



## Condominium Law Q&A

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**Question**—I reside in a small condominium complex of three buildings, 18 units per building, plus a one car detached garage for each unit owner. We have at times limited parking with two handicap parking spaces in front of each building. Since the complex was built in 2001, we are only aware of one unit owner using the handicapped parking and that person has subsequently moved. My question is, since the parking area is common interest ownership, is the association required by any State or Federal law to provide handicapped parking when there are no unit owners having a disability that would require a handicapped parking space? If so, with the amount of units in our complex, how many handicapped spaces are we required to provide? Thank you in advance for your response to this issue. L.G.C., Flagler Beach.

**Answer** – There are two authorities which control the number of handicapped parking spaces which a private residential community must maintain. The first is the governing authority which regulates the building codes under which the condominium use is permitted. The second are the State and Federal Fair Housing Acts, which require an association to permit modifications of the premises to afford a handicapped individual equal opportunity to use and enjoy a dwelling. Since you advised that none of your current owners have the need for a handicapped parking space, you need to inquire of your local code enforcement authority as to requirements of the building and zoning codes.

**Question** – We are hoping you can answer our question about condominiums pet policies and, frankly, we really need your assistance. Like many owners it is a hard thing to give up a pet, and it is wrenching to think of reporting another pet to have another family endure the grief. We have two condos and in another state where we are permitted two pets. Here in Florida, we have an older Pekingese considered grandfathered, even though we had two pets when we purchased our unit. Over the holidays, we acquired another puppy and since we have not seen the enforcement of the pet rule the entire time we have owned a unit here, we brought our Miniature Longhaired Dachshund puppy with us to actually assure getting her housebroken. Our older dog was actually making the training so much easier, by her example. I originally made the decision not to bring her down this year, and I was not planning to come to Florida with her. However, at the end of January, I became ill and my husband brought me to Florida to get better, only to find out I had pneumonia and severe bronchitis. We arrived in February, and on March 10, my husband was given a verbal notice by the new manager to remove the new dog or the condo attorney would take action. and we would have to remove the dog and pay the costs. My husband advised him our daughter would be coming down in April, and the dog would leave then, but he stated that would be too late. Not wishing to sell our condo over this issue, and move to another pet friendly condominium, only to find out it can change the rules and/or selectively enforce rules,

and wishing to have both our pets with us in each residence, we turn to you for your knowledge in this area. Not trying to be a problem and not knowing the Florida laws or our rights, if we have any in this issue, we made arrangement for our puppy to be kept for us in Virginia until we return in May, and we drove her back up to Virginia, yesterday, for the interim. I am scheduled to have sinus surgery on Tuesday or I would have stayed in Virginia with her. We really do enjoy your column and I am sure you hear this all the time, but we would like to know more about condominium laws, and find out where we can learn more on frequently asked questions, so we can be more knowledgeable as we enjoy our condominium living. So, if you could suggest any recommended reading material or research sites, we would greatly appreciate it. Thank you so much, and we look forward to your reply. D.J.J., Titusville

**Answer** – Since there are no doubt some who may chastise me for advising that “no pet” policies which are timely and uniformly enforced are legally sustainable, allow me to share the fact that I begin every day of my life by first feeding my outdoor cats, indoor cat, turtle, dog and the fish in the pond in my front yard. And, until recently, I was putting out grain and hay

for my horses. So folks, I do love animals! However, that said, when one elects to live in a common interest ownership community he/she gives up certain rights which are otherwise entitlements in traditional single family housing communities. Perhaps Florida’s Fourth District Court of Appeals said it best when it noted, in the case of *Sterling Village Condominium, Inc. v. Breitenbach*, (251 So.2d 685), the following:

“...Every man may justly consider his home his castle and himself as the king thereof; nonetheless his sovereign fiat to use his property as he pleases must yield, at least in degree, where ownership is in common or cooperation with others...”

The bottom line is that, as long as the no pet policy is contained within the recorded covenants [it cannot be imposed by board rule alone], and is timely and uniformly enforced, it will be sustained by the courts. There is one exception. Both the Federal and State Fair Housing Acts require an association to make reasonable accommodations in its rules and regulations to afford a handicapped individual with a service animal the ability to use and enjoy their dwelling unit. ■

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*Gary A. Poliakoff is a founding principal of [Becker & Poliakoff, P.A.](#) and has served as its President since the inception of the Firm. He is on the Board of Governors of the Shepard Broad Law Center of Nova Southeastern University where he is an Adjunct Professor, teaching Condominium Law and Practice.*

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