or has a reasonable likelihood of interfering with, the rights of any Owner or other occupant of a Lot to the peaceful and quiet enjoyment of the Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that these pet restrictions, breed prohibitions, weight limitations, and pet fees shall not apply to verified assistance animals, including service animals and emotional support animals required as a reasonable accommodation under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01).

