



## Renters Can't Have Pets Even Though Owners Can

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**Q:** I own a condominium unit where the governing documents allow owners to have pets. I rent my unit out. There has been an ongoing problem with pet owners failing to clean up after their pets and sometimes allowing them to run unleashed.

The perception is that renters, especially seasonal renters, are the worst offenders. To deal with this problem, the board has passed a rule forbidding renters to have pets. I am concerned that the rule excludes many potential renters, which may make it much more difficult for me to rent out my unit.

It seems to me that an owner should be able to delegate all of his rights and privileges to a renter, and that the pet problem should be dealt with by enforcing the rules that we already have, rather than prohibiting renters from having pets. **J.S. (via e-mail)**

**A:** You are correct that there is a general perception, right or wrong, that renters are less

likely than owners to follow association rules or be as careful with the use of common elements.

According to the somewhat limited legal precedent which exists on the subject, associations are permitted to adopt different rules for tenants and owners, as long as the rules are reasonable and do not conflict with a right in the declaration of condominium. In other words, if the declaration says that tenants are permitted to have pets, then a rule adopted by the board cannot prohibit tenants from having pets.

However, if the declaration is silent or states that owners are permitted to have pets, then a rule prohibiting tenants from having pets would likely be considered valid.

It is important to note that the law forbids treating tenants differently than unit owners with respect to the use of the common elements. For example, in a condominium which permits tenants to have pets, a rule that allows owners, but not tenants, to use a common "dog walk" area would be invalid.

*Joe Adams has focused his practice on the representation of community associations since 1987, and has provided legal counsel to well over one thousand community associations throughout the state. Joe has served as Chairman of the State Advisory Council on Condominiums and has written this column since 1995.*

*Send questions to Joe Adams by e-mail to [jadams@becker-poliakoff.com](mailto:jadams@becker-poliakoff.com). This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at [www.becker-poliakoff.com](http://www.becker-poliakoff.com).*