

MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Sec. 4 (p. 8): 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:

N. Pets: Absolutely no pets shall be permitted in designated swim areas, marked areas adjacent thereto or any other area marked "No Pets". Pets shall be kept on leash or under immediate and effective physical control at all times in all other access areas or other WLIC property.

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).

No Member shall use, or permit another person to use, Weatherby Lake or WLIC property for commercial purposes, including, but not limited, to training or instruction of Members or Non-Members, unless approved in writing by the Board of Directors. The Board of Directors may prohibit such activities if, in its opinion, such use interferes with the use of WLIC by other Members; poses any threat to health, safety or environment; exposes WLIC to any risk of liability; or, is not conducive to the general use and enjoyment of WLIC property by Members. The Board of Directors may establish uniform fees for commercial use of Weatherby Lake or WLIC property by Members or impose such other conditions as it deems necessary.

B. Behavior Statement: It is the Member’s responsibility to treat WLIC Property, fellow Members, Board Members, staff, employees, contractors, and Guests with respect on WLIC Property. The Member understands egregious behaviors will not be tolerated and may lead to fines, suspension of lake privileges, or legal consequences, as determined by the Board. The Member is also responsible for ensuring that all Eligible Lake Users and Guests associated with their property adhere to these same expectations.

C. Designated Non-Smoking Areas: No smoking is allowed at the C Point swim beach, swim dock, restrooms, and playground.

D. Organized Events (including invitational regattas, fishing tournaments, triathlons, etc., that include participation by Non-Members): Any Member/club may apply to the Board of Directors for permission to hold such event. The Member/club will file with the Board an agreement signed by each Non-Member participating agreeing to assume all liability for any damage caused by them. They also agree to abide by the Rules and Regulations established for those using the lake.

ISSUE #1

E. Volunteer Mowers/Landscapers: The WLIC, with prior approval, will grant its permission to the Members who wish to mow and/or otherwise help maintain the property owned by the WLIC, whether the property is adjacent to the Member’s property, or not. Further, any Member who adds landscaping or attempts other ‘improvements’ to WLIC property does so as a proffer of a gift to the WLIC. The WLIC may accept or reject such proffer to make a gift, and upon rejection the ‘improvement’ shall be removed, and the property returned to its original condition by the Member, at the Member’s expense. In the case where a Member fails to remove the improvement and/or return the property to its prior condition, then after notice by the WLIC, the Member shall reimburse the WLIC for any expense incurred by the WLIC to return the property to its prior condition. Only a Resolution by the Board of Directors shall be construed as acceptance of any such proffer of a gift. Members must check with the WLIC before removing vegetation in the lake. The WLIC reserves the right to approve removal of vegetation from its property.

F. Noise & Disturbances: While on the Lake and on any WLIC property, all Members, Eligible Lake Users, and their Guests must abide by all Noise and Peace Disturbance Ordinances in place by the City of Weatherby Lake.