

## Presented Before the Woodlake Property Owner's Annual Meeting

10 March 2013

I have come before the community today, at the Citizen's Forum, to present concerns regarding a failure of the BOD to act on request for reasonable accommodation based on the Federal Fair Housing Act and its subsequent amendments. Although the minutes indicate we will be discussing pets later in the agenda, this statement addresses our need as an Association to be educated on and follow the Fair Housing Act. Under the FHA, emotional support animals or comfort animals require special consideration. These animals, which can be of any species, are not considered merely "pets", but assist as an adjunct to persons with recognized medical disabilities. Given that we live near the largest military post in the nation and support a large veteran community, it is critical that members understand the ramifications of federal law. As a health care provider at the Army hospital, I see soldiers and Veterans on a daily basis who would qualify for such consideration. The local paper this week noted that Copperas Cove had the highest number of 100% disabled veterans in the state and Bell County is not far behind. This figure does not account for the thousands of other veterans with lesser disability or civilians who suffer from conditions that might qualify for consideration.

The Federal Fair Housing Act protects the right of people with disabilities to keep emotional support animals, even when the contract, covenant, or policy explicitly prohibits pets. The Act applies to virtually all forms of housing, whether for sale or rent, and covers Homeowners Associations, Condominium Associations, landlords owning more than 4 properties, and all public housing. Discrimination under the FHA includes a "refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford [a person with a disability] an equal opportunity to use and enjoy a dwelling". The Act does not require the resident to provide proof of training or certification for the animal. The Act does not specify particular species for qualification and the courts and the Department of Housing and Urban Development have taken action against landlords or associations who have discriminated against qualified residents with a number of types of animals including dogs, cats, birds of all kinds, goats, and other animals. The Act does requires the resident meet the statutory definition of having a disability, show a nexus between the animals and the disability, and have the resident or another person such as a guardian or family member request the accommodations.

You may be aware that our daughter owns a small flock of hens. The WPOA BOD has doggedly pursued us for over a year with fines and threatened litigation in order to force us to remove her animals. What you may not be aware of is that we have informed the BOD for over a year that that we purchased the hens to assist our daughter health condition and offered to provide further information as required.



That first written request was made on 26 Feb 2012 to the President of the WPOA. We have throughout the year provided further information regarding the medical indication for her hens. On 25 March 2012, we made a PowerPoint presentation to the BOD. Among other things, we highlighted the use of chickens as therapy animals recognized by Pet Partners (formerly the Delta Society), the preeminent organization for pet therapy. This is the organization that brings animals of all types to hospitals, schools, nursing homes and other sites to assist residents and patients. This organization has recently been in the news for its work with the surviving children from Sandy Hook Elementary School. At that meeting Dave Palmer spoke up and reported that in the past the BOD had made an exception for a resident to keep her pet pig and suggested that the BOD take this into consideration.

On 20 Oct 2012, I discussed the Fair Housing Act with Mr. King, President of the WPOA. This discussion occurred at his home at the meeting to provide residents with further information on the proposed Covenant change regarding pets. At that meeting, I told Mr. King that despite the covenant, the Fair Housing Act prohibited discrimination and required reasonable accommodation for persons with recognized disability and demonstrated need for comfort or emotional support animals.

If you have not attended any meetings where we spoke, you would likely not be aware of the above information. Despite our frequent contact with the BOD, the official Minutes of the BOD meetings do not mention that we have requested a medical exemption for our daughter. Furthermore, I have written documentation that shows the BOD members have ignored our request for medical consideration. At least one member stated: "We are very sorry about your daughter's health condition but, the Board does not consider it pertinent to the case. Health conditions don't negate any of our restrictive covenants."

Although we are not obligated to divulge medical information, our daughter has authorized us to release a limited amount of information. There is no debate as to whether our daughter has a disability as recognized by the Fair Housing Act. (personal information redacted for publication) Her physician has also provided a letter identifying the chickens as an alternative therapy. There is a plethora of information including clinical research on the benefit of animals, including traditional farm animals, to patients suffering a variety of mental health and physical disabilities.

We have been exceedingly patient with the WPOA despite the significant emotional and financial burden we have incurred over the past year. Although some BOD members have reportedly told residents that we were threatening legal action, that assertion is misleading. We did not threaten to sue the Association, although we noted on several occasions that we would likely need to seek legal advice. We clearly felt threatened as shown in my email to the President of the WPOA on 26 Feb 2012, when I wrote: "In particular, we feel that the board has threatened legal action with your statement that 'If you plan to make a stand on this one, I think you'll lose'". We did not even hire an attorney until January 2013 after receiving a letter



from the WPOA Attorney threatening legal action, an injunction. That letter also included a recommendation that we once again request a hearing before the BOD. We have done so, but the BOD only offered a hearing with less than 72 hours notice and we could not attend due to illness and previous engagements. It should be noted that the Texas Property Owners Protection Act requires that the BOD give an owner a minimum of 10-days notice prior to the hearing. The BOD has not contacted us since 16 Feb 2013 in order to reschedule such a meeting.

Our patience has been motivated over concern for our community. We understand that any legal action that moves forward (whether initiated by the Association or by an Owner) will leave the WPOA members to pay the bill. We have already spent \$1335 on attorney's fees, not to mention the cost of sending numerous certified letters and making copies of documents. Our lawyer, an experienced Real Estate attorney and long-time resident of Bell County has advised us to seek help from an outside agency so as to minimize the cost in defending ourselves. He also indicated that based on the FHA, it was unreasonable to force our daughter to relinquish any of her small flock since she has bonded to all of them. Her doctor has stated, "removal of this outlet for [her] could lead to a worsening of her condition".

Should we not hear an immediate resolution to this problem, including an offer of reasonable accommodation and vacating our current fines, we have no choice but to file a discrimination complaint with the Department of Housing and Urban Development and the Department of Justice. HUD is empowered to investigate the complaint at no cost to the person with a disability. Furthermore, such action could lead to the Civil Rights Division of the Justice Department bringing a lawsuit in federal court to end the discriminatory practice and to seek monetary and other relief for those individuals whose rights have been violated under the provisions of the Fair Housing Act. Such actions have resulted in tens of thousands of dollars in fines to individual Home Owners Associations and housing providers across the country. Once initiated, the complainant cannot stop such action. We do not want to see our neighborhood be put through such action, but after our experience of the WPOA BOD ignoring our pleas for fair treatment and accommodation, we will be forced to follow our attorney's advice to obtain outside help.

Finally, we have asked to meet before the BOD and were not given adequate notification to meet their schedule. I am unsure when we will be able to meet if another hearing is scheduled. This week I was diagnosed with a massive and rapidly growing abdominal mass. I am awaiting specialty consultation, but my surgeon has advised I that I will need urgent surgery and treatment. Thus, it is impossible for us to forecast our schedule for the upcoming weeks. I urge our Association Members to hold the BOD accountable and make a rapid decision on this case. Without closure, we intend to file with HUD within the next few weeks.