



## Condo Declarations - Pet Provisions

By Barbara Holmes on January 19, 2011



The courts have held that prohibitions or restrictions on the number and kind of animals that are contained in condominium corporations declarations are valid. This means that condo developers (or their lawyers, perhaps?) who are drafting these documents, are making those important decisions for the future residents. The declaration is prepared long before any structure is built and before the units are even offered for sale. Although the developer may gear its marketing to certain types of purchasers (e.g. first time buyers, empty nesters, etc) often not much thought is given to some of the lifestyle issues such as, what pet provisions a community should have.

After looking at a number of declarations one can see that the pet provisions are all over the map. Some have a complete prohibition on pets while others have a limit on the number of pets. Most have a definition of what animals are permitted pets - "exotic" animals and reptiles are frequently specifically prohibited. Almost all have an overriding provision that dangerous animals and those determined by the board to be a nuisance must be permanently removed - which makes sense, since an owner should not be allowed to keep a pet if it is interfering with the quiet enjoyment or safety of other residents.

What about the other restrictions that seem to have nothing to do with the safety of other residents or their enjoyment of the property?

Does the size of the unit make a difference? Should owners of larger units be entitled to have more pets or larger pets than are permitted in smaller units?

Should the declaration make any reference at all to pets that generally never leave the unit e.g. indoor cats, hamsters, aquarium of fish, etc. If these animals do not frequent the common elements why would other residents have a problem with them?

Does it make sense to have a weight limit on dogs, as this seems to imply that big dogs interfere with the quiet enjoyment or safety of other residents, but small dogs will not (not necessarily true as little dogs can be "yappers" or "nippers")? What happens with a dog that is originally under the size limit, but gains weight as the dog ages? Should the dog be "evicted" solely for putting on weight, even though the dog is not interfering with other residents?

These are just a few of the things that condominium developers should think about when creating the pet provisions of a declaration. One thing for sure, whatever decision is made, it will not please everyone. For those who have pets, they are family members.



## Condo Reporter

Heenan Blaikie

For those who have never had a pet, some feel that animals do not belong in residential dwellings at all. Once a pet prohibition or restriction is set out in the declaration, the corporation's board of directors has no choice - it has a duty to enforce the declaration.

---

The articles and comments contained in this publication provide general information only. They should not be regarded or relied upon as legal advice or opinions. © Heenan Blaikie LLP.