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Oversight: NYCHA's Pet Policy

Testimony by
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My name is Dinah Luck. I am a staff attorney with MFY Legal Services, Inc. (MFY), and I work in MFY's Mental Health Law Project. The Mental Health Law Project has been funded by the New York City Department of Health and Mental Hygiene since 1983 to address the civil legal needs of people with mental illness living in the five boroughs of New York City.

The Mental Health Law Project is a general practice project in which we advise and represent individuals in various substantive issue areas, including housing law, public benefits, consumer rights, and family law. MFY Legal Services also represents elderly and other vulnerable New Yorkers. Today's testimony is based on our experiences representing poor, low-income, and disabled tenants who live in both public and private housing.

MFY opposes the proposed pet rule for three reasons. The proposed policy would make it more difficult for people who need emotional support animals or psychiatric service dogs to get permission to have them, NYCHA has not provided adequate notice of the proposed policy to its tenants, and the proposed policy is arbitrary and unnecessarily restrictive.

First, the proposed weight and breed limits add to the burden on NYCHA tenants with psychiatric disabilities when seeking permission to have emotional support animals or psychiatric service dogs that are larger than 25 pounds. Emotional support animals and psychiatric service dogs are analogous to assistive animals for people with physical disabilities, such as guide dogs for the visually impaired.

What are emotional support animals?

An emotional support animal can help a person with a psychiatric disability live in the community by providing companionship and stability. The responsibility of caring for a pet can also provide purpose and motivation for some people with disabilities. Without the emotional support animal, a person's isolation or loneliness may cause her illness to become worse, necessitating increased psychiatric care, including hospitalization.¹ Emotional support animals provide important assistance to people with psychiatric disabilities simply by their very nature of being loving pets and companions. They do not require special training beyond that received by any well-behaved pet.

¹ A Tenant's Guide to New York City's Pet Laws: Keeping Your Pet in a NYC Apartment, MFY Legal Services, Inc. 4 (2008).

What are psychiatric service dogs?

Psychiatric service dogs differ from emotional support animals because they are trained to perform specific tasks related to the person's psychiatric disability. For example, dogs can be trained to remind people to take their medications. A medium to large dog can provide assistance to someone having a panic attack by being a buffer between the person and her surroundings. Dogs can also be trained to wake someone who does not respond to a fire alarm due to the sedative effects of their medications.²

A person might need her emotional support or psychiatric service dog to be a larger dog for a variety of reasons. For example, a larger dog might be more stabilizing during a panic attack, an older person with balance issues could feel more confident walking with a larger dog, or a larger breed may be more amenable to certain types of training. The Psychiatric Service Dog Society emphasizes that the dog breed should be chosen based on a variety of factors, including the tasks needed by the particular individual, and the person's personality and activity level.³

Requesting permission to have an emotional support or psychiatric service dog

Although the Fair Housing Act, the Americans with Disabilities Act, and the New York City and State Human Rights laws require NYCHA to make reasonable accommodations to their policies, obtaining permission to have an emotional support animal or psychiatric service dog can be challenging. People with psychiatric disabilities may find it difficult to navigate bureaucracies like NYCHA's. In addition, requesting a reasonable accommodation requires a person to disclose their mental illness, which can subject them to judgment and stigma. It is MFY's experience that tenants who request permission to have an emotional support animal frequently face skepticism about the validity of the request and often have to deal with invasive requests for additional medical documentation. While MFY's experience on this issue comes from private landlords, we are concerned that a similar response is likely from NYCHA, given how common misconceptions are about mental illness and how few people are familiar with emotional support animals and psychiatric service dogs. Finally, a valid request can be unreasonably denied, leaving a tenant to choose between going without a much-needed form of assistance or appealing the denial—a prospect that can be overwhelming for a person with a psychiatric disability and can even exacerbate the symptoms of a mental illness.

If NYCHA were to have a reasonable pet policy with a higher weight limit and no breed restrictions, then tenants with psychiatric disabilities could register their emotional support or psychiatric service dogs, including larger dogs, under the regular registration procedures. This is simpler and less invasive for tenants with psychiatric disabilities.

² A list of psychiatric service dog tasks is available at the website of the Psychiatric Service Dog Society at www.psychdog.org/tasks/html (last visited December 15, 2009). Detailed explanations of some tasks psychiatric service dogs can perform are available at the website for the International Association of Assistance Dog Partners, at www.iaadp.org/psd_tasks.html (last visited December 15, 2009). For more information about Psychiatric Service Dogs, visit the website of the Psychiatric Service Dog Society at www.psychdog.org.

³ See *Choosing the Right Dog*, available at www.psychdog.org/lifestyle_ChoosingDog.html (last visited December 15, 2009).

Second, NYCHA tenants have not been given adequate notice that a new, highly restrictive pet policy will soon be put in place. Many NYCHA tenants have pets that were acceptable under the previous policy but will now be prohibited. The lack of notice means that many tenants will miss the chance to have their animals properly registered prior to the proposed policy taking effect, leading to the heart-wrenching outcome of having to surrender a beloved family pet to a city shelter, where it might be euthanized.⁴ Although the deadline to register a pet has recently been extended to January 31, 2010, MFY does not believe that NYCHA has given its tenants adequate notice of the impending change.

Finally, the 25 pound weight limit and breed bans are arbitrary and unnecessarily restrictive, and NYCHA has not adequately explained its reasoning behind the limit or the bans. The new weight limit is very low and would prohibit NYCHA tenants from having a number of popular, small or medium-sized dog breeds as pets. Indeed, the average size of the beagle, corgi, cocker spaniel, whippet, and many kinds of terriers is between 25 and 40 pounds, meaning these breeds will no longer be permitted in NYCHA housing. The weight restriction will also limit which dogs NYCHA residents can adopt from city shelters and no-kill rescue organizations. The arbitrary restrictions on weight and breed have already led to healthy animals being unnecessarily euthanized.⁵

CONCLUSION

MFY Legal Services opposes the proposed pet policy because it is arbitrary, tenants have not received adequate notice, and it will negatively impact people with psychiatric disabilities who need emotional support animals or psychiatric service dogs.

⁴ The Mayor's Alliance for New York City's Animals estimated in early 2009 that the 2008 euthanasia rate in the city shelters was 38%. See Sewell Chan, *Progress Cited in 'No Kill' Goal for Animals*, N. Y. Times, January 21, 2009.

⁵ Manny Fernandez, *Large Dogs in Public Housing Are Now Endangered Species*, N. Y. Times, Sep 22, 2009.