

ISSUE #1

Section 1: [Rule 11] Absolute Prohibition on Dogs and Cats in Units and Common Areas by Rule

Common household pets, such as dogs and cats, MAY NOT be kept in the units. The owner of any other pet assumes full liability for all damage to all persons or property and to the Condominium Trust, caused by such pet. In no event shall Dogs be permitted in any part of the common areas.

MARKUP #1 ->

Section 2: [Rule 2] Mandatory Board Approval of Unit Rentals and Prospective Tenants

Any unit owner wishing to rent their unit must submit a rental application packet to the Board/management for Board approval along with a signed statement from the prospective tenant attesting to the fact that they have received, read and agree to abide by the Rules and Regulations of the Brookside Square Condominium. Failure to abide by this Rule shall result in a penalty of \$100 being assessed against the Unit and subject to all costs of collection of same.

Section 3: [Rule 15] Ten-Day Payment Demand and Automatic Lien for Rule Fines

All fines assessed shall be charged against the Unit and payable in full within 10 days. Such fines shall constitute a lien against the Unit, subject to late fees and the costs of collection including but not limited to reasonable attorneys' fees.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Rule 11 (p. 1): Bans dogs and cats inside private units via an administrative Rule and Regulation rather than the Master Deed or Bylaws, and contains no assistance animal exemption.

Statutory / Legal Reference: M.G.L. c. 183A, § 11(d)-(e) (Johnson v. Keith, 368 Mass. 316) & 42 U.S.C. § 3604(f)(3)(B)

Statutory Comparison: In Johnson v. Keith, 368 Mass. 316 (1975) and Noble v. Murphy, 34 Mass. App. Ct. 452 (1993), Massachusetts courts held that under M.G.L. c. 183A, § 11(d)-(e), administrative rules and regulations govern only the common areas and cannot prohibit keeping household pets inside private units unless enacted in the Master Deed or Bylaws; furthermore, the rule omits the mandatory Fair Housing Act (42 U.S.C. § 3604(f)(3)(B)) and M.G.L. c. 151B assistance animal accommodation exception.

CURRENT WORDING IN DOCUMENT:

[Rule 11] Absolute Prohibition on Dogs and Cats in Units and Common Areas by Rule - Common household pets, such as dogs and cats, MAY NOT be kept in the units. The owner of any other pet assumes full liability for all damage to all persons or property and to the Condominium Trust, caused by such pet. In no event shall Dogs be permitted in any part of the common areas.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Rule 11 ([Rule 11] Absolute Prohibition on Dogs and Cats in Units and Common Areas by Rule - Common household pets, such as dogs and cats, MAY NOT be kept in the units. The owner of any other pet assumes full liability for all damage to all persons or property and to the Condominium Trust, caused by such pet. In no event shall Dogs be permitted in any part of the common areas.) to conform with M.G.L. c. 183A, § 11(d)-(e) (Johnson v. Keith, 368 Mass. 316) & 42 U.S.C. § 3604(f)(3)(B) and the manual attorney audit recommendations for Brookside Square Condominium Trust.