

Keeping pets remains difficult under Sectional Title rules

For those living in a sectional title scheme, there are certain new rules to be read together with the Sectional Title Act, which owners and residents must abide by. The keeping of pets has retained its number one spot, as the first rule in the 'Model Conduct Rules of a Sectional Title Scheme', as outlined in the new sectional title legislation.



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“It has never surprised me that the keeping of animals, reptiles and birds is the first rule. In my experience, this is justified by the number of pet-related disputes in the industry, and the amount of time, energy and legal fees that pet owners and bodies corporate are prepared to spend in fighting cases involving either retaining or removing a pet,” says sectional title attorney Marina Constatas.

Circumstances of pet keeping

“If the sectional title scheme falls under the new 'Annexure 2 Model Conduct Rules', then owners or occupiers must have trustees' written consent to keep a pet. The trustees are not allowed to withhold consent unreasonably. This means that they must put their minds to the various circumstances surrounding the request; they need to consider the best interests of the scheme, and the prejudice, if any, that owners would suffer, compared to the interests of the prospective pet owner.

“Should a beloved, quiet bulldog be removed from his 11-year-old companion, for example, if the parents of the child provided a psychiatrist's report stating that the dog helped the child deal with his anxiety? Alternatively, consider the case of an elderly Great Dane, whose owners assured the trustees that their pet hardly ever moves during the day, and has forgotten how to bark. These are the type of issues with which the trustees must grapple. Should they decide to allow a pet into the scheme, the Model Rules also tell us that they will be allowed to provide for any reasonable condition regarding the keeping of the pet. The trustees can withdraw their consent should any conditions which they imposed be breached.

Assistance dogs

The new 'Rule 1(2)' says that trustees' consent is considered given, should any owner require a guide dog, hearing dog or assistance dog.

"Obviously, the owner of such dog must provide the trustees with evidence of a disability. Interestingly, there has been an increase in diabetic alert dogs, which are dogs that are trained to alert their diabetic owners in advance of low or high blood sugar events before they become dangerous."

An owner who has obtained permission to keep a pet in his or her townhouse will find that this is not the end of their efforts. "They must understand their reciprocal obligation. Apart from the various conditions, which the trustees will apply - for example, walking dogs on leashes and having a poop scoop at the ready - the Act stipulates that pets should not cause any inconvenience to other owners.

Options on rule breaches

"If an owner is breaching the rules and the Act by either keeping a pet without permission or having a nuisance of a pet, there are a few options available to the body corporate. A Court interdict can be obtained to compel the pet's removal, or both parties can agree to private arbitration, or the dispute can be referred to the Community Schemes Ombud Service."

"If owners want a pet free complex, it is possible to draft a 'no pets' clause in the complex rules, if the body corporate, which is all the owners, can achieve a special resolution.

"Clearly the pets' policy is a touchy issue in sectional title and one requiring consistent application and implementation," Constas concludes.

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