



Section 16 - Sample Provision Excerpt (Public Preview)

PETS

a. Pets (including cats) may not be fenced or staked on the common elements. No pets may be affixed or attached to the building in any manner. Pets must be restrained at all times by use of a hand held leash while on common property. Owners are responsible for control and clean up after their pet on the common elements. (See

ISSUE #1



MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Sec. 16 (p. 5): 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 a. Pets (including cats) may not be fenced or staked on the common elements. No pets may be affixed or attached to the building in any manner. Pets must be restrained at all times by use of a hand held leash while on common property. Owners are responsible for control and clean up after their pet on the common elements. (See

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).