



Newsletter

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With over 50 people attending our Annual Lunch and Learn, we believe it was a great success. A great learning experience was available to all that attended, and of course we had trivia which ended with a tie that went into a playoff. Exciting, right!? There was a great opportunity for us to include one of our first-time attendee's to provide a take on their experience at the Lunch and Learn.

A huge "THANK YOU" to our speaker, Tyler Seiwert, for the knowledge that he shared and for his unique presentation style that kept our attendees engaged and involved. There was a lot of discussions about ESA/Support Animals, which is always a hot topic, so we added to this newsletter some guides published by the High Plains Fair Housing Center that will help both Management and Residents through the process. We would also like to give a "Shout-Out" and Thank You to The Drink and Dickies BBQ for providing a great venue and tasty meal.



**President Corey Barnes
greeting our members.**



BMAA Lunch and Learn

Guest speaker Tyler, an attorney in Bismarck, ND, presented about Fair Housing. His primary focus was on the importance of following the Fair Housing requirements and being up to date and informed about current and possible changes. He informed the attendants of the importance of following Federal and State Fair Housing Guidelines and the differences between the two.

The Federal Fair House act was established in 1968 and protects 6 different classes. One cannot discriminate against a person for their: *Race or color, National Origin, Religion, Sex, Familial Status, and Disability*. North Dakota with its *North Dakota Housing Discrimination Act* which was established in 1999, and protects an additional 4 classes. Those additional protected classes are *Age, Marital status, Public Assistance Status, and Victims of Domestic Violence Status*. Many are unaware that Federal guidelines are the standard practice and that State guidelines are additions to the Federal standing. This is important to remember when implementing the guidelines. But it is also important to be aware of if a management company ever finds themselves in a legal dilemma. Tyler encouraged attendants to err on the side of caution and organize their renting policies/practices off of the Federal and State Fair House guidelines.

Tyler broached the subject about the protected class of *Sex*, and what that could possibly define and protect. He advised with the current social structure, and Federal Court decisions recently made, that *Sex* is an umbrella term for protection of a person's *Biological Sex*, but also *Sexual Orientation and Gender Identity*. He encouraged again to err on the side of caution and to stay up to date on Federal Court rulings and legislation.

Under the protected class of *Disability*. Tyler discussed and clarified Emotional Support Animals and Service Animals. He advised that these animals are not pets and are not subject to any pet policies because they are a part of the protected class. A good analogy that Tyler made was that someone with a disability has a daily medication they take and that these animals are a person's medication. Part of Fair Housing isn't just discrimination, but also supplying reasonable accommodations for people with Disabilities. This is how ESA/Service Animals are protected under Fair Housing. Any Tenant can request reasonable accommodation with supporting documentation.

