

Subject: Re: Comments re: Dog Problems at 9400
From: LAWRENCE BERUL <LBERUL@yahoo.com>
Date: Sun, 4 Oct 2009 06:35:58 -0700 (PDT)
To: John D Roth <jroth4@comcast.net>

John, I do not know for sure if the 9400 would be liable for not enforcing its by-laws, but if it is, its insurance policy should cover the liability. I agree that we should ask the insurance company or agent to comment. The Beruls

--- On Sat, 10/3/09, John D Roth <jroth4@comcast.net> wrote:

From: John D Roth <jroth4@comcast.net>
Subject: Re: Comments re: Dog Problems at 9400
To: "Margot Chappell" <Parkdreams@lycos.com>, "LAWRENCE BERUL" <LBERUL@yahoo.com>, LULUP722@aol.com, "John D Roth" <jroth4@comcast.net>, "Judi Segermark" <judiseg@hotmail.com>
Date: Saturday, October 3, 2009, 9:33 PM

Hello, Luann.

I've received your note and posted it to both the "COMMITTEE DISCUSSION" and "OWNER COMMENTS" section of the website. It wasn't clear to me whether you were addressing your comments to me, to the committee, or to the owners in general. This covers all the bases.

I'm going to try one more time to summarize what's going on here.

1) The by-laws don't allow dogs other than small dogs. (This has been disputed by one committee member, but her argument doesn't appear reasonable to me or to anyone I've talked with - but that's just me. The BOD has not been willing to address her contention with our attorney.)

2) If large dogs aren't allowed, then they shouldn't be here.

3) The few large dog owners who have commented formally say:

- a) I didn't receive the by-laws (some say this)
- b) My dog is well trained
- c) Others are bringing their large dogs
- d) Nobody told me
- e) I love my dog
- f) Therefore, we should allow my dogs and other dogs of any size in spite of the by-laws.

In my mind, this isn't a large dog vs small dog issue and it isn't an effort to protect small dogs from large dogs - or large dogs from small dogs. It's a safety, and financial issue.

Everyone's large dog is reported as being well trained. So was Sadie, the Rottweiler, according to her handler. Yet this well-trained, gentle dog got out of control and caused damage. Who knows why? Instinct, I suppose. That's the safety issue.

From a financial standpoint, I'm told by several BOD members that only a dog's owner can be held

responsible for a dog bite. My contention is that the condo association and the BOD could be held liable for a serious dog bite (to a child's face, for example) because the BOD knowingly has failed to enforce its by-laws addressing pets. The Treasurer has committed to raising this issue with our insurance agent to see about our coverage for such a lawsuit. I'm not sure whether we've approached the insurance agent yet. For sure, the committee has not been informed of any response from the agent. If the association or BOD is sued, we're all sued. If the association is sued and loses, all owners will pay. Why should any owner put his investment at risk subject to the behavior of another owner's inappropriate dog?

So far, no one has been able to provide an answer to the above. The only answers provided have been emotional responses in the form of 3a - 3e, above.

I love my (small) dogs, too. It would be very difficult to leave them home when we come to the beach. That's why I suggested a "grandfathering" process that would eventually eliminate the problem over ten years or so. That's probably the only practical solution to the problem. The response? "I've consulted my attorney" or "I'll consult my attorney" because this is a "discriminatory" action.

Is there some logical way to dispute my contention? Let me know. I'd like to hear it. That's what the committee discussion is for.

JR

LULUP722@aol.com wrote:

> Sorry about not being available, I have been ill. I am still willing to participate on the committee and will help with the issues at hand. I was never given a copy of the By - Laws when we purchased our unit. At the time of purchase I did not own my boxers. The first summer my husband and I stayed at the 9400 building we met many dog owners with large dogs, it was never a factor in my mind that large breed dogs weren't allowed in this building the first time we brought our boxer on vacation with us. Everyone we met was very friendly to us and our dog, I met many new friends that summer. A particular owner of a large dog who lived in the unit for many years stands out in my mind, I don't remember his name but I am sure you will remember that as his dog aged he would take him out in a little red wagon to do his business. I never saw anyone stop him or say anything about the size of his dog. He told me that he had the dog at the 9400 building since the dog was a puppy, the dog was about 12 or 13 years old when we met for the first time. As I sit in my living room reading the e-mails from Mr. Roth to board members and other dog owners, it seems to me that this particular matter is becoming, for lack of better words a "DOG FIGHT". A fight between large and small dog owners. If this is the case I will also have to consult my attorney. This is actually a discriminatory action. My boxers are my family and most of my enjoyment of owning my unit is the time I spend with them. Playing on the beach, taking them to Rehoboth to walk around the shops, and meeting other dog owners. I don't remember half of the owners names but I remember their dogs and most remember me as the lady with the 2 boxers. Although I don't have a copy of the By - Laws, I do know that there is a noise control ordinance in Ocean City Md. Many nights as my husband and I sit on our balcony

which faces the north side of the building our peaceful solitude is often disturbed by the constant yipping and barking of the small dogs a few units below. I am not saying my dogs never bark, but this yipping and barking has gone on for hours. If I have to enforce the noise issue I will concerning these small dogs. This entire problem seems to be getting out of hand instead of solving or reaching a solution to this very delicate problem, it seems to me that the issue at hand is doing nothing but causing distention amongst the owners. We need a resolution by the BOD as soon as possible.