

You First Podcast - Episode 13: Service Animals

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Announcer: Welcome to "You First," the Disability Rights Florida podcast.

Keith Casebonne: Hello and welcome to this episode of You First, the Disability Rights Florida podcast. I am Keith Casebonne. Thank you so much for joining me today.

We have been waiting for a couple of months. Let's just jump right in. Our topic today is "Service Animals." I'd like to welcome Barb Page and Lisa Kinser, both of whom are Senior Advocates at Disability Rights Florida. Thank you both for being here today.

Barb Page: It's a pleasure to be here.

Keith: I guess the first obvious question is, tell us a little bit about what is a service animal.

Barb: Under the American with Disabilities Act, specifically, a service animal is a dog, and in some rare circumstances, a miniature horse. 9 times out of 10, it's going to be a dog or 9.99 times out of 10.

The ADA, the Americans with Disabilities Act, defines service animals as a dog that has been trained to specifically perform a task for their owner or their handler. It can't be a dog that just provides comfort. Under the ADA definition, it has to be a dog that has specific training to do a specific task. That's the biggest definition for service animal under the ADA definition.

Lisa Kinser: For housing, we define working animals a little bit differently. We actually don't use the word service animal. We prefer to use assistance animal. The Federal Fair Housing Act, you'll hear me say FHA for that quite often. The big difference with us is we incorporate emotional support animals and service animals under assistance animals, so both are included.

Very similar to the definition that Barb used, the animal works or provides some type of assistance or performs a task that benefits the person with the disability and helps them live more comfortably in their home.

Keith: You could have a service animal in your home that's not necessarily recognized by the ADA, is that right?

Lisa: Yes. That's correct.

Barb: Yes.

Keith: Does that mean that you can't take that service animal to places -- restaurants or other public locations or they can't go in transportation, that sort of thing?

Lisa: That's correct.

Barb: It's interesting. It can be able to complicate it. You can have a service animal or remember, use as assistance animal but I'll use service animal to make this a lot easier. You can have a service animal that is recognized by both the ADA and by the Fair Housing Act.

A lot of times when people contact us, that's one of the things that I try to do, is just to work under the guidelines of both so that your animal can also leave your home, but there are times when, as I said, the Fair Housing Act recognizes emotional support animals and the ADA does not.

If you're covered under the Fair Housing Act and you have an emotional support animal, sadly you can't take the animal to public.

Lisa: For example, under the Fair Housing Act, you could have an assistance animal, that might be a cat or a rabbit or some other type of animal other than dog. Just by the nature of it being not a dog, it would not be covered under the ADA and could not go into a place of public accommodation, like a store or a restaurant or a movie theatre, anything like that.

Barb: These are subtle but important differences that confuse people often.

Keith: I bet. As long as we're talking about terminology, I've also heard emotional support animal, therapy animal. Are these just different names for the same things, or do they each have different roles or different types of training?

Lisa: For us, in the housing world, most of the time when I want hear the word therapy dog, I think of a dog that has been specifically trained to provide therapy services.

You'll see someone take this type of animal to maybe a nursing home or to some other, maybe to a hospital to help people who are located there. That's what comes to mind when we say therapy dog.

Emotional support animal, on the other hand, is a dog that's often not trained. I say dog, but it's [inaudible 4:44] per mentioned under the FHA, we don't have an exclusion for types of animal, whereas the ADA does.

You could have an animal in your home. Just by the pure nature of it being an animal and it providing love and support, no training, that is the idea of what an emotional support animal is. It's that lack of individualized or specific training.

Keith: Speaking of training, how do service animals get trained? I guess, at least ones that would be recognize by the ADA, I assume that requires a different level of training or some sort of certification or something like that?

Barb: Well, actually there isn't. The Department of Justice, which is the enforcement arm for Titles II and Titles III of the Americans with Disabilities Act, which encompasses places of public accommodation.

Any place that a person would typically go, a public place, whether it be a store, a restaurant, a movie theater, a hospital, any place that you would typically think of as open to the public, the trained service animal should be allowed to go. The ADA and the DoJ specifically says that there

is no certification required. We know that service animals can be individually trained by their owner.

There is no requirement that the dog has to go through a formal training program. There's no certification. There's no ADA registration place to register your dog as a service dog. The DoJ is very specific that there is no requirement for a vest.

The only thing that can be done to someone who comes into a place of public accommodation with an animal, if they are approached, they are only allowed to be asked, is this a service dog for a disability? What has the dog been trained to do? If the individual with the disability can satisfactorily answer those questions, then the public place has to allow the service animal in with the person.

Keith: Very interesting. Speaking of the tasks that they perform, what are some of the different tasks that a service animal can provide?

Barb: It runs the gamut. Most of us remember what we used to call seeing eye dogs or guide dogs for the blind. Those are highly skilled, trained dogs and probably go through a very formal program but those are definitely service dogs.

