Update on 'No Pets' by-laws in Strata-The Miniature Schnauzer that Roared

The issue of pets in strata schemes has always been a controversial and fiercely contested issue.

Pets are often viewed as a member of the family by some, or conversely, an unpleasant annoyance by others.

Benefits can include increased property values and rents associated with pet friendly buildings together with health benefits associated with pet ownership. Downsides can include disharmony arising from disputes over pet ownership and increased cleaning and maintenance costs for common property areas.

There have been a few recent decisions in the Tribunal invalidating 'no pets' by-laws over the last 18 months.

However, on 27 May 2020, the Appeal Panel handed down the decisions of *The Owners – Strata Plan No. 56068 v Cooper [2020] NSWCATAP 96* ("**Cooper**") and *The Owners – Strata Plan No. 55773 v Roden; Spiers v The Owners – Strata Plan no. 77953 [2020] NSWCATAP 95* ("**Roden**") where the Appeal Panel upheld two by-laws that provided an outright ban on pet ownership in those respective buildings.

In the Cooper case, the owners corporation sought orders for the removal of a Miniature Schnauzer called Angus, a thirteen year old pup who was well trained and had lived in strata the majority of his life. The owners corporation also sought a penalty against Angus' owner for a breach of a notice to comply as a result of keeping the dog in the strata scheme.

Angus' owner then cross claimed against the owners corporation, seeking that the 'no pets' by-law was invalidated for being harsh, oppressive and unconscionable pursuant to sections 139(1) and 150 of the Strata Schemes Management Act 2015.

Whilst Angus' owner was successful at first instance in the Tribunal, on appeal, the Appeal Panel overturned the Tribunal's previous decision an upheld the 'no pets' by-law.

Accordingly, at the current point in time there is a good chance that the Tribunal would uphold a by-law that contained an outright prohibition on pets.

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So what does the future hold for pets in strata?

The Cooper decision has now been appealed, with Angus the Miniature Schnauzer roaring all the way to the Court of Appeal. It is expected that Angus' showdown will occur later this year, so watch this space to see if the Court of Appeal determines whether 'no pets' by-laws are harsh, oppressive and unconscionable.

Pets in your building

Our experience with pet disputes is that they are always divisive, extremely personal and fiercely contested.

Therefore, as a general comment and as means to attempt to avoid disputes, most strata schemes would be better served in having a by-law that allows pets subject to certain conditions and criteria. However, the appeal in Cooper illustrates this is a rapidly evolving area of law that is yet to be finally settled.

In light of the above, if you are having questions about pet by-laws or concerns about pets in your strata scheme, we have considerable experience and expertise in this area and can help.

Key takeaways

- The issue of pets in strata schemes is contentious, with varying opinions on their impact.
- Recent tribunal decisions have upheld 'no pets' by-laws, indicating a trend towards stricter regulations.
- The ongoing appeal in the Cooper case may further influence the legal landscape for pet ownership in strata.
- Strata schemes may benefit from by-laws that allow pets under specific conditions to minimise disputes.
- Bannermans Lawyers offers expertise in navigating pet-related disputes in strata schemes.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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