



TO: Safety Committee

FROM: Michael Joyce, Asst. City Attorney
David Broadwell, Asst. City Attorney

RE: Recent Federal Regulations which further define a “service animal” and preempting local government from excluding a “service animal” based on breed specific legislation. And deleting obsolete language from D.R.M.C. 8-55, which had been stricken from a prior Denver District Court case.

DATE: August 10, 2010

Summary

The Department of Justice, on July 23, 2010, enacted federal regulations which further defined what is a “service animal” under the Americans with Disabilities Act. Further, the Department of Justice does not believe that is either appropriate or consistent with the ADA to defer to local laws that prohibit certain breeds of dogs based on local concerns that these breeds may have a history of unprovoked aggression or attacks.

Creation of an affirmative defense for anyone charged with a prohibited pit bull and can establish that the pit bull is a “service dog” under the ADA.

In 2004, when the State of Colorado, enacted legislation which would prohibit local government from enforcing breed specific legislation, the city challenged the law in Denver District Court. On December 9th, 2004, District Court Judge Martin Egelhoff, while upholding Denver’s law regarding prohibited pit bulls, invalidated particular language within D.R.M.C. 8-55, which restricted the cross-jurisdictional transportation of pit bulls. The stricken language had not been formally redacted from the ordinance.