We have dogs who help individuals who might need assistance picking things up off the floor, opening doors, turning on and off the light switch or retrieving something from a table. Anything that this dog can physically be trained to do for that person, that's considered an appropriate service.

If you are a person who has hearing loss and may be deaf or hard of hearing, the dog can alert the person that there's someone knocking on the door, the doorbell is ringing, the phone is ringing or there's someone coming up behind you to warn that person that there's someone approaching them because they can't hear the footsteps approaching them.

All of those things are examples. When we get into some of the more hidden disabilities or not visible disabilities, when someone might have a blood sugar issue, epilepsy or something like that, a lot of times dogs can be individually trained to warn their person that they sense something happening.

Whether the sugar is changing too drastically or there's a seizure that's about to happen, they warn their owner in time so that the individual can take precautions to keep themselves safe.

Keith: Where are service animals generally allowed according to the ADA? Any public place, or are there restrictions?

Barb: Any place that is considered a place of public accommodation. If I, as a citizen of my city, state, county, and I want to go in and it's open to the public, I should be allowed to bring my service animal with me. That includes hospitals, doctors' offices, and restaurants.

Keith: Is there anything that can prompt someone to request that a service animal be removed from their place of business?

Lisa: Good question.

Barb: If the dog is behaving in a manner that is unsafe or disturbing, the manager or the owner of the building or wherever they are, they can ask for the service dog to be removed. They can't ask for the individual to be removed.

They can't mandate that, but they can ask for the service animal to be removed because of either aggressive behavior, disruptive behavior or if the dog is not under control of the handler. Those are some of the circumstances where the establishment can ask for the dog to be removed.

Lisa: The same is very similar in housing. If someone has an assistance dog, a service dog, and that dog barks excessively and that's not part of the service it provides, because many times a service requires barking to alert, but let's say we have an animal that just barks uncontrollably and it's causing disruption, then the landlord or the housing provider can ask for that to be addressed.

The dog may need specific training and if it's not a problem that can be resolved, then perhaps the dog may be removed.

Keith: Speaking of housing, let's talk about that for a second. Landlords that rent out their buildings as no pets or pet free, what is their duty to accommodate a service animal or an assistance animal?

Barb: The key thing to remember is that an assistance animal or a service animal is not a pet, at all. When you eliminate thinking that it's a pet, obviously that rule just doesn't apply. There is, of course, an exception to the rule which, under the Fair Housing Act, we call a reasonable accommodation.

If an individual applies to rent, to own, to live somewhere and there's this postings everywhere during the interview that repeatedly told you, "This is a no pet property," at some point, they would want to say, "Well, I do have a service animal though."

What they need to do is request an accommodation, an exception to that rule and then there's a very specific process that then happens after that and they are granted approval and then move in without any difficulty, hopefully.

Keith: Are there obstacles that a service dog owner or service animal owner could face when trying to get housing? I don't know if the condominium association or that sort of thing, neighborhood associations, and I'd imagine there's at least attempts to block people from bringing service animals in.

Barb: Yeah, of course. Sadly, we get a lot of calls about that. I like to think that what happens is just a lack of knowledge. Just a lack of understanding on behalf of the landlord or the association at the condo or whomever is providing the housing. What we're trying to do is, of course, educate them.

The typical obstacle tends to be what you just mentioned, this idea that it's a pet. "We have no pets here. You can't bring the animal regardless." There's the idea that Barb was talking earlier about training and the FHA marriage the ADA in that there's no specific training requirement.

So often we hear someone will call and say, "Well, they want me to get a special certification," or they're demanding that the dog wear a specific vest. We go in and say, "Hey, it doesn't really work that way." Training is usually very individualized and it's usually the owner that's doing the training because they understand their disability best.

That doesn't mean that the person can't choose to have additional training and I tell people that that's very personal to them. If they want to spend money or have the animal trained, fine. There is no requirement. They never have to pull out a badge or an ID or something. They can't be asked for that information.

Other things I've heard is that housing providers will want you to put some notice on your door, "Service Dog Lives Here." Again, that can't happen. The other big one that we get is breed restriction. Because there are, especially here in South Florida where I am at, we have some breed restrictions in Miami-Dade and Broward.

An individual will have a very specific breed and they'll go in and fill out an application, then I'll look at them and say, "Oh, no. It's against the county ordinance. You can't have this animal."

Fair Housing Act being federal trumps that, and so you can't restrict a service animal based on breed or weight either. A lot of places will say, "You can have a pet but no more than 25 pounds."

Again, not a pet, so there's no way to restrict things based on weight either. Those tend to be the problem that we encounter most. Again, I just think it's a lack of understanding the law.

Keith: The best rule of thumb is to just remember it's not a pet, as you said.

Barb: Yes. Not a pet [inaudible 15:10] .

Keith: How about travel on trains, buses, airplanes? What are the rules there? What's allowed and not allowed?