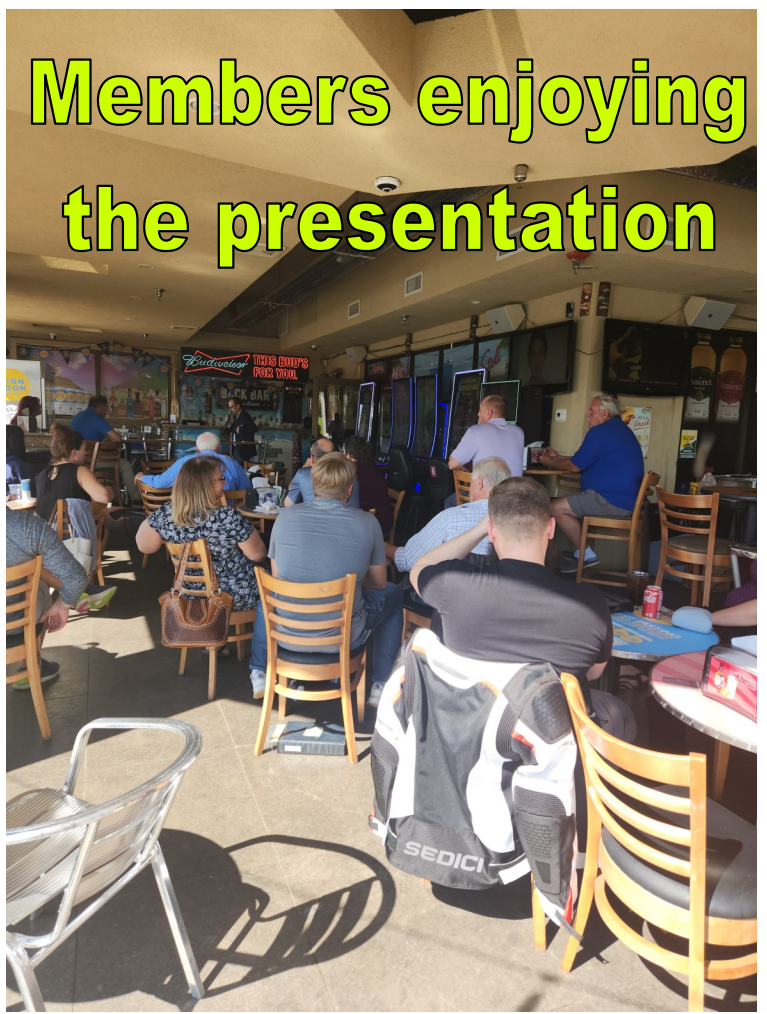
A question that was posed was, "How long does an applicant/tenant have to request reasonable accommodation, and then subsequently how long do they have to supply the needed documents, for an ESA/Service Animal?". Tyler informed the group that an applicant/tenant can request reasonable accommodation, and provide requested documents until they no longer live in the apartment. Also, in the case where there are legal proceedings, the applicant/tenant can continue to have a request and documents outstanding, during those legal proceedings. In short there is no time frame that an applicant/tenant is required to submit the request or supply supporting documents.

Further discussion was prompted about pet policies and how to correctly evict a tenant who has an ESA/Support Animal without possibly tempting a lawsuit. Tyler encouraged that any eviction for a protected class should be solely based on the tenant breaking their lease agreement. He advised that even if the management company is in the right, and evicted due to a lease violation, a tenant at any time could file a complaint/lawsuit that would open the company up to an investigation and possible legal proceedings.

Another question on ESA/Support Animals was "can a protected class persons' rights ever outweigh an unprotected class persons' rights?". Tyler advised that, no they cannot. He continued with how accommodations should be made for the protected class, and that also accommodations can be made for the unprotected class. The scenario that was brought to the discussion was, a tenant with a severe allergy to animal hair/dander is complaining that they are suffering from their allergies due to the service animals that live in the building. The conclusion to this scenario is to permit the ESA/Service Animals in the building, but to also do your best to provide accommodations for the person with the allergies.

Tyler provided valuable knowledge and clarification about Fair Housing; and how a management company should conduct itself to stay compliant. He was appreciative of the invitation to speak and the participation from the audience.

Vincent Hart– BMAA Member





High Plains Fair Housing Center

How to Request a Reasonable Accommodation for Service or Assistance Animal | A Guide for Tenants

Part I: Service Animals

Do you have a disability as described by the Fair Housing Act **AND** is your animal required because of your physical or mental disability?

Under the Fair Housing Act, a disability is defined as:

- (1) individuals with a physical or mental impairment that substantially limits one or more major life activities
- (2) individuals who are regarded as having such an impairment
- (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

No

Only those who have a disability as defined by the Fair Housing Act and have a disability related need for an accommodation can obtain a Reasonable Accommodation.

Your animal is a service animal. No other inquiries by your landlord are appropriate, and they are obligated to promptly allow the request once you have requested it. Remember, assistance/service animals are not considered pets, so pet fees and any pet restriction policies that your landlord might have do not apply to you.

Yes

Is your animal trained to work or do tasks that assist you with your disability, other than emotional support? This is normally a dog.

Yes

Is it readily apparent that the animal is trained to do work or tasks to assist with your disability? (Such as guiding an individual who is blind or has low vision, pulling a wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability.)

No

Are you able to describe the work and task the animal is trained to perform based on a disability related need?

