



## Condominium Law Q&A

December 21, 2009

By Gary A. Poliakoff

gpoliakoff@becker-poliakoff.com

Tel: 954.987.7550

Fax: 954-985.4176

**Question** – I would like to know if it is legal for the homeowners association to prohibit visitors to my own home for bringing a pet with them? I feel like I am living in Russia. S.G., Green Acres

**Answer** – With the exception of service animals required by a handicapped person, restrictions against pets being brought into no pet communities have been upheld by the courts. In fact, even communities which allow pets are able to prohibit tenants from keeping pets.

**Question** – I am living in a condominium that does not permit pets. I am 80 years old and I am alone after losing both my adult children and my husband to Alzheimer's. I am lonesome and extremely depressed. I would like very much to have a dog, and my doctor has written a letter to that effect, directed to the board of directors. I am afraid to rescue a dog because I don't want to be disappointed if the board turns down my request. H.H., Lake Worth

**Answer** – As one might discern, a significant number of letters I receive relate to the right of unit owners who are lonely, depressed or suffer from a handicap, to keep a pet in a no pet community. As I have advised in the past, service animals which ameliorate the symptoms of the handicap, and emotional support animals which are supported by letters from treating physicians, can, be used to allow pets under certain circumstance. The key is that the association has the right to inquire of the unit owner

seeking to keep a pet as to the reason which requires making an exception to the rules, and evidence from the treating physician that he/she has the training and skills necessary for treatment of the patient, and how the pet will ameliorate the symptoms of the illness for which it is prescribed. I would recommend obtaining the board's approval prior to rescuing a dog. If the board disapproves, and you find that it wrongfully did so, you can file a complaint with the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Room 5204. 451 Seventh Street SW, Washington, DC 20410-2000.

**Question** – Three years ago, my husband and I petitioned the architectural control committee (ACC) to add on to our patio, which is on our property; no common ground was involved. The ACC approved the addition, the privacy fence, and the trellis. Two and a half years later, our neighbor (we are half of a duplex) objected to the alterations. He filed a grievance, and we received a letter from the grievance committee chair indicating that we would have to tear down our fence and trellis. Only after we hired an attorney did the ACC relent. If we had not contacted a lawyer, our fence and trellis would have been removed and the fence our neighbor wanted would have been built in its place. What if a homeowner cannot afford a lawyer, what could the homeowner have done? How can a board of directors ride roughshod over homeowners? J.J., Ormond Beach

**Answer** – Needless to say, the ACC would have been hard pressed to have required you to remove improvements which were built with its prior approval. While it is unfortunate that you had to hire an attorney and spend money to enforce your rights, in this case, the system worked, and as they say, “all’s well that ends well.”

**Question** – The board of our 10 unit condominium said that the unit owners cannot have satellite dishes. Is this legal? F.B., Holly Hill

**Answer** – It depends. If the association provides bulk cable or satellite television services, it can prohibit individuals from installing satellite dishes; otherwise, it cannot. The Telecommunications Act of 1996 voids, ab initio, any restrictions in a declaration of condominium or covenants, conditions and restrictions, which prohibit satellite dishes or antennas, other than as previously noted.

*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](mailto:gpoliakoff@becker-poliakoff.com).*