

§ 5.303

§ 5.303 Exclusion for animals that assist persons with disabilities.

(a) This subpart C does not apply to animals that are used to assist persons with disabilities. Project owners and PHAs may not apply or enforce any pet rules developed under this subpart against individuals with animals that are used to assist persons with disabilities. This exclusion applies to animals that reside in projects for the elderly or persons with disabilities, as well as to animals that visit these projects.

(1) A project owner may require resident animals to qualify for this exclusion. Project owners must grant this exclusion if:

(i) The tenant or prospective tenant certifies in writing that the tenant or a member of his or her family is a person with a disability;

(ii) The animal has been trained to assist persons with that specific disability; and

(iii) The animal actually assists the person with a disability.

(2) [Reserved]

(b) Nothing in this subpart C:

(1) Limits or impairs the rights of persons with disabilities;

(2) Authorizes project owners or PHAs to limit or impair the rights of persons with disabilities; or

(3) Affects any authority that project owners or PHAs may have to regulate animals that assist persons with disabilities, under Federal, State, or local law.

§ 5.306 Definitions.

Common household pet means:

(1) *For purposes of Housing programs:* A domesticated animal, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle, that is traditionally kept in the home for pleasure rather than for commercial purposes. Common household pet does not include reptiles (except turtles). If this definition conflicts with any applicable State or local law or regulation defining the pets that may be owned or kept in dwelling accommodations, the State or local law or regulation shall apply. This definition shall not include animals that are used to assist persons with disabilities.

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(2) *For purposes of Public Housing programs:* PHAs may define the term "common household pet" under § 5.318.

Elderly or disabled family means:

(1) *For purposes of Housing programs:* An elderly person, a person with a disability, or an elderly or disabled family for purposes of the program under which a project for the elderly or persons with disabilities is assisted or has its mortgage insured.

(2) *For purposes of Public Housing programs:* (i) An elderly person, a person with a disability, or an elderly or disabled family as defined in § 5.403 in subpart A of this part.

(ii) [Reserved]

Housing programs means:

(1) The housing programs administered by the Assistant Secretary for Housing-Federal Housing Commissioner; and

(2) The programs contained in chapter VIII of this title 24 that assist rental projects that meet the definition of project for the elderly or persons with disabilities in this subpart C.

Project for the elderly or persons with disabilities means:

(1) *For purposes of Housing programs:* (i) A specific rental or cooperative multifamily property that, unless currently owned by HUD, is subject to a first mortgage, and:

(A) That is assisted under statutory authority identified by HUD through notice;

(B) That was designated for occupancy by elderly or disabled families when funds for the project were reserved, or when the commitment to insure the mortgage was issued or, of not then so designated, that is designated for such occupancy in an effective amendment to the regulatory agreement covering the project, made pursuant to the project owner's request, and that is assisted or insured under one of the programs identified by HUD through notice; or

(C) For which preference in tenant selection is given for all units in the project to elderly or disabled families and that is owned by HUD or assisted under one of the programs identified by HUD through notice.

(ii) This term does not include health and care facilities that have mortgage insurance under the National Housing