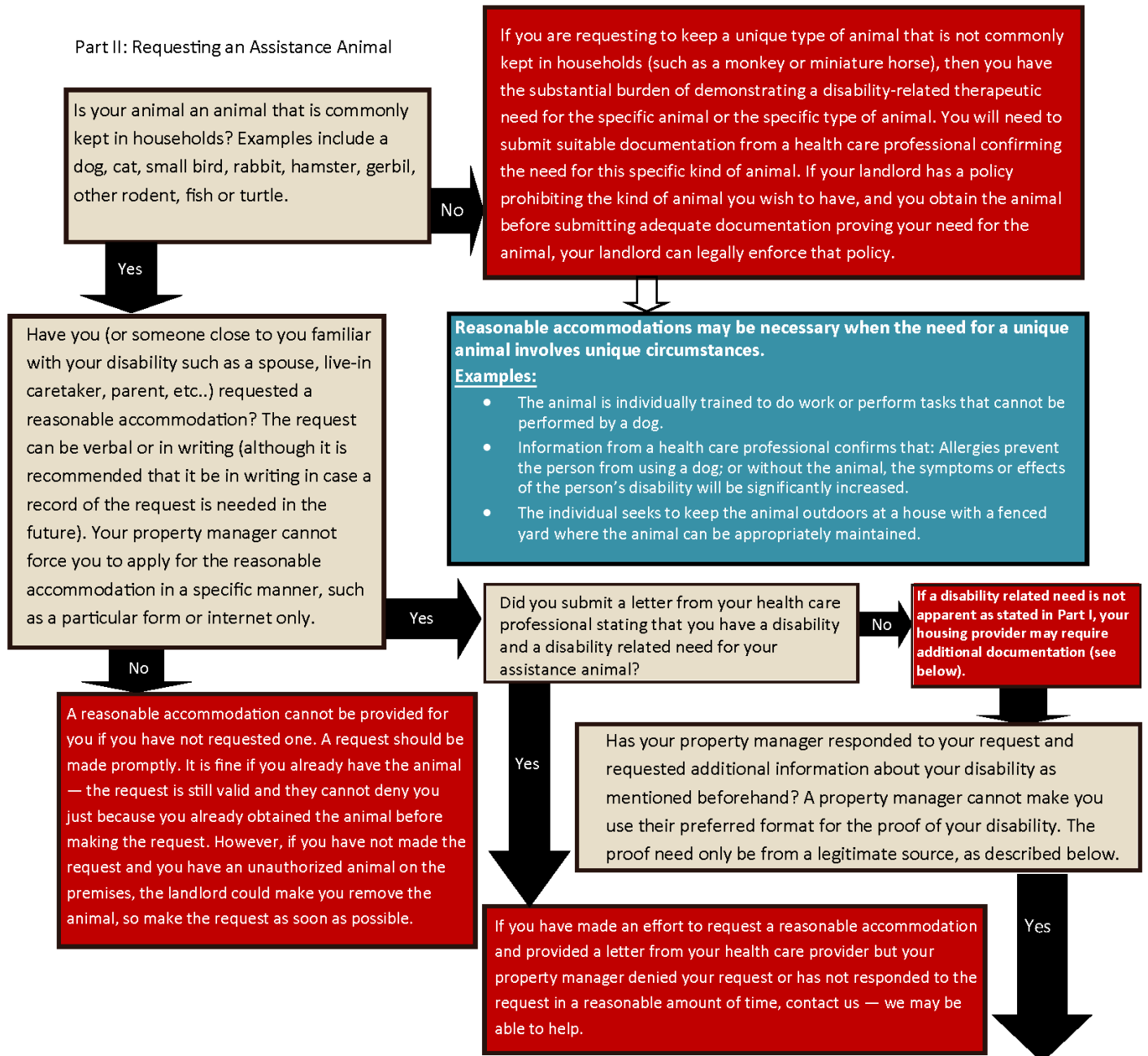
No

Your property manager has a right to request proof from someone knowledgeable about your disability (such as your doctor, social worker, therapist, etc..) that you have a disability and that the animal can assist with it. However, they are **not** entitled to know about your specific diagnosis or to have access to any of your medical records. Please continue on to **Part II** to learn how to request the reasonable accommodation for an assistance animal.

All information in this infographic is courtesy of HUD's FHEO-2020-01 "Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act," released January 28, 2020.

Questions? Please contact us at 701-203-1077 or visit our website at highplainsfhc.org.

