Section RULES & REGULATIONS - Sample Provision Excerpt (Public Preview)

Pets. No animals, reptiles and/or insects of any kind may be raised, bred or kept in any dwelling or an any Lot except for two household pets, unless prior written consent is obtained from the Board of Directors. Neither pet can weigh more than 25 pounds unless prior written consent is obtained from the Board of Directors.

ISSUE #1

MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Sec. RULES & REGULATIONS (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:

Pets. No animals, reptiles and/or insects of any kind may be raised, bred or kept in any dwelling or an any Lot except for two household pets, unless prior written consent is obtained from the Board of Directors. Neither pet can weigh more than 25 pounds unless prior written consent is obtained from the Board of Directors.

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).