



[New York City](#)

Proactively Thwarting Fake Disability Claims Intended to Bring In Pet Dogs

By Adam Leitman Bailey

*Discrimination claims can hit even the most attentive and well-meaning condo and co-op boards. This is especially true when residents in no-pet or no-dog buildings concoct fake disability claims to demand a pet dog be allowed — and then threaten to sue if the board declines the demand. Here, attorney **Adam Leitman Bailey** advises how boards can set reasonable legal and health / safety requirements that can weed out fakers. And as previously noted in *HABITAT*, New York City's Commission on Human Rights has a more open and understanding attitude toward boards with reasonable requirements and evenhanded policies than it does to boards with neither.*

Nov. 12, 2013 — A recent appellate division decision held that the [Business Judgment Rule](#) does not protect individual condominium and cooperative board members from some personal tort liability. And New York's public policy of not permitting insurance coverage against the intentional acts of the insured should raise alarm, especially when combined with other recent actions such as the flood of frivolous claims of discrimination by rejected purchasers and the increase in shareholders and unit-owners demanding access to therapy pets for alleged depression.

Despite a board's good intentions, an adverse judgment could financially harm a board member and a building. Qualified attorneys know the limits of the law. They can help you avoid the worst pitfalls. In the case of therapy dogs, for example, they can provide guidance on how to separate those with real disabilities from others who are trying to take advantage of the system.

We recently drafted a no pet policy and conditions for a waiver for a number of our buildings, which included the following paragraph to get around the fakers:

"Prior to occupancy in the building of any service, therapy, or emotional support dog, the applicant or shareholder/resident shall submit to the lessor: (a) proof that any such dog is duly licensed by the City of New York; and (b) proof that the dog has received such vaccinations as are required by law to be administered to the dog. Proof of vaccinations shall also be submitted respecting any other service, therapy, or emotional support animal for which vaccinations are required by law. In the case of a service dog, where the service it provides is not readily apparent, the applicant or shareholder/resident shall also submit proof that the dog has been issued a tag by the City of New York indicating that the dog has been trained to perform a task to assist a person with a disability."