

## PETS

There is more and more misinformation being said about the new *Strata Property Act* on the topic of pets. It is incorrect to say "The new *Act* permits pets."

The new *Strata Property Act* is made up of two parts (as was the *Condominium Act*, its predecessor). The first part of the legislation contains the statutory requirements, Sections 1 to 322. The second part is the Schedule of Standard Bylaws which has its own numbering sequence, 1 to 30.

As of July 1, 2000 all strata corporations, irrespective of the date of registration in a Land Title Office, are bound by the statutory provisions. Only those strata corporations which are registered in a Land Title Office after July 1, 2000 are bound by the Schedule of Standard Bylaws of the new *Act* between July 1, 2000 and December 31, 2001. After January 1, 2002, there are further provisions which I'll come to in a moment.

In the Standard Bylaws, bylaw 3 (Use of Property) subsection (4) states:

(4) An owner, tenant or occupant must not keep any pets on a strata lot other than one or more of the following:

- (a) a reasonable number of fish or other small aquarium animals;
- (b) a reasonable number of small caged mammals;
- (c) up to 2 caged birds;

(d) one dog or one cat.

So, for any new strata corporation registered after July 1, 2000, pets are permitted in accordance with this bylaw. Keep in mind that bylaws can be changed so it is conceivable that in a specific strata corporation, a complete prohibition can be achieved. If this is done, however, keep in mind Section 123(1) of the *Strata Property Act* which says:

**123 (1)** A bylaw that prohibits a pet does not apply to a pet living with an owner, tenant or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed.

In other words, a new bylaw will not have a retroactive effect.

Now, what about strata corporations in existence prior to July 1, 2000? Those strata corporations already have bylaws and they are not bound by the bylaws of the new *Act* between July 1, 2000 and December 31, 2001. If such a strata corporation is operating at this time with the *Condominium Act* bylaws (generally referred to as the Part V bylaws), bylaw 131(1)(c) deals with pets/animals. It says "*An owner must not do any of the following... (c) keep any animals on his or her strata lot or the common property after notice from the council.*" After January 1, 2002, the Part V *Condominium Act* bylaws will be

replaced automatically with the *Strata Property Act* Standard Bylaws and in the context of "Pets", the bylaw will be bylaw 3 of the Schedule of Standard Bylaws.

Remember that the *Condominium Act* bylaws do not have to be registered in the LTO to be effective: it is automatic. If the Part V *Condominium Act* bylaws were actually registered in the Land Title Office, they will remain in effect after January 1, 2002: they will not be replaced by the new *Strata Property Act* Standard Bylaws. Many strata corporations did register the Part V bylaws for a variety of reasons.

If an existing (i.e. before July 1, 2000) strata corporation has passed a pet bylaw which is filed in the Land Title Office, that bylaw will remain in effect after January 1, 2002. It will not be replaced with Bylaw 3 of the *Strata Property Act*. A common problem with such bylaws created by strata corporations is that the existing bylaw (131(1)(c)) is not repealed; thus the strata corporation ends up with two pet bylaws. This can be very problematic for enforcement purposes.

The Bottom Line: If your strata corporation presently has a pet bylaw, it remains in force. Period. The new *Strata Property Act* bylaw does not apply to your corporation.

If you have any questions, feel free to ask us at [gotacondoquestion.com](http://gotacondoquestion.com).

This article does not purport to offer a legal opinion or legal advice. Please consult with a lawyer of your own choice for legal interpretation of the law.

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