Medically Necessary Pets, Part II.

A recent Florida court ruling offers community associations some guidance.

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At the time of my first article entitled *Medically Necessary Pets*, the Florida courts offered little guidance to community associations dealing with "medically necessary pet accommodation requests". Without such guidance many community associations were inclined to permit an owner's pet upon receipt of a doctor's prescription, regardless of its merit.

In the recent case of *Hawn v. Shoreline Towers Phase I Condominium Association, Inc. et. al* , the United States District Court for the Northern District of Florida specified information it deemed reasonable for an association to seek from an owner that submitted a medically necessary pet accommodation. The facts of the *Hawn* case illustrates the issues many community associations deal with when a medically necessary pet accommodation request is submitted.

In *Hawn*, the Shoreline Towers Phase I Condominium Association had a long-standing no pets policy prior to Mr. Hawn's purchase of his unit. Nevertheless, a year after moving in, Mr. Hawn adopted a puppy and requested the Board of Directors make a "reasonable accommodation" allowing his puppy to stay. A letter from his psychologist (claiming the dog ameliorated severe panic attacks) and chiropractor (claiming the dog assisted with mobility issues) accompanied his request.

After meeting with Mr. Hawn the Board of Directors requested the following further information:

1. The qualifications of the two medical professionals that submitted letters to the association in support of his request.
2. Information specifically setting forth the manner in which the pet helps him deal with his disabilities.

3. Whether there were other corrective measures that could help the owner with his impairments.

The owner never responded to the association's information request and his accommodation request for his pet was denied. Soon thereafter, Mr. Hawn filed a lawsuit.

During discovery the association realized Mr. Hawn first petitioned the Board to rescind its no-pet policy without mentioning his disability. It was also discovered that Mr. Hawn had only seen each of his pet prescribing doctors twice. In dismissing the owner's case, the court held the initial information submitted by the owner was insufficient for the association to make a reasonable determination. Mr. Hawn's subsequent refusal to respond to the Board's information request was fatal to his case.

For the time being, the *Hawn* case offers guidance as to the information an association should review before bypassing its covenants and granting a medically necessary pet accommodation request. In particular:

1. the qualifications of the medical professionals that prescribed the pet and the specific nature of the owner's disability and;
2. information specifically setting forth the manner in which the pet helps the owner deal with his disabilities;
3. is there a reasonable "other way" to assist the owner with his disabilities besides granting the pet accommodation request.

Of note, a Board of Directors must take steps to keep an owner's medical records and information protected from disclosure, including official record requests.

Over time, the proper course for an association to take when reviewing a medically necessary pet accommodation request will change as courts review different cases with different facts. Therefore, prior to taking any action on an owner's request for a medically necessary pet accommodation, consult your community association's attorney.

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