

Subject: Response to your question dog bites

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Date: Wed, 7 Oct 2009 15:57:19 -0400

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John,

This is the response for the question posed in your email following the Board meeting (captioned below). -Ron

Dog Bites – IF the association were sued for negligence due to a dog bite the claim would be filed under the liability coverage. However it is important to make sure all animal rules are enforced and enforced the same to everyone no matter who they are.

If the lawsuit said the Board committed a wrongful act in the enforcement or creation of policies regarding animals the claim would be filed under the Directors & Officers Liability. Unfortunately you do have to be careful of animals used for disability purposes. People with disabilities are protected under various statutes to allow them privileges with animals that other citizens are not allowed. For example if you had a rule of "No kangaroos" but a person has a kangaroo for assistance with their disability...you can not make them remove the kangaroo. Without question I would require all animals to be leashed or in cages when in common element areas.

At Saturday's BOD meeting you agreed to ask our insurance agent about the limits to our liability insurance coverage for dog bites.

If our BOD members are correct in stating that only the dog owner can be held liable for a dog bite, the agent may answer that we have no coverage for this type of incident. Because of this possibility, I'd like for you to pose an additional question to him:

"If the association is sued for negligence in failing to enforce its by-laws, thus allowing the dog bite to happen, what coverage limit applies?"

The agent's answer to the second question may give us a good idea of the answer that our attorney will give us later in the process. The answer is important to how we proceed with the pet project since we won't be approaching the attorney until after our recommendation is forwarded to the BOD.