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The Illinois Assistance Animal Integrity Act *How Will It Impact Community Associations?*

The issue of emotional support and service animals has been a hot-button issue for years as more individuals in community associations designate their dogs or other animals "assistance animals" (which includes both service and emotional support animals). Community association boards and managers, particularly in those associations with pet restrictions, have likely already seen such accommodation requests. Once an animal is designated an "assistance animal," the typical pet restrictions (such as weight limits or entry/exit requirements from common areas) or pet fees generally become inapplicable to that animal.

Community associations in Illinois (and throughout the U.S.) have grappled with how best to deal with the influx of animals (primarily dogs) into communities where their existence had been more tightly controlled via rules and regulations. While many individuals have a legitimate need for such assistance animals (treating issues ranging from PTSD and depression all the way to epilepsy), some shamelessly take advantage of the laws to bring their dogs into "no dog" communities, avoid pet fees, and otherwise circumvent long-established pet regulations meant to allow the association (both the furry *and* non-furry occupants) to co-exist peacefully.

Fortunately, Illinois legislators are now addressing the issue. House Bill 3671 (the *Assistance Animal Integrity Act* or "Act", full text linked [here](#)) has been approved by both the House and the Senate and, as of June 28th, 2019, was sent to Governor Pritzker for signature. If the Governor signs, the Act will inform how condominium, coop, and homeowner association boards, as well as property management companies, deal with assistance animal requests. The Act requires "housing providers" to take certain measures when receiving an assistance animal request. The Act includes "condominiums" and "coops" under the definition of "housing providers" as well as any "related entity." It stands to reason that the Illinois legislature intended to include non-condominium homeowner and townhome associations in the definition of "housing provider." **Accordingly, it is our position that all community associations would be wise to comply with the Act once it becomes law.**

To be clear, this article is not a summarization of all the requirements of assistance animal requests (if you'd like a good synopsis of the topic, we recommend listening to the CAI-Illinois *Common Interest* Podcast, Episode 11, on emotional support animals linked [here](#)). Our goal is simply to make our readers aware of the Act and the following key points:

1. Much of the Act clarifies what qualified community association attorneys have been telling their clients for years, including:

- A board or manager may only request documentation evidencing the disability or disability-related need for the assistance animal if the disability is not “readily apparent or known to the housing provider.”
- Assistance animal requests must be made to the board in writing and describe the disability-related need
- “Disability” means a physical *or* mental impairment as defined by the Federal Fair Housing Act or Illinois Human Rights Act

2. New information in the Act that is not helpful to associations is the fact that the individual diagnosing or describing the disability-related requirement need not be a physician, medical professional, or even a mental health service provider. The Act specifically states that the individual can be a "non-medical service agency or reliable third party who is in a position to know about the individual's disability." **Permitting non-medical or mental health professionals arguably allows any personal care provider to submit the documents required to establish the disability.** While the question may well be litigated in Illinois in the coming years, but for now, the scope of the Act for who is permitted to write the "note" for an assistance animal is extremely broad.

3. On the other hand, new information in the Act will help associations curb the use of the rubber-stamped, online-only issued documents that individuals can purchase for \$49.99 as evidence of their disability-related need without any substantive communication between the document provider and the “disabled” individual. The Act will require that a person seeking to establish their disability have a genuine "therapeutic relationship" which the entity or person providing the document evidencing the disability-related need. **The "therapeutic relationship" does not include those entities that issue a certificate, license, or similar document "without conducting a meaningful assessment of the person's disability." In short, the Illinois legislature wants to ensure that individuals do not simply "buy" a certificate of need online without ever having truly been assessed by the provider.**

We’ll conclude by stating that it is not the intention of this firm (nor should it be that of any association or management company) to minimize or discount the viable needs of truly disabled individuals who benefit from cohabitating with assistance animals to live healthy and productive lives. However, the fact remains that in this firm’s representation of community associations, we frequently see individuals whose doubtful claims of disability are used to circumvent pet restrictions serve only to anger their fellow residents and, sadly, damage the credibility of the truly disabled. Accordingly, we aim to advise boards and managers on strategies to separate the viable claims of disability from those that range from the questionable to blatantly false.