



Condominium Law Q&A

June 22, 2009

By Gary A. Poliakoff

gpoliakoff@becker-poliakoff.com

Tel: 954.987.7550

Fax: 954-985.4176

Question – I have an emotional support animal, which happens to be a cat in a no pet condominium. I was allowed to keep my cat until the board read your column, which reported that both the unit owner and doctor prescribing a pet must demonstrate the nature of the illness and how the pet will ameliorate the symptoms and assist the handicapped owner. That was just what the board was looking for. Now, I have to remove my cat or the board has threatened to take me to court. I work but cannot afford to fight this battle. I will be forced to sell my house so I can keep my cat that I am extremely attached to. I know you've heard all this before, but I have never gone through anything like this and the pain and sadness I am feeling is unbelievable. Name withheld by request.

Answer – I recently was invited to speak at the Fair Housing Conference sponsored by the Broward County Office of Equal Opportunity, HOPE, Inc. at the Fair Housing Center. The audience was mainly made up of fair housing advocates and also included Maida Genser, an advocate for pets in condominiums (www.petsincondos.org). Following my presentation, I had the opportunity to speak with Maida who was also upset with my reporting on a recent decision of the United States Federal Court for the Northern District of Florida, which denied the right of a unit owner to keep a pet in a no pet building. As I explained to Maida, there are some who move into no pet communities because they have fears of animals and/or are allergic to same. Just as Congress has recognized the right of older persons to live in communities free of children, the

courts uphold pet free communities absent a showing that the pet is a trained service animal or an emotional support animal which serves a function other than mere companionship. I myself am a lover of pets and own many, including horses. So as Sophocles said, "Don't Shoot the Messenger."

Question – When we bought our home, equity and club memberships were offered as an option -- we took it. We decided, after paying dues and trying some of the amenities, that this was not for my wife and me. Now, we are wondering what happens to our equity? It was our understanding that equity was an ownership in the club. We want out and want our money back. We were told that the money would be returned when some new member would pay for our equity. It has been over 5 years since we left the club. We have no idea where we stand in relation to our position on the list. We get no letters stating such. Our experience with country club people is they are selfish, nasty and look down on nonmembers. They will also change the rules after the fact so that the return of the equity is near impossible. Do we have any legal rights? M.H., Boynton Beach

Answer – For a variety of reasons (unit owners aging in place, a member's death, financial setbacks), many country clubs and golf courses are under financial stress. Some tried to save their country club lifestyle by having their master associations acquire the amenities and assess the costs of operation as a common expense against all homeowners. As I advised in a prior column,

several courts voided the purchases as being a fundamental change in the character of the community, requiring the prior approval of all owners. Some golf courses have closed and the land sold for new development. As a consequence lot owners who thought they would be looking at open space are staring into the windows of newly

constructed multi-family housing. Insofar as what you can do, yours is a contract and the rights and obligations are set forth in it. Hopefully, as the community ages, it will also go through a transfer with new and younger owners looking for the country club lifestyle, and someone will buy your interest. Good luck.

Gary A. Poliakoff is a founding principal of [Becker & Poliakoff, P.A.](#). 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.