

Body corporate by-laws, debt recovery and scheme termination - Pets

Submission from the Australian Veterinary Association to

QUT Review - BCCM
C/- Office of Regulatory Policy
Department of Justice and Attorney-General
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Body corporate by laws - pets

Submission by The Australian Veterinary Association Ltd 2017

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The Australian Veterinary Association (AVA) is the national organisation representing veterinarians in Australia. Our 9500 members come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, farm animals such as cattle and sheep, and wildlife. Other veterinarians work in government, industry, research and teaching institutions. Veterinary students are also members of the Association. In particular, veterinarians have expertise in the health, behavior and welfare of companion animals and the human animal bond.

Submission

In this submission, the AVA is only responding to the recommendations about pets in the review of property law in Queensland.

The AVA is concerned that the recommendation about pets will be to adopt a no pets by-law which will be added to the community management statement (CMS) and this can only be amended by a resolution without dissent.

This recommendation is at odds with comments in the discussion paper itself, including section 1.5 Rationale for the Recommendations. This states that in a democratic society, decisions are made according to the will of the majority and the protection of the rights of the minority. The discussion paper further says that many submissions said that a resolution without dissent is nearly impossible to achieve and the views of a small minority or a single owner may hold hostage the views of the majority. Nonetheless, the paper recommended that this be allowed to occur. The only rationale given was that there was “widespread support”. This is surprising in that the arguments put forward by this “widespread support” was not outlined for objective scrutiny in this discussion paper.

Recommendation

The AVA recommends that a more compassionate and outcome driven approach (impact on unit dwellers) is more in line with community values and also legislation changes in other states which have recently taken the reverse approach to Queensland where pets in units is the default. The AVA therefore recommends that the default option should be that the keeping of pets is permitted in a lot or on common property and that owners of pets impacting on unit dwellers such as barking are dealt with like any other noise issue. Following are some key issues about pets that are pertinent for this.

Benefits to the community not just to individuals of owning pets

The community benefits from the ownership of companion animals. While much of the literature has focused on the individual benefits of pet ownership, one study considered the potential health benefits that might accrue to the broader community, as encapsulated in the construct of social capital. A random survey of 339 adult residents from Perth, Western Australia were selected from three suburbs and interviewed by telephone. Pet ownership was found to be positively associated with some forms of social contact and interaction, and with perceptions of neighbourhood friendliness. After adjustment for demographic variables, pet owners scored higher on social capital and civic engagement scales. The results suggest that pet ownership provides potential opportunities for interactions between neighbours and that further research in this area is warranted. Social capital is another potential mechanism by which pets exert an influence on human health.

Michael, what is the reference here? It was cut off in the email. 2005 Elsevier Ltd. All rights reserved.

Benefits to individuals of owning pets

Benefits to individuals include companionship, assistance for people with special needs, education, health and social improvements for individuals. Ownership of pets contribute to a number of health benefits such as fewer doctor visits, reduction in stress, overall improvement in mental health and increased social support for individuals (Ferry, 2007; O’Haire, 2010). Pet ownership can improve cardiovascular health - with dogs in particular acting as a stimulus for exercise (Walsh, 2009). Research shows that pet ownership encourages physical activity and that children aged 5-6 in a family that own a dog are less likely to be overweight or obese compared with those who do not own a dog (Timperio et al., 2008). Studies have also shown that exposure to pets in early childhood may reduce the incidence of allergies linked to asthma and help to strengthen the immune system (Gearn, et al., 2004). Studies have found a correlation between the presence of companion animals and the alleviation of depression, loneliness and low morale whilst dealing with chronic illnesses and positive impacts of coping with diseases such as heart disease, dementia and cancer (Walsh 2009). All of these health benefits contribute to significant savings in human health expenditure each year.

Barriers to pet ownership in Australia

One of the greatest barriers to pet ownership is pet unfriendly property. Over half (53%) of Australians would like a new type of pet but of those only 13% confirmed that they intended to buy a pet in the next 12 months, which indicates there are significant barriers to owning a pet. The shift towards higher-density housing in urban areas of Australia to manage population growth is the biggest current threat to pet ownership in Australia – particularly in the current environment of landlords disallowing tenants to have pets and strict body corporate or strata rules that exclude pets in multi-dwelling developments. Owning a pet and seeking rental accommodation that will allow you to keep your pet can be very challenging and can unfortunately eventuate into the pet owner having to choose between their ideal home and keeping their pet, resulting in pets being surrendered to animal shelters. This is neither a good result psychologically for the owner or the pet.

Legislation in other states and the world

In Europe, Canada, UK and the USA, keeping pets in strata and rental accommodation is normal, in Australia reform in both strata and tenancy spaces has been held back by:

- The poor image of tenants held by many managing agents, landlords and the press,
 - Managing agents preferring a “quiet life” rather than maximising rental returns for landlords,
 - Poorly structured by-laws in strata with “no pets” as the default position in legislation,
 - The difficulty in changing by-laws to allow pets, requiring a significant majority of (generally disinterested and under-informed) owners to achieve change under current laws,
 - A motivated and vocal “anti-pet” minority lobby at local and national level largely concentrating on “poo” and “noise” issues. These fall into 2 groups – activist, and genuine.
- From a PR perspective, changing strata to allow pets, while a significantly more difficult project, is more likely to yield social benefits because:

- It includes a selection of property owners, tenants and retirees in strata communities
- It is likely to encompass a wider economic and demographic group

The NSW new strata regulations were introduced 30 November 2016 and can be found at <http://www.legislation.nsw.gov.au/#/view/regulation/2016/501>

Schedule 3 Model by-laws

Clause 5

Keeping of animals

Note.

Select option A or B. If no option is selected, option A will apply.

Option A

(1) An owner or occupier of a lot may keep an animal on the lot, if the owner or occupier gives the owners corporation written notice that it is being kept on the lot.

- (2) The notice must be given not later than 14 days after the animal commences to be kept on the lot.
- (3) If an owner or occupier of a lot keeps an animal on the lot, the owner or occupier must:
 - (a) keep the animal within the lot, and
 - (b) supervise the animal when it is on the common property, and
 - (c) take any action that is necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option B

- (1) An owner or occupier of a lot may keep an animal on the lot or the common property with the written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property and must give an owner or occupier written reasons for any refusal to grant approval.
- (3) If an owner or occupier of a lot keeps an animal on the lot, the owner or occupier must:
 - (a) keep the animal within the lot, and
 - (b) supervise the animal when it is on the common property, and
 - (c) take any action that is necessary to clean all areas of the lot or the common property that are soiled by the animal.
- (4) An owner or occupier of a lot who keeps an assistance animal on the lot must, if required to do so by the owners corporation, provide evidence to the owners corporation demonstrating that the animal is an assistance animal as referred to in section 9 of the Disability Discrimination Act 1992 of the Commonwealth.

Changes to strata laws in NSW and Victoria are being more pet friendly not less

Harmonious living based on actual impact not on the prohibition of pets.

Objections to pet ownership, because of problem behavior such as barking should be addressed like any other noise issue.

Privacy freedom concerns

One consideration that needs to be addressed includes privacy/freedom concerns - no unit owner should be restricted in what they do inside their unit as long as it is legal elsewhere.

General comment

The AVA strongly urges a reversal of the recommendation given in this options paper for pets in units and body corporate dwellings for the good of the whole community and democratic values.

References

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