Part II: Requesting an Assistance Animal



Submit a Legitimate Form of Documentation to Your Property Manager and Wait for a Response

Be aware that there are numerous for profit sites on the internet that offer to draft letters for the purpose of requesting a reasonable accommodation. They usually, for a fee, interview you for a short period of time and then issue you a letter indicating the need for the assistance animal. Letters obtained from one of these types of websites are not legitimate. You do not need to pay for a letter, and the letters issued from these sites are commonly rejected by property managers. However, there are some forms of documentation obtained over the internet that are acceptable. For example, a letter from a legitimate primary care physician that you are a patient of that remotely provides you services through telehealth would suffice. Other good forms of documentation would be a note from your physician or other medical professional that works with you, a social worker or other professional at a non-medical care agency, peer support group, or a reliable third party who knows about your disability.

After you submit your documentation to your property manager, they should respond ideally within a couple weeks. A lack of a response for a prolonged period of time could possibly be interpreted as a failure to grant the reasonable accommodation. Please contact us if your landlord has not responded in an inordinate amount of time.

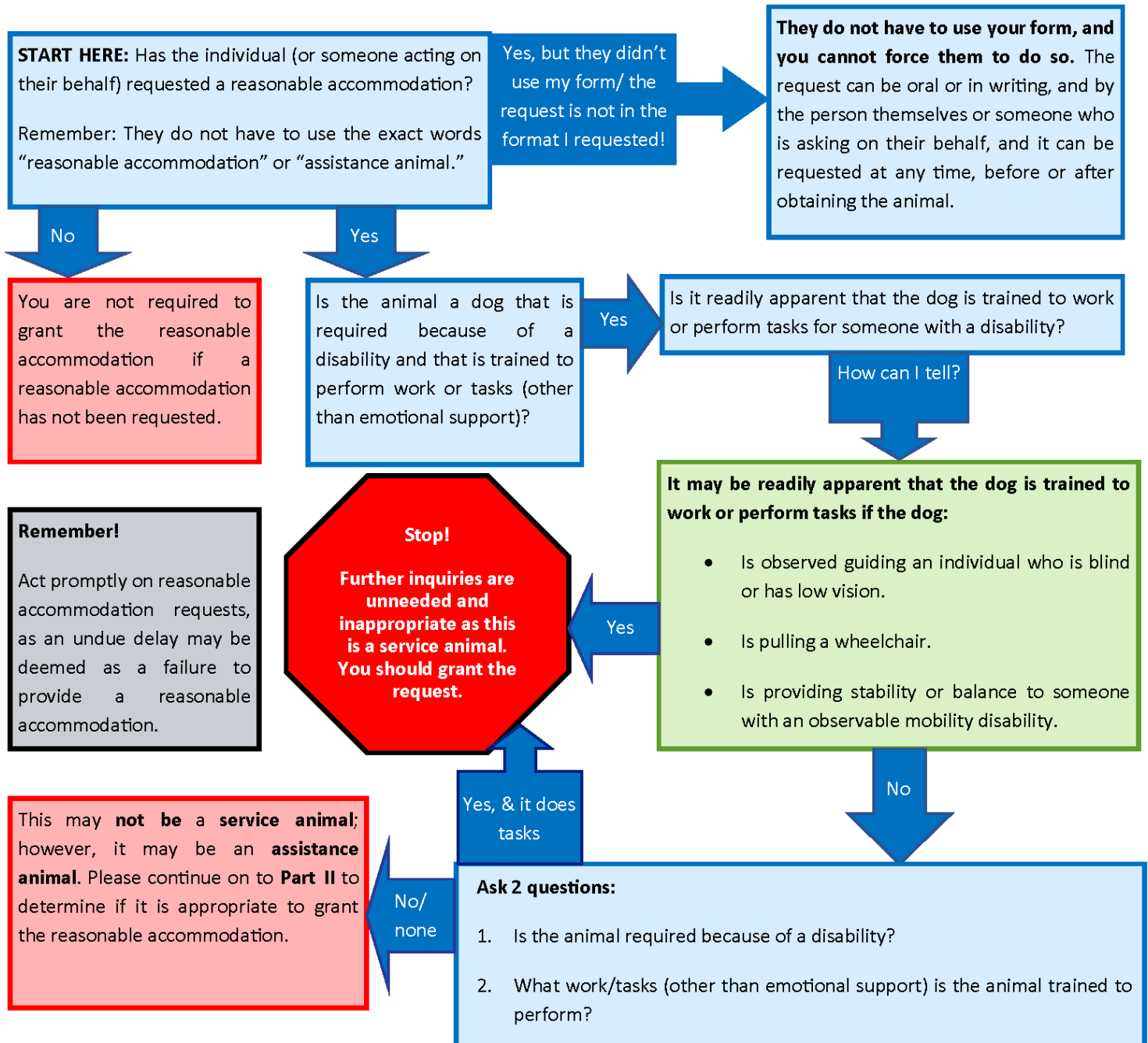
Nothing in this flyer is legal advice. The mission of High Plains Fair Housing Center is to strengthen communities and ensure equal access to fair housing in the region through training, education, enforcement, and advocacy. The work that provided the basis for this flyer was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this flyer. Such interpretations do not necessarily reflect the views of the Government of the United States.