Barb: I can tell you on an airplane, I would say that the first thing the person needs to do is know that they can travel with their service animal and they can probably also travel with their emotional support animal within the airplane body itself, but there's certain measures that will have to be made in advance of the flight.

I always encourage people to contact their airline, number one, and then there's the TSA website that allows for individuals with service animals to get more information. Specifically, if it's a service animal, you won't need documentation. If it's an emotional support animal, you likely will need something from your doctor and provide it to the airline in advance of the flight.

Keith: That's different then. Anywhere else they go, they don't need documentation. If it's an emotional support animal, then they do need documentation to travel via airplanes?

Barb: Yes. If you're traveling by train, similar situation. They do allow both service animals and I'm thinking specifically of a large train like Amtrak. They do allow for service animals and emotional support animals, but again, it's contacting them in advance.

There is no fee for a service animal. There may be a fee for emotional support animal, and there may be some documentation needed for the emotional support animal.

I always suggest that if you're traveling with the dog, whether it's emotional support animal or even a service animal, to contact Amtrak before the trip to get them aware that you're traveling with a service animal. They will help guide you through that and that way, you hopefully don't run into problems when you get to the train station or on the train.

Keith: Got you. The same goes for bus lines or is that different?

Barb: Bus lines are a place of public accommodation and so, unfortunately, it's really restricted to service animals. I don't know of any emotional support animals that are allowed on the buses.

Lisa: I was going to say the transportation, of course, is very small when it comes to housing but it does come up. That is usually when the condo association or homeowners association provides transportation on site.

You'll see that usually little buses that take people to the grocery store, to doctor's appointments. For us, any place that the individual goes, the assistant animal is allowed to go, as well.

The assistant animal just doesn't have approval to stay inside the dwelling. They can go into any common area and then they can also, if there is transportation provided, they're allowed on that as well.

Barb: You run into problems if it's an emotional support animal and it is not a service animal. You may be allowed on the community bus or the condo bus. Once you get to the destination, if it's a place of public accommodation, it may not recognize that emotional support animal as a service animal. Therefore, that's another problem.

Keith: I can see how it gets complicated.

Lisa: It does. As a side note, one of the things I learned early on in doing this work is that if it's at all possible, when someone calls us and they have an assistance animal...let's say that they're using the terminology emotional support animal.

If at all I can work with them, not so much dealing with the FHA but work with them to get that animal recognized as a psychiatric service dog. We know that we've helped them a little more because they won't encounter that. Their animal just isn't approved by the housing provider but then any time they go into community, I know that they're protected, as well.

We do try to do that. That's one of the first questions I always ask and try to get that extra protection granted for them.

Keith: That's a perfect segue to my next question which was going to be, what are some advices that you can give listeners who may encounter issues where a service animal is not allowed or they're having difficulty accessing public services, transportation or housing?

Barb: In a place of public accommodation, the first thing would be if you run into a problem and you're in a place of public accommodation like a store, restaurant or something, always ask

to speak to the manager. Get names, get phone numbers, get as much information. I always tell people, "Keep your cool. Don't escalate the issue by losing your cool. Just keep calm."

Self-advocacy is a constant when you are a person using a service animal. You're always constantly having to explain and re-explain why the dog is allowed under the ADA with you to go into this establishment. Many people become very skilled at explaining this story over and over and over again.

When they run into problems, they should always ask for a manager, get names, get contact information. If it's a store and there's a corporate office, climb up the ladder and keep on that route of going up the chain of command. When all else fails, you can call our office and we can try to assist as well.

Lisa: To piggyback off what Barb is saying, which is all excellent advice. For individuals in housing, one thing that they have to remember is they need to notify when they're moving in. Otherwise, if the housing provider, the association doesn't know that this is an assistance animal, then they're going to be treated like a pet.

I always tell them one of the first things when you know that you're moving, when you're filling out that application, it's time to request that accommodation. Many times, housing providers will already have like a standardized form that you can fill out. That's an easy way to do it or you just write a letter. If you go on our website, I believe we have some information about how to do that.

You write a letter. You identify yourself as an individual with a disability. You don't have to give a huge amount of personal information. You say, "Hey, I need this animal. It's an assistance animal and I'm requesting this accommodation under the Federal Fair Housing Act. This is my right."

You send that off. You try to do that as early as you can so some of these pitfalls that people encounter, we can sidestep and just get that out of the way.

Keith: Well, Lisa and Barb, thank you both so much for being my guests today and informing our listeners about this area of service animals. It's very interesting and I can see why there's so much confusion out there on the subject. Hopefully, we helped clear that up a little bit today.

Barb: Thank you for having us. It is a complicated issue and a highly emotionally charged issue often. We appreciate the opportunity to share and talk with you.

Lisa: Thank you very much.

Keith: For more on this subject, you can visit the service animal section of your website at www.disabilityrightsflorida.org/serviceanimals. Thank you to everyone listening to the You First podcast or reading the transcript online. Please email any feedback about this show to podcast@disabilityrightsflorida.org.

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