

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **MUNICIPAL ORDINANCE - NEBRASKA**

### **Wilkison v. City of Arapahoe**

**Supreme Court of Nebraska - April 25, 2019 - N.W.2d - 302 Neb. 968 - 2019 WL 1849604**

Owner of pit bull dog brought action against city seeking declaratory and injunctive relief against an ordinance prohibiting certain breeds as dangerous dogs, alleging that ordinance violated the Fair Housing Act (FHA) by precluding owner from keeping dog as an emotional assistance animal.

The District Court entered a declaratory judgment and enjoined city from enforcing the ordinance as applied to dog owner. City appealed.

The Supreme Court held that:

- FHA exemption for individuals owning three or less single-family houses did not shield city from owner's claim;
- Allowing owner to retain dog in his house was a reasonable accommodation under FHA; but
- Allowing owner to retain dog was not a necessary accommodation under FHA.

Exemption in Fair Housing Act (FHA) for individuals owning three or less single-family houses did not shield city from a claim of an FHA violation in city's application of its dangerous dog ordinance to a pit bull owner who allegedly used dog as an emotional support animal; exemption was not designed to shield governmental entities from FHA claims based on generally applicable zoning ordinances on the basis that such claims might have involved single-family houses.

Allowing owner of pit bull dog to keep dog in his house as an emotional support animal, despite city's dangerous dog ordinance banning certain breeds of dogs, was a reasonable accommodation under Fair Housing Act (FHA), where nothing indicated that dog had been dangerous in the past or posed a direct threat to others, city could have required owner to license dog, and ordinance had an exception for dogs licensed prior to effective date of ordinance.

Allowing owner of pit bull dog to keep dog in his house as an emotional support animal, despite city's dangerous dog ordinance banning certain breeds of dogs, was not a necessary accommodation under the Fair Housing Act (FHA), where owner had another dog, the ordinance covered only certain breeds of dogs, other dogs not covered by the ordinance could have provided comparable therapeutic benefit to owner with regard to his disability, and there was no evidence that the pit bull provided more support than owner's other dog or other dogs not covered by ordinance.