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January 2006

REAL ESTATE MANAGEMENT TEAM ADVISORY

Reasonable Accommodation of Service Animals

The Chelsea Housing Authority recently settled a lawsuit by the state Attorney General alleging disability discrimination and retaliation. The Authority paid \$78,000.00 in damages and agreed to implement policies and procedures addressing reasonable accommodations and protecting against discrimination.

The Attorney General sued on behalf of Dianna Stephenson, a tenant who suffered from an emotional disorder that caused migraines, anxiety and depression. Stephenson requested a service animal for her condition and the request was supported by a doctor. The Authority allowed her to have a dog, but would not allow a German Shepherd because it far exceeded the 20 pound weight limit for pets at the property. Stephenson claimed that the enforcement of the weight limit to preclude her from having a service animal constituted a failure to reasonably accommodate her disability. She was correct. This settlement reinforces the need for landlords to be aware of the legal obligations surrounding service animals and reasonable accommodations in general.

Both Massachusetts and Federal law make it unlawful for a landlord to refuse to make a reasonable accommodation in rules, policies, practices or services when the accommodation is necessary to afford a disabled person an equal opportunity to use and enjoy the apartment. Waiving a "no pets" policy is a reasonable accommodation; indeed, the federal regulations relating to fair housing specifically identify such a waiver as an example of a reasonable accommodation.

It is important to remember, however, that the obligation to afford an accommodation is not absolute. A request for a reasonable accommodation must be considered on a case by case basis. The law provides that a tenant's request for a reasonable accommodation which results in an undue hardship to the landlord or a direct threat to other individuals need not be granted.

Carbon Monoxide Detectors

As has been widely publicized, in November a new law was enacted requiring the installation of carbon monoxide detectors in all homes and apartment buildings. Landlords who are allowed to install battery operated detectors have to do so by March 31, 2006. Most larger landlords will be required to hardwire the detectors and will have until January 1, 2007 to do so. The Board of Fire Prevention Regulations will soon be issuing regulations which will specify the type of buildings which landlords will have to hardwire. Landlords will have to maintain these detectors as they now do for smoke detectors.

As always, please feel free to call any member of the Shaevel & Krems Real Estate Management Team with any questions that you may have.

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