

MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Telecommunications Act of 1996 (“the 1996 Act”), as same may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the 1996 Act.

In the event that it is impossible to receive a signal from a non-visible location, the installation of antennas shall be subject to Guidelines which may be promulgated by the RRC or Association, pursuant to the terms set forth herein, setting out preferred alternate locations for antennas.

Declarant and the Association shall have the right, without the obligation, to erect on the Common Area an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of the Subdivision, should any master system or systems require such exterior apparatus.

SECTION 4. ANIMALS AND PETS.

No animals, livestock, swine, poultry, domestic or wild animals, nor plants or crops shall be raised on any Homesite, Lot, or any portion of the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for ~~anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited~~ under this provision. A maximum of three (3) dogs, cats or other usual and common household pets may be permitted in or on a Homesite or in a Dwelling; provided however, the Association shall have the discretion to determine if a particular animal is permitted under this provision. The foregoing limitation on number of pets shall not apply to hamsters, fish, small birds or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. No pets shall be kept, bred or maintained for any commercial purpose.

Without prejudice to the Association's right to remove any such household pet, the owner of a pet that has caused damage to property shall be responsible for compensating the Owner of the damaged property, but the Association shall have no obligation to enforce such obligation. Animal control authorities shall be permitted to enter the Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law. If, in the sole opinion of the Association, any animal becomes dangerous or an annoyance or nuisance in the Subdivision, or nearby property, or destructive of wildlife, that animal shall be deemed to be a Deed Restriction Violation. If the owner of a dangerous animal refuses to remove that animal from the Subdivision, in violation of the Dedicatory Instruments, the Association or its agents shall be authorized to request a local governmental agency with appropriate jurisdiction to take over the enforcement of this provision.

SECTION 5. WINDOW AIR CONDITIONERS.

All livings areas within the home, including any room additions, must be centrally air-conditioned, unless otherwise approved by the RRC. Units that are alternatives to centrally air-conditioned units must be screened from public view, and will require RRC approval.

Sec. 4. (p. 42): 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:

ANIMALS AND PETS. No animals, livestock, swine, poultry, domestic 01" wild animals, nor plants or crops shall be raised on any Homesite, Lot, 01" any portion of the Property for the purpose of breeding or selling same, whether for profit or not.

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).

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