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Aspen Pitkin County Housing Authority

2014 Colorado Legislative Update



Focused on Communities

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Political Lay of the Land

- House and Senate Democratically Controlled
- 2014 Intended to Be Quiet Session
- 5 HOA Specific Bills Introduced – 2 Signed Into law

2013 HOA Records Law

- Became effective on January 1, 2013 and addressed:
 - HOA records *which must* be maintained and produced;
 - HOA records *which may be withheld* from production;
 - HOA records *which must be withheld* from production (included email addresses & telephone numbers of members)

HOA Records Bill House Bill 1025

- Intended to fix 2013 HOA Records Law
- Beginning on ***August 6th***, HOAs may publish email addresses and telephone numbers of Members and Residents *if*:
 - Members and residents first provide written consent to publish
 - Written consent may be obtained via email

Withdrawal of Consent

- Members and Residents Can Withdraw Consent
 - Withdrawal must be in writing and can be electronic
 - No need to go back and “change, retrieve or destroy” published email addresses and telephone numbers



Bye, Bye Proposed Transfer Fee Bill

Management Company Transparency Bill House Bill 1254

- ***Beginning on January 1, 2015, Managers and Management Companies must:***
 - Disclose fees and charges during contract negotiations and on a yearly basis thereafter;
 - Include these fees and charges in the written management contract;
 - Transfer fees must be disclosed in the management contract or real estate closing settlement statement;
 - Disclose remuneration the manager, management company, a subsidiary, affiliate, related person or entity receives that is in any way related to the management company or manager's relationship with the HOA

Manager Licensure

- Historical Overview
- Main Purpose: Competent Community Association Managers
 - Managers must have underlying credential
 - Managers must pass examination on Colorado law

Important Manager Licensure Dates

- Effective Date of New Law: January 1, 2015
- Date Managers Must be Licensed by: July 1, 2015

Where are things at with the Division of Real Estate?

- Emergency Rules – January 1, 2015
- Target Date for Availability of Competency and Colorado Law Tests – January of 2015
- Division of Real Estate will either recognize the CMCA, AMS and PCAM as fulfilling competency test requirement *or* clean-up bill will be run to do the same.

What Should Managers Do Now?

- Get your CMCA

Service Dogs v. Assistance Animals

AREN'T THEY ALL THE SAME?!



What can my HOA do when a resident requests an assistance animal?

When a resident's disability and need for an assistance animal *is readily apparent*

- No further inquiries permitted by HOA
- HOA must permit the resident to keep the assistance animal

When a resident's disability and/or need for an assistance animal *is not readily apparent*, the HOA can make the following inquiries:

1. Does the person requesting the assistance animal have a disability?

Disability: a physical or mental impairment that substantially limits one or more of 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 that alleviates one or more of the identified symptoms or effects of a person's disability?

What documentation can my HOA require for an assistance animal?

If the disability and need for an assistance animal is readily apparent:

No documentation can be required.

If the **disability is not readily apparent**:

May ask the resident to submit reliable documentation of a disability and need for an assistance animal.

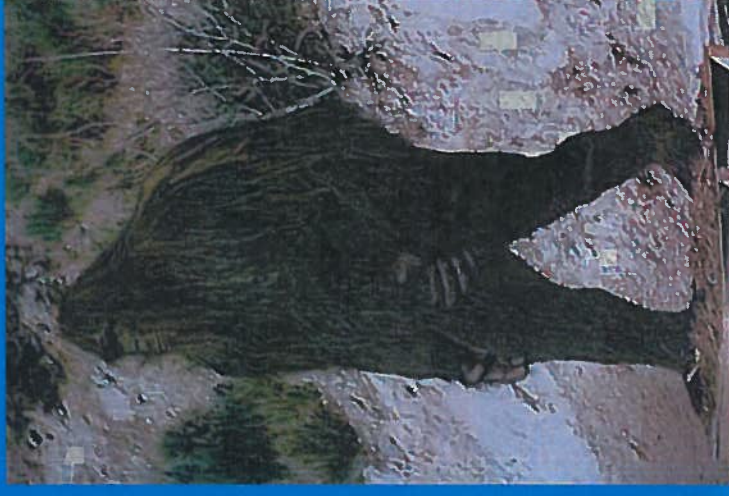
If the **need for an assistance animal is not readily apparent**:

May ask the resident to submit documentation of the disability-related need for the assistance animal.

Requests for Assistance Animals Can be Denied if:

1. The specific assistance animal in question poses a direct threat to the health and safety of others that cannot be eliminated by another reasonable accommodation; or
2. The specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

Note: Breed, size and weight limitations cannot be applied to assistance animals.



Requests for Accommodation Under the Fair Housing Act May Not:

1. Be unreasonably denied;
2. Conditioned on payment of a fee or deposit

Service Dogs under the ADA

- Applies to Condotel's – Places of Public Accommodation
- **Does Not** apply to condos where rentals are handled privately

What can my HOA do when a resident, visitor or guest has a service dog?

Association may not inquire about the nature or extent of a person's disability!

Association may only ask the following:

- a. Is this a service dog that is required because of a disability?
- b. What work or tasks has the service dog been trained to perform?

(Note: The Association cannot ask for certification or documentation on the service animal. Also, these two questions cannot be asked when it is readily apparent that the dog is a service dog trained to perform work or do tasks for a person with a disability.)

Where Can Service Dogs Go?

- All areas of the facility where members of the public are normally allowed to go.

Service Dogs Can Only Be Denied Access If:

- a. Dog is out of control and the handler doesn't take effective action to control it;
- b. Dog is not housebroken; or
- c. Dog poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.

Questions?

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