

CONDOMINIUMS

Developer's dogged efforts may not apply to owner

By Mark Pearlstein

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Q Three years ago I bought, pre-construction, a penthouse condo on the North Side of Chicago. My main concern was the horror stories I have heard from other dog owners of anti-dog condo boards passing rules limiting dogs, establishing leash rules, requiring muzzles and restricting access. Before I signed anything, I had my attorney confirm with the attorney for the developer that I was grandfathered in regarding any rules or restrictions governing dogs.

The developer, it turns out, has it in for me and anyone who won't submit to his will. The developer became the first association president and proceeds to have the board pass rules, in some cases directed at me, by restricting dogs.

Am I legally grandfathered regarding pets? The current board claims it is against the law in Chicago to be off-leash inside privately owned condominium buildings. I assume the rules don't apply to me because they were established after I signed my contract. What is the truth regarding pet regulations and the law?

A You and your pet will be exempt from any amendment to the declaration that prohibits dogs, but you and all owners are subject to rules concerning the conduct of pets and their owners.

The condominium declaration states wheth-

er pet ownership is permissible. If dogs and other pets are allowed, the board of directors has the legal right to adopt rules concerning matters such as permissible areas to walk a pet, leash rules and restrictions on elevators that can be used to transport pets.

Like all association regulations, pet rules must be reasonable. The board can impose restrictions to prevent pets from becoming a nuisance or an annoyance to others, but cannot regulate the community to such an extent that it is essentially impossible to own a pet. Recognizing that some residents may not share your views on pet ownership, condo boards must develop rules that respect your rights to keep a pet in a manner that does not annoy or disturb others.

Section 7-12-030 of the Chicago Code prohibits pet owners from allowing their dogs to cross outside the property line of its owner, or allow the pet to be outdoors on an unfenced portion of the owner's property without being on a leash. Leash requirements are valid regulations both inside and outside the condo building. The code governs owner conduct outside the condo property. Board authority to adopt rules governs pet conduct within the building and other common areas.

Do not focus on the developer as the source of your dissatisfaction with pet regulations or consider that you alone are the basis for the pet rules. Unit owners and tenants are subject to the same restrictions concerning pets.

The more owners fail to control their pets, the more rules the board will impose. Remember that the pet is not the problem.

Q I live in a 12-unit condo building adjacent to a factory that is being rehabbed. Are there any City of Chicago ordinances that regulate the time construction can begin and end? How is construction defined? There have been large construction trucks and workers arriving before 6 a.m. on weekdays and weekends, and this early morning noise is extremely annoying and disturbing.

A Section 11-4-1150 of the Municipal Code restricts the use of heavy-duty construction equipment between the hours of 9 p.m. and 8 a.m. the following day within 600 feet of any residential building. The same section prohibits actions such as unloading or handling building materials between 10 p.m. and 7 a.m. the following day in such a manner as to cause a disturbance to an adjacent residential property.

The noise may be disturbing, but does not violate the law if work is done within the permissible time periods.

The best approach for the association is to reach an agreement with the neighboring property owner regarding construction guidelines, particularly if the contractor must go on to your property to complete this project.

Q I bought a new condominium last fall. Within one month I heard loud snapping and metal scraping noises coming from the ceiling of my unit. The builder has made several attempts to solve this problem, but now has told the board that this is now the association's problem.

The board hired an inspector or an engi-

neer, who described this noise as one relating to air circulation or venting making the drywall hangers move and hit each other.

The board is reluctant to act. In the meantime, I get little sleep with all this noise. At the turnover meeting to elect the first owner board, the developer's attorney said that the building warranty is over:

I am sleepless in the suburbs.

A Dear Sleepless: Yes, this is a common-element problem because noise appears to come from an area outside the boundaries of the unit. The board is not responsible to the owners to cure construction defects, but may assert timely warranty claims against the developer, who should remedy the problem.

A warranty requires the board to submit a timely notice within the warranty period of any construction defects that fall within the scope of the warranty. The warranty cannot expire at the turnover meeting because the board does not receive copies of these plans until the meeting is held. The developer must be given a reasonable time to correct a warranty claim. If the developer fails to cure the defect, the board may retain a contractor to make proper repairs and pursue the developer for the cost of the corrections.

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