

Community Trends



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LEGISLATIVE UPDATE

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The New Jersey Legislative Action Committee (NJ-LAC) is continuing with its all hands-on deck education efforts with regard to the structural integrity and reserve funding legislation (S2760) that was signed into law in January. We had a well-attended “Lunch with LAC” where we covered that law, some employment law updates, and the Corporate Transparency Act (“CTA”).

Speaking of the CTA, you may recall that this law would theoretically require most associations (and approximately 32 million other small businesses) to register the names, addresses, and personal identifying information of officers and directors with the Financial Crimes Enforcement Network (“FinCEN”) division of the Department of the Treasury by the end of the year.

On March 1, 2024, the U.S. District Court in the Northern District of Alabama ruled that the CTA was unconstitutional in the case *National Small Business Association v. Yellen*, Case No. 5:22-cv-1448-LCB.

However, FinCEN has interpreted the ruling as only applying to members of the National Small Business Association as of March 1, 2024, and has appealed the ruling. Therefore, for associations formed prior to January 1, 2024 (which must register by the end of 2024), it may make sense to take a wait and see approach to registration pending further developments.

Additionally, the LAC wanted to inform you of a recent decision of the New Jersey Supreme Court in a case entitled *Players Place II Condominium Association, Inc. v. K.P.*, A-60/61(088139). In this case, the Supreme Court of New Jersey laid out the framework for evaluating a request

for a reasonable accommodation (in particular, for an emotional support animal (ESA)) under the New Jersey Law Against Discrimination. The Court held that:

We hold that requests for reasonable accommodations like the one here should be assessed under the following

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framework: Individuals who seek an accommodation must show that they have a disability under the LAD and demonstrate that the requested accommodation may be necessary to afford them an “equal opportunity to use and enjoy a dwelling.” Housing providers then have the burden to prove the requested accommodation is unreasonable.

During that process, both sides should engage in a good-faith, interactive dialogue. In the end, if the parties cannot resolve the request, courts may be called on to balance the need for, and benefits of, the requested accommodation against the cost and administrative burdens it presents. Judges will then be able to determine whether the accommodation is reasonable under the LAD.

In addition to essentially confirming that the evaluation of an accommodation request under the LAD is the same as under the Fair Housing Act (“FHA”), the Court made several additional important points:

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1. The LAD defines disability more broadly than the FHA.
2. The Supreme Court noted that guidance issued by the New Jersey Division of Civil Rights and the federal department of Housing and Urban Development ("HUD") were persuasive authority.
3. The LAD does not require that the person requesting an emotional support animal have a prescription from a doctor.
4. While it is preferable for a resident to request an accommodation prior to obtaining an ESA, it is not required.
5. Training is not a relevant consideration for an ESA.
6. If the Association has a pet weight limit, a person requesting an accommodation does not need to establish a specific need for an ESA that exceeds the weight limit.
We recommend that you consult with your association attorney regarding how this case may impact your pet and accommodation policies. ■