

Condo Unit Owner Loses Lawsuit to Prohibit Dogs in Elevators

In a [previous blog post](#) we reported about a condominium unit owner in Chicago who sued her condominium association, alleging a violation of the U.S. federal Fair Housing Act and the Illinois Human Rights Act by allowing dogs to travel in the elevators. The lawsuit was launched after the condominium association refused the owner's request that she be given a key to one of the elevators so that she could travel non-stop in the elevator without any dogs coming on board. As we previously reported, the condominium association failed to get a summary judgment dismissing the lawsuit, as the Court found that the unit owner had presented strong enough evidence to warrant moving to a full trial.

According to the United States Department of Justice website, the [Fair Housing Act](#) defines "*persons with a disability to mean those individuals with mental or physical impairments that substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working.*"

Unfortunately for the unit owner, after a full trial, the jury that heard the case dismissed the lawsuit. [As reported in the media](#) the jury found that the owner's fear of dogs did not constitute a disability as defined in the Fair Housing Act.

If the owner appeals the dismissal of her lawsuit, the association will probably not be surprised as this was the fourth lawsuit that the owner had commenced against the condominium association.

Before committing to buy a condominium unit, both pet owners and those who do not like pets should be carefully checking the condominium documents to see if pets are allowed in the condominium and if permitted, any provisions governing the type, size, number of pets and restrictions on pets in the units and on the common elements. A pet prohibition in Ontario is valid only if contained in the condominium declaration. Any prohibition that is contained only in the rules is not valid and can be challenged. While pet restrictions in the rules must be reasonable, any restrictions contained in the declaration are valid whether or not reasonable.

When high-rise condominiums were first developed, most condominium declarations prohibited pets, as they were not seen to be compatible with apartment living. Things have changed considerably over the years, as now, most new condominiums allow pets and many of them have pet amenities such as a dog washing room and dog run. Those who do not like dogs will have to be diligent when purchasing a condominium unit – otherwise they may find themselves travelling in the elevator with dogs, as was the case with the Chicago owner.