

Animals in Units



unitcare

services

PEACE OF MIND FOR UNIT OWNERS

Fact Sheet

Pet Applications Must Be Considered on Merit

Many Strata & Community Titled groups (body corporates BCs) have in place blanket 'No Pet' policies.

The Strata Titles Act model Articles provide for consent. A decision on consent can be provided by the Management Committee (if they have one) with just 3 days notice of a meeting. Otherwise a meeting of owners needs to be called and the merits of each case carefully considered as required by the Courts - see ruling opposite.

The Community Titles Act is silent on pets, however many groups cover this issue in their By-Laws. If the By-laws are silent, then pets do not require approval and are subject to the provisions of the Local Council By-Laws. Again if approval is required then the merits of each case need to be carefully considered - see Court ruling opposite.

Under both Acts, animals for those with disabilities cannot be prohibited.

Body Corporate Managers (BCMs) have NO say in this matter. The decision is one for owners and or the Management Committee. BCMs should in the writer's opinion and as best practice seek an application with photos of the animal(s), see page 2, and that once received it should be promptly supplied to the officers with a view to calling a meeting (committee or general meeting). The BCM should advise the officers of the Court's ruling on this matter.

Should the applicant/landlord disagree with the ruling then a simple application to the Magistrates Court will see the matter heard, usually within a month or so.

If the tenant/owner moves in with a pet(s) without approval and is challenged by the group by formal breach notice then the tenant/owner can appeal by lodging an application with the BC to keep the pet(s). If the group take legal action then the tenant/owner can seek legal advice and proceed to defend the matter in the courts. These matters are dealt with without lawyers and as a small claim. Costs are rarely awarded. Each party bears their own costs.

Warning to landlords: Landlords should NOT give approval for a tenant to keep pet(s) unless they have sought and obtained the group's approval/consent or the group is a community title with By-Laws that approve pets (subject to conditions) or are silent on the matter.

Court Outcome - Extract of Unitcare Newsletter Autumn 2003

The following article appeared in the Sunday Mail in November 2002. We at UnitCare believe the Courts are sending a strong message to Body Corporates and their management committees that each application to keep a pet needs to be considered on its merits. This may equally apply to air conditioners and other works. We hope you find this useful information.

A pet cat has beaten an eviction order from a seaside apartment block.

Joshua, an 11 year-old Persian, can remain at his Glenelg North flat overlooking Gulf St Vincent until the day he dies, a court has ruled.



Outside the Adelaide Magistrates Court, his elated owner Penny Losifidis said she was "over the moon".

"I'm just so relieved that I can keep Joshua," the information support manager said. She said the result justified her decision to go to court. Ms Losifidis and her orthodontist husband Daniel De Angelis applied to the court after the Strata Corporation which manages the block ordered Joshua's eviction last December.

Under the rules, pets are not allowed at the 11 storey apartment block without the consent of the corporate body.

Subsequent appeals to the body failed to reverse their decision. Ms Losifidis said: "A blanket rule was placed on us and we didn't think it was right so we had to challenge it." She said she hoped the neighbours could put the episode behind them. The childless couple bought their \$300,000 unit last year.

In overturning the eviction order, Magistrate Elizabeth Bolton said the corporate body's decision was unreasonable, oppressive and unjust.

"I'm not persuaded that the committee ever really considered the views of the applicants, In particular whether or not this was an appropriate instance in which the corporation should grant approval to keep the pet," Ms Bolton said. Strata Corporation chairman Eric Torr said the verdict meant the strata's rules were "meaningless" and an appeal would be considered. By Craig Clarke Sunday Mail 10/11/02

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Pet Application Form



Strata/Community Plan N^o: _____

Address of plan: _____

Applicant's name: _____ Unit/Lot N^o: _____

Telephone: _____ Email: _____

Type of pet: _____ Age of pet: _____ Name of pet: _____

Description of the pet: _____

Vaccinated: Yes No Micro-chipped: Yes No Desexed: Yes No Council Rego Number: _____

Note: Applicable to dogs and cats only. In South Australia new laws for cat and dog owners come into effect on 1 July 2018. The laws and rules include:

- Mandatory micro chipping of cats and dogs by 12 weeks of age.
- De-sexing of dogs and cats born after the 1 July 2018 by 6 months of age.
- Introduction of a statewide database, called Dogs and Cats Online.

I/We request the consent of the Body Corporate to keep the above detailed pet at our unit/lot.

Signed. _____ Dated ___/___/20___

Check list (Please ensure that you provide all documents listed below with your application)

Pet application form Picture of the animal(s) Microchip certificate
Vaccination information Council rego certificate

Pet Keeping Agreement:

I/We understand that it is my/our responsibility as pet owners to: monitor the noise from the pet, ensuring they do not unreasonably cause annoyance or disturbance to neighbours, maintain a high standard of cleanliness and sanitation at all times, cleaning and disposing of any animal waste within the lot or common property, maintain a high standard of preventative health care e.g. flea and worm treatment and keep the pet under control at all times within the lot or common property

Acknowledge that I/we shall be liable for any damage to common property caused by the pet and shall pay the Body Corporate immediately for any costs incurred in rectifying this damage

Accept full responsibility and indemnify the Body Corporate for any claims by/or injuries to third parties or their property caused by, or as a result of, actions by my pet.

Acknowledge that the consent of the Body Corporate operates in respect of the nominated pet(s) only and that any change of pet(s) must be the subject of a separate application.

Acknowledge that in the event of a breach of this agreement, the Body Corporate may withdraw any consent it has given me for the keeping of a pet.

Understand that dogs of a prohibited breed or declared dangerous, must not be kept or brought onto the lot or common property.

Signed (Pet Owner). _____

Where the signatory to this agreement is a tenant, this form must also be signed by the lot owner/lot owner's managing agent as an indication they give permission for an animal to be kept on the property.

Lot owner/agent signature. _____

Print name. _____ Dated ___/___/20___