



Condominium Law Q&A

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By Gary A. Poliakoff

gpoliakoff@becker-poliakoff.com

Tel: 954.987.7550

Fax: 954-985.4176

Question: Our condo association documents allow unit residents to have one dog or one cat up to 30 lbs. in weight. Additionally, an Application to Purchase or Lease, which includes the requirement for photo and vet certificate for any pet, must be approved by the Board. The board theoretically has great leeway in not approving any application. One owner has suggested/requested that we change rules to prohibit certain “dangerous” breeds and mixtures of those breeds, i.e., pit bulls & rottweilers, since some of those dogs might meet the 30 lb. requirement. Is this type of breed-profiling legal? Is it worth considering, since there already is in place a procedure for the Board to see exactly what kind of dog is being considered? Another owner has suggested that we not allow renters to have dogs, since they are the ones who most often do not pick up after their pets. The fact that we are one of the few pet-friendly condos in the area increases our desirability in the eyes of many potential owners and renters. Any advice on this subject? N.D., Vero Beach

Answer: Insofar as the validity of a covenant which defines the breed of pet which is allowed and/or disallowed, it is not only legal, it is common place. Keep in mind, however, that even if the documents prohibit a German Shepherd which might weigh over 30 pounds, the association must allow the breed if it is a service animal required for a handicapped unit owner. The courts have upheld restriction against tenants having pets even when pets are allowed for unit owners. All pets, including service and emotional support animals, are subject to

reasonable rules and regulations promulgated by the board.

Columnist Note: As I advised in a recent column, the 2010 Legislature passed, and the Governor signed, several bills which have clarified unit owner rights and responsibilities within condominiums, co-operatives and homeowner associations. Over the course of the next several weeks I will try and highlight some of the more important changes. With the hurricane season upon us, few changes are as important as those governing insurance coverage. To refresh readers’ recollections, there is a material difference between a unit owner’s obligation to maintain their unit, and their duty to insure the improvements. As a general statement, the Association is mandated to carry casualty and liability insurance covering all portions of the condominium property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications. The casualty side of the coverage was previously referred to as “hazard” insurance. It is now called “property” insurance. Coverage must be based on the “replacement cost” of the property to be insured as determined by an independent insurance appraisal, determined at least every 36 months. In determining the amount of coverage, the board may consider deductibles which are consistent with industry standards for communities of similar size and age. The board meeting at which the board will consider the amount of the deductibles must be noticed to all unit owners. Certain improvements, although they are part of the improvements initially installed by

the developer, are excepted from the association's policy and must be covered by the unit owners. The excluded items are: all personal property in the unit, floor, wall and ceiling coverage, electrical fixtures, built-in-cabinets and countertops, window treatments, including curtains, drapes, blinds, hardware, and similar window treatment. At one time the unit air handler and/or compressor, if located outside the unit, was required to be covered under the unit owner's policy (HO6). In 2008, unit air conditioners located outside the unit were shifted over to the association, where it remains. Note, however, an amendment added in 2010 allows the membership, by a majority approval, to transfer certain limited common elements from the

association to the unit owners; such would be the case of the unit AC units. Another important change was clarification of the unit owner's obligation to carry \$2,000 of "loss assessment" coverage. Previously, the Act referred to the coverage as "special assessment" coverage; that was never the intent. It was always intended that if there was a loss to an improvement covered by the association but due to deductibles the amount of insurance proceeds were inadequate, necessitating a special assessment, that a unit owner's loss assessment coverage would pay a portion of the special assessment. This year's amendments clarified said fact. Next week, more on the 2010 amendments.

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.