

Pets in complexes: *an emotional issue*



Barking complaints are the most common

How to avoid getting into trouble because of your pets

Lavender and chamomile collars worked very well with my two Labradors

Pets in sectional title schemes are a hugely emotional issue. Irrate neighbours, driven insane by incessant barking, and pet owners, who are attached to their beloved animals, are a guarantee for conflict. Well-formulated and filed rules give both complainants and pet owners a legal standing when disputes arise.

Rules differ

It is not a given that pets are allowed in a sectional title scheme. Although standard conduct rules state that the keeping of pets is subject to the prior written consent of the trustees, some complexes choose to establish a pet-free environment. Others specify the number, size and types of pets allowed and they may impose conditions, like animals must be neutered or spayed and that dogs must be walked on a leash. With this in mind, don't take anyone's word that your pets will be allowed. Ask the managing agent or trustees for a copy of the scheme's conduct rules, which are filed at the Deeds Office.

Rules can change

Keep in mind too that rules can change. It is fairly common to encounter a rule stating that existing pets will be allowed but that, from the date of filing of the amended rules, they may not be replaced on their death and no further pets may be introduced. "We had a case where a lady got a new puppy after a 'No new pets' rule had been filed in her complex," says specialist sectional title attorney Marina Constas. "She claimed that the puppy was not a new addition – it was just that her old dog had lost weight." A vet's certificate proved that the dog was a puppy.

Ms Constas, the author of *Demystifying*

Sectional Title, advises that body corporates place clear conditions in their rules about the types, sizes and number of animals, as well as regulations around walking dogs on leashes and the cleaning up of doggy-doo on common property.

Woof-woof

"Barking complaints are the most common," says Ms Constas. This is an issue that trustees need to address promptly by giving the owner a defined time limit for a solution to be found and implemented. Solutions could include getting someone to take the dog for a walk during the day, keeping him in the garden during the day instead of locked inside the unit, or using therapeutic aids like calming collars. "Lavender and chamomile collars worked very well with my two Labradors," says Ms Constas, "until they chewed each other's collars off!"

Uncontrollable cats

Cats can cause as many problems as dogs but they're much harder to control and restrict. Ms Constas has had cases where cats have caused damage to the paintwork of cars from scratching. Complaints of night-time intrusions and spraying in other tenants' units are commonplace.

Addressing issues

"As a complainant, evidence and a paper trail is crucial if you want your complaint to carry weight," says Ms Constas. She recommends starting with a notice of dispute, which states your complaint. This is served to the offending party and copied to the trustees. If no action is taken by the trustees and the neighbour refuses to resolve the problem, complaints can be escalated to arbitration.

In the case of barking, evidence in the form

of affidavits, tape recordings and testimonies from other tenants are needed. "I once had an arbitration hearing where a busload of witnesses arrived to testify against a seemingly innocent dog. He would escape from his unit, bark all day, do his business everywhere... the evidence against this dog was overwhelming," explains Ms Constas.

If a pet owner ignores the decision from the arbitration hearing, the award can be made a High Court order. The Sheriff is then entitled to come and remove the animal.

Avoid heartbreak

People and pets living in peace and harmony is first prize. As such, communal living demands that pet owners pay attention to the conduct rules of their sectional title scheme and that they consider complaints, responding promptly and appropriately. □

About Marina Constas

Marina Constas, a specialist sectional title attorney and director at BBM Attorneys, is the sectional title and apartment ownership go-to person. Her simple explanations of legal concepts aim to finalise arguments, settle issues and bring peace of mind to the 800 000 sectional title homes throughout South Africa. Marina is the co-author of the best-selling book, *Demystifying Sectional Title*. This definitive guide to sectional title living for owners, prospective buyers, managing agents, estate agents and anyone dealing with sectional title, simplifies concepts and dissipates the 'mist' surrounding difficult-to-understand issues. The first edition was published in 2004; an updated and improved edition is available nationwide through Exclusive Books and CNA.