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## HOUSING MANAGEMENT BUREAU MEMORANDUM # 2013-B-03

**To:** All Housing Companies  
Owners, Managing Agents and Site Managers

**From:** Robert Damico, Director  
Housing Management Bureau

**Date:** May 16, 2013

**Subject:** Service Animals and Assistance Animals for People with  
Disabilities in Housing and HUD-Funded Programs

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On April 25, 2013, HUD issued FHEO Notice 2013-01 which explains the obligations of housing providers under the Fair Housing Act (FHAct), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA) with respect to animals that provide assistance to individuals with disabilities.

- **The Fair Housing Act** prohibits discrimination in residential housing and housing related transactions based on race, color, religion, sex, national origin, disability and familial status. This applies to housing **regardless of the presence of federal financial assistance.**
- **Section 504 of the Rehabilitation Act of 1973** prohibits discrimination on the basis of disability in any program or activity; and pertains only to recipients of **federal financial assistance.**
- **Americans with Disabilities Act (Title 11)** prohibits discrimination on the basis of disability in any housing provided by public entities, such as state and local governments; and **(Title 11)** requires that public and common use areas at housing developments are accessible.

The Department of Justice's (DOJ) revised ADA regulations limit the definition of "service animal" under the ADA to include only dogs, and further define "service animal" to exclude emotional support animals.

Please note that the more stringent laws apply and this new definition by the Department of Justice does not limit our housing providers' obligations to make reasonable accommodations for assistance animals under the FHAct or Section 504.

**Section 1** of this notice explains housing providers' obligations under the FHAct and Section 504 to provide reasonable accommodations to persons with disabilities who require assistance animals. **An assistance animal is not a pet.** It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability or provides emotional support that alleviates one or more symptoms or effects of a person's disability.

In evaluating a request for a reasonable accommodation to possess an assistance animal in a dwelling unit, the housing provider must consider the following:

- 1) Does the person seeking to use and live with the animal have a disability – *i.e.*, a physical or mental impairment that substantially limits one or more major life activities?
- 2) Does the person making the request have a disability-related need for an assistance animal? Does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability; or provide emotional support to that individual?

**Section 2** of this notice explains DOJ's revised definition of "service animal" under the ADA as any dog that is trained to do work or perform tasks for the benefit of an individual with a disability. The revised regulations specify that emotional support animals are expressly excluded from qualifying as service animals under the ADA.

To determine if an animal is a service animal under ADA, a covered entity may ask:

- 1) Is this a service animal that is required because of a disability? and
- 2) What work or tasks has the animal been trained to perform?

**Section 3** of this notice explains that *certain entities will be subject to both the service animal requirements of the ADA and the reasonable accommodation provisions of the FHAct and/or Section 504.* These entities include public housing agencies, and some places of public accommodation, such as rental offices, shelters, residential homes, multifamily housing, and assisted living facilities. Covered entities must ensure compliance with all relevant civil rights laws, when multiple nondiscrimination laws exist.

The definition of "service animal" contained in ADA regulations does not change or limit our housing providers' obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHAct or Section 504. Under these laws, rules and/or policies must be modified to permit the use of an assistance animal as a reasonable accommodation in housing when it may be necessary to allow a person with a disability to use and enjoy a dwelling, or may be necessary to allow an individual with a disability to participate in, or benefit from, any housing program or activity.

To find this notice online, go to [www.hud.gov](http://www.hud.gov) and search for FHEO Notice 2013-01. Please e-mail Linda Kedzierski at [LKedzierski@nyshcr.org](mailto:LKedzierski@nyshcr.org) for any questions or concerns.



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Robert Damico