

In true Montana spirit, the Chuckwagon . . . the newsletter to fill your fair housing appetite.



Montana Fair Housing is a private, non-profit, fair housing organization providing education, outreach, and enforcement activities throughout the state of Montana and elsewhere. MFH does not have an attorney on staff. Information contained in this newsletter should not be construed as legal advice and does not provide a legal opinion.

Tales Roun' the Campfire

A synopsis and/or update of cases filed with the Montana Human Rights Bureau (HRB), the Department of Housing and Urban Development (HUD), and/or federal or district court. This summary is not all inclusive . . .

United States of America and Montana Fair Housing v. Boote, Red Dog Construction, Chandler, City of Missoula and John Doe – In March 2012 MFH filed an administrative complaint with HUD against Respondents Boote, Chandler, and Red Dog Construction alleging violations of the Fair Housing Act's design and construction requirements. The property, located in Missoula, is owned by Anthony Boote. HUD issued a charge of discrimination in September. MFH elected to have the case heard in federal court. Montana Fair Housing intervened in the case and added the City of Missoula and an unidentified employee at its building department as defendants, as well as claims under state fair housing laws.

In January of this year the U.S. Department of Justice and MFH resolved the claims filed against Defendants Boote, Chandler and Red Dog Construction.

In a Consent Order approved by the Court, Defendants "are enjoined from designing and constructing multifamily housing that discriminates on the basis of disability." In addition, Boote, Red Dog Construction and Chandler agreed to design and construct, by the end of 2014, three new housing units in the Missoula area that are not "covered dwellings" as defined by the Act, but that will meet the accessibility and adaptability requirements under state and federal laws. Defendants Boote and Chandler attended four hours of training on fair housing laws, and also provided compensation to Montana Fair Housing for its diversion of resources

MFH's intervening complaint against Missoula remains

unresolved. An answer from the city is due in April. The U.S. District Court case number is 9:13-CV-0005-DWM.

Assistance and Service Animals . . .
the Saga Continues

A day doesn't pass in Montana Fair Housing's office that we don't receive inquiries about the definition of an assistance animal. People refer to them as companion pets, therapy animals or pets, service animals, etc. With the rising use of assistance animals for a number of disability-related needs, and changed definitions and clarifications provided in the Americans with Disabilities Act (ADA) in 2010, confusion by consumers and providers is increasing. This article attempts to provide all parties with a brief description of provisions for persons with disabilities provided for in the Montana Human Rights Act (HRA) and the Federal Fair Housing Act as Amended in 1988 (FHA), vs. the provisions contained in the ADA.

The provisions and definitions contained in the ADA do not apply in regards to housing-related issues. The ADA covers employment-related needs for persons with disabilities, and public entity and public accommodation requirements.

Titles II and III of the ADA (public entities and public accommodations) limit the type of animal a person with a disability can use to dogs (any breed), and in specific instances, miniature horses, and requires that the animal be trained to do work or perform tasks directly related to a person's disability.

A covered entity under Titles II or III of the ADA cannot ask for documentation or certification to confirm that an animal is a "service animal." There are only two questions they can ask to determine if an animal meets the Title II or III definition of a service animal:

- (1) Is the dog a service animal required because of a disability?
- (2) What work or task has the dog been trained to perform?

"Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task."

UPCOMING EVENTS:

April is Fair Housing Month!

"Our Work Today Defines Our Tomorrow"

FHEO Assistant Secretary John Trasvina:
"our current efforts are helping to foster sustainable, inclusive communities of opportunity for future generations."

Please celebrate with us by acknowledging your commitment to equal opportunities in housing.

Housing Conference 2013

April 23 & 24, 2013 - Butte

See our website at

www.montanafairhousing.org

or call **406-782-2573**

for registration information.

Approved for 14 mandatory credits!

Discrimination in housing occurs when a housing provider makes a decision about a consumer's eligibility for services based on the consumer's protected class status. A housing provider cannot deny you services nor place different terms and conditions on you BECAUSE OF your membership in a protected class. Federal protected classes include: Race, Color, National Origin, Religion, Sex (including sexual harassment), Familial Status (presence of children under the age of 18 or pregnancy), and/or Disability (Mental or Physical, including requests for reasonable accommodations and reasonable modifications). In the state of Montana, in addition to the federally protected classes, it is a violation of the state's Human Rights Act to discriminate in housing related transactions based on marital status, age, and/or creed. In the City of Missoula, a housing provider cannot discriminate against a household because of gender identity or sexual orientation.

For More Information about Discrimination in Housing, or to File a Complaint, contact:

Montana Fair Housing

519 East Front Street * Butte, MT 59701

Voice: 406-782-2573 or 800-929-2611

FAX: 406-782-2781 * MT Relay Service: 711

E-Mail: inquiry@montanafairhousing.org

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The exception to this requirement would be a service animal in training, as outlined in the Montana Human Rights Act. The HRA, at Section 49-4-214(3), states that a "person who is training a service animal is entitled to the same rights and assumes the same responsibilities granted to a person with a disability in this section."

In regards to employment, there is no specific definition for "service animal," under Title I (employment), and the Title II and III regulations do not apply to Title I. This means an employer may have to allow an employee to bring in an animal that does not meet the Title II and III definition of "service animal," such as an emotional support or therapy animal. Title I of the ADA allows employers to request verification of disability, the need for the animal, a description of limitations arising from the disability, and how the accommodation (animal) would help the employee do their job. The employer can also request documentation verifying that the animal has been trained. Employers do not have to allow employees to bring in an animal if it isn't needed because of a disability or if the animal disrupts the work environment.

The Montana Human Rights Act and Federal Fair Housing Act require housing providers to approve requests for reasonable accommodations needed by qualified persons with disabilities. A housing provider cannot refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." FHAA Sec. 804(f)(3)(b) [42 U.S.C. 3604]. These provisions also apply to non-household members that may be associated with the resident.

The HRA and FHA do not limit the type or size of ASSISTANCE ANIMALS. A person with a disability can have a horse, rabbit, lizard, cat, dog, bird, etc. to assist him or her with disability related symptoms. A housing provider can not assess additional deposits or other monies from a qualified person needing an ASSISTANCE ANIMAL, nor require documentation that the animal has received training. The housing provider can request from a healthcare provider or other person familiar with the disability related needs and symptoms arising from the disability, verification that the person making the request for the animal meets the definition of a person with a disability and needs the animal. The housing provider can also request from this person a description of the symptoms ameliorated by the animal. The owner of an animal serving as an ASSISTANCE ANIMAL can be required to produce documentation that the animal has all vaccinations and licenses, and is spayed or neutered, if required by county and city laws.

Requests for reasonable accommodations do not have to be made in writing nor on specific forms. However, Montana Fair Housing suggests requests be written. Forms for making requests and verifying disability and need, for accommodation and/or modification requests are available on our website at montanafairhousing.org.

Helpful Resources for ADA related inquiries can be found at:

-[Revised ADA Requirements: Service Animals:](http://www.ada.gov/service_animals_2010.htm)

http://www.ada.gov/service_animals_2010.htm

-[ADA Update: A Primer for Small Business:](http://www.ada.gov/regs2010/smallbusiness/smallbusinessprimer2010.htm)

<http://www.ada.gov/regs2010/smallbusiness/smallbusinessprimer2010.htm>

-[Job Accommodation Network, Service Animals](http://askjan.org/topics/servanim.htm)

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