

WAC 162-38-105 Removal of dog guides and service animals. (1)

General rule. It is an unfair practice to request that a trained dog guide or service animal be removed, unless the person can show:

(a) That the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons; and

(b) A reasonable attempt to eliminate the behavior or actions of that dog guide or service animal that constitutes an unreasonable risk fails.

It is an unfair practice to remove a trained dog guide or service animal from the entire rental property because the animal presents a risk of injury or harm when in part of the rental property.

(2) Assessing risk of injury or harm.

(a) Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, not remote or speculative. Risk to persons may be given more weight than risk to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, an apartment manager excludes a tenant's dog guide because, "a pet dog bit one of the kids here a while back, so now I don't allow any dogs in the complex." This is **not** "reasonably foreseeable risk" justifying removal of the dog guide.

(b) Annoyance on the part of staff or other tenants of the rental property at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(c) Risk of injury or harm to the dog guide or service animal is not a reason to remove or exclude the animal. The decision whether to bring the animal into the rental property under such circumstances most properly rests with the person with a disability using the dog guide or service animal.

(3) Reasonable accommodation. When risk justifies the removal of a dog guide or service animal from a rental property, efforts must be made to reasonably accommodate the person with the disability.

(4) Liability. Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the actions or behavior of the animal.

[Statutory Authority: RCW 49.60.120(3). WSR 99-15-025, § 162-38-105, filed 7/12/99, effective 8/12/99.]