



## Condominium Law Q&A

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By Gary A. Poliakoff

gpoliakoff@becker-poliakoff.com

Tel: 954.987.7550

Fax: 954-985.4176

What are the Florida laws regarding the Board's right to cut a property owner's trees that hang over into a common area? Recently, our Board notified us that our banyan tree limbs would be trimmed back where they extended over into the storage area. I asked that the trees not be radically trimmed on one side as that would leave the limbs weighted to our side and pose a danger to our house. It would also affect the cosmetic symmetry of the tree and reduce its value to our property. I was assured by the Board member in charge that only 6-8 feet would be trimmed off the ends of the branches. When we returned from our trip, the limbs had been cut back to the trunk on the one side & left heavy on our side, exactly what I asked NOT to happen. The Board refuses to show me a copy of the work order and has dismissed me, stating that they have the right to do as they please regarding limbs hanging over onto common ground and that I have no legal recourse. Is this true? What rights do I have to protect my house, now that these tree limbs hang over my house with nothing on the other side to balance the load? I found this excerpt on a legal site and sent it to the Board: "A property owner cannot cut the adjacent property owner's entire tree down and cannot destroy the structural integrity or the cosmetic symmetry and appeal of a tree by improper trimming. In almost every state, a person who intentionally injures someone else's tree is liable to the owner for two or three times the amount of actual monetary loss." The 'cosmetic symmetry and appeal' of our trees has been destroyed, and the

likelihood that those trees will blow over onto our house increased by improper trimming. The Board refuses to respond. I look forward to hearing your opinion on this matter. Thank you. G.F., Stuart

**Answer -** Under Florida Law, every property owner has the right to cut a tree branch which extends over their property line. Thus, if the tree branch extends onto the common areas, the Association, which maintains the common areas, would have that right. You might want to check with your County Code Enforcement to see if they have regulations on tree trimming. I could find no State Law on the subject. The common law is that if a tree encroaches under, into, or over another's property, the latter has a privilege to trim the intruding growth, including the root system, back to the property line, at his own expense.

**Question-** I am hoping you can point me in the right direction. My condo docs state that we are not allowed to have pets. They have overlooked pets for over 30 years and no one has ever been forced to get rid of their pets ( I am an original owner). Lately, they are targeting only bird owners. Can they do that? And, can they suddenly enforce a rule that had previously not been enforced in the past? This condo board is targeting bird owners (only 2 of I don't know how many), and they are illegally changing the condo docs to not allow unit owners to rent their units anymore. So they try to make you get rid of your pet, make you move and do not allow

you to offset the expense of your unit. How can that be legal? I had a meeting with the board, yesterday, and was told all pet owners had received a warning letter. My neighbor had a meeting with them on Monday, in which they claimed they were not aware of any other pets. The board also refused to show either of us the ballots to change the condo docs to "no-renter" rule. They posted a notice on the lobby of my building citing 196 votes as a majority when there are 496 unit votes in my association. It is a rule the board has been trying to enact unsuccessfully for many years but has never passed because the majority of owners do not want it. Tomorrow, my neighbor and I are going into the condo office, again, with a form from the DBPR requesting official condo records. My neighbor is 71, and I'm the sole provider and caretaker of my 85 year old parent, so we are not in a position to move out, especially without the ability to offset the costs of our mortgage by renting our units. Most of these apartments are not owned by full time residents and a good portion of them have been left to the children

after the owner has died. This is also an unfair hardship for those families. I am an original owner and have lived there for 30 years. In all of that time, I have had pets and the board was aware of them, as well as the pets of other neighbors. I have never been told to get rid of them until now. J.H., Boca Raton

**Answer:** I have written an article called "Prescription Pets" which addressed the question as to whether community associations can enforce no pet restriction against individuals who are physically disabled and need a trained service animal or emotional support animal. In so far as imposition of no leasing restrictions, the Condominium Act prohibits the imposition of same against existing unit owners, if the documents which the unit owner purchased under do not contain a no leasing restriction. The defense to a rule or covenant violation is the board's failure to timely and uniformly act. I trust this will be of assistance.

*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.*

*Mr. Poliakoff is co-author of Florida Condominium Law and Practice, The Florida Bar Continuing Legal Education, 1982, and author of a national treatise, The Law of Condominium Operations, West Group, 1988. Mr. Poliakoff can be contacted by emailing [gpoliakoff@becker-poliakoff.com](mailto:gpoliakoff@becker-poliakoff.com).*