High Plains Fair Housing Center

How to Know Whether to Grant a Reasonable Accommodation for a Service or Assistance Animal

A Guide for **Housing Providers** | **Part I: Service Animals**



Part II: Assistance Animals

Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability? Property managers only have the right to request verification when a disability related need for an assistance animal is not obvious. (Note: you are not entitled to know an individual's diagnosis, only that they qualify as having one under the Fair Housing Act and that the animal can assist with it.)

No

You are not required to grant the accommodation unless this information is provided, but you may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. Please enter an interactive process with the individual.

Yes

Is the animal commonly kept in households? Examples include dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle.

Yes

Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known. In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal. By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

You should grant them the reasonable accommodation.

Remember, you can not charge a fee for a reasonable accommodation request, and a building's pet policy (such as breed or weight restrictions) does not apply to service or assistance animals. You can not charge a pet fee or deposit for service or assistance animals.

No

You might not have to grant the reasonable accommodation.

However, there are exceptions. Before denying the request, you should enter into a good faith interactive process with the tenant.

?

Exceptions: Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances, such as:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a healthcare professional confirms that allergies prevent the person from having a dog.
- Information from a healthcare professional confirms that without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced-in yard where the animal can be appropriately maintained.



High Plains
Fair Housing Center

Questions? Contact us.

Ph: 701-203-1077

Web: highplainsfhc.org

Virtual Landlord/Service Provider Trainings with MFP

October 2023

October 3rd 1:30-2:30 pm CST

"Fair Housing"

by Department of Labor



October 10th 1:30-2:30 pm CST

"Risk Management"

by Health & Human Services



October 17th 1:30-2:30 pm CST

"Service Animals"

by Department of Labor



October 24th 1:30-2:30 pm CST

"Evictions"

by Christina Wenko



October 31st 1:30-2:30 pm CST

"Ethics"

by Heidi Nieuwsma



Presented by
Money Follows the Person Housing Program

- ♦If you have **NOT** previously registered for the virtual trainings, you can do so by sending a request to Stacey via email at stacey.folstadmagand@minotstateu.edu
- ♦Each registrant will receive login/call-in instructions the day before each training

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<https://www.ndaa.net/>
<https://www.naahq.org/>

All FORMS are available to members for FREE to print on the NDAA website.



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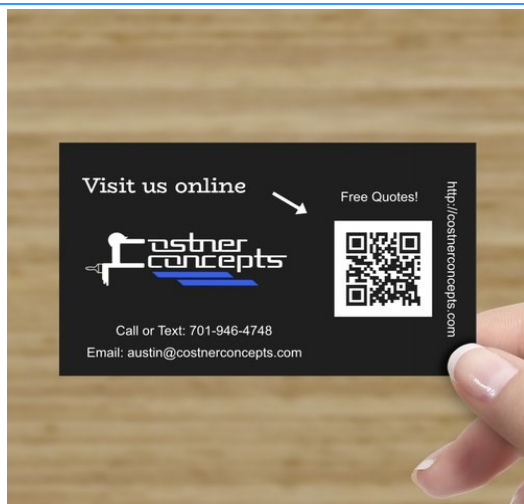
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