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The Law Around Service Animals in Ontario

Service animals are animals trained to assist a person with a disability. This can include animals trained to guide the visually impaired, calm children with autism in high anxiety situations, or alert diabetics when their blood sugar is too low.

The recent increase in individuals requesting access to service animals, especially in buildings with restrictions or prohibitions on pets, has led condominium corporations to consider their responsibilities in relation to service animal users.

In this article, we outline the service animal laws that condominiums must follow in responding to accommodation requests and the various legal definitions that apply to service animals in Ontario.

Understanding the Key Terms

While terms such as “support animal,” “service animal,” and “guide dog” may be used interchangeably by accom-

modation-seekers, it is important to understand the different terms, definitions and qualifiers that are used in Ontario’s statutory regimes when dealing with these animals.

In Ontario, there are two terms used in various statutory regimes to refer to animals trained to assist persons with disabilities: “service animals” and “guide dogs.” The chart on the next page provides a quick and helpful guide for distinguishing between the two terms.

Statutory Requirements

A condo corporation’s obligations with respect to service animals and guide dogs are outlined in the three key legislations (See chart on page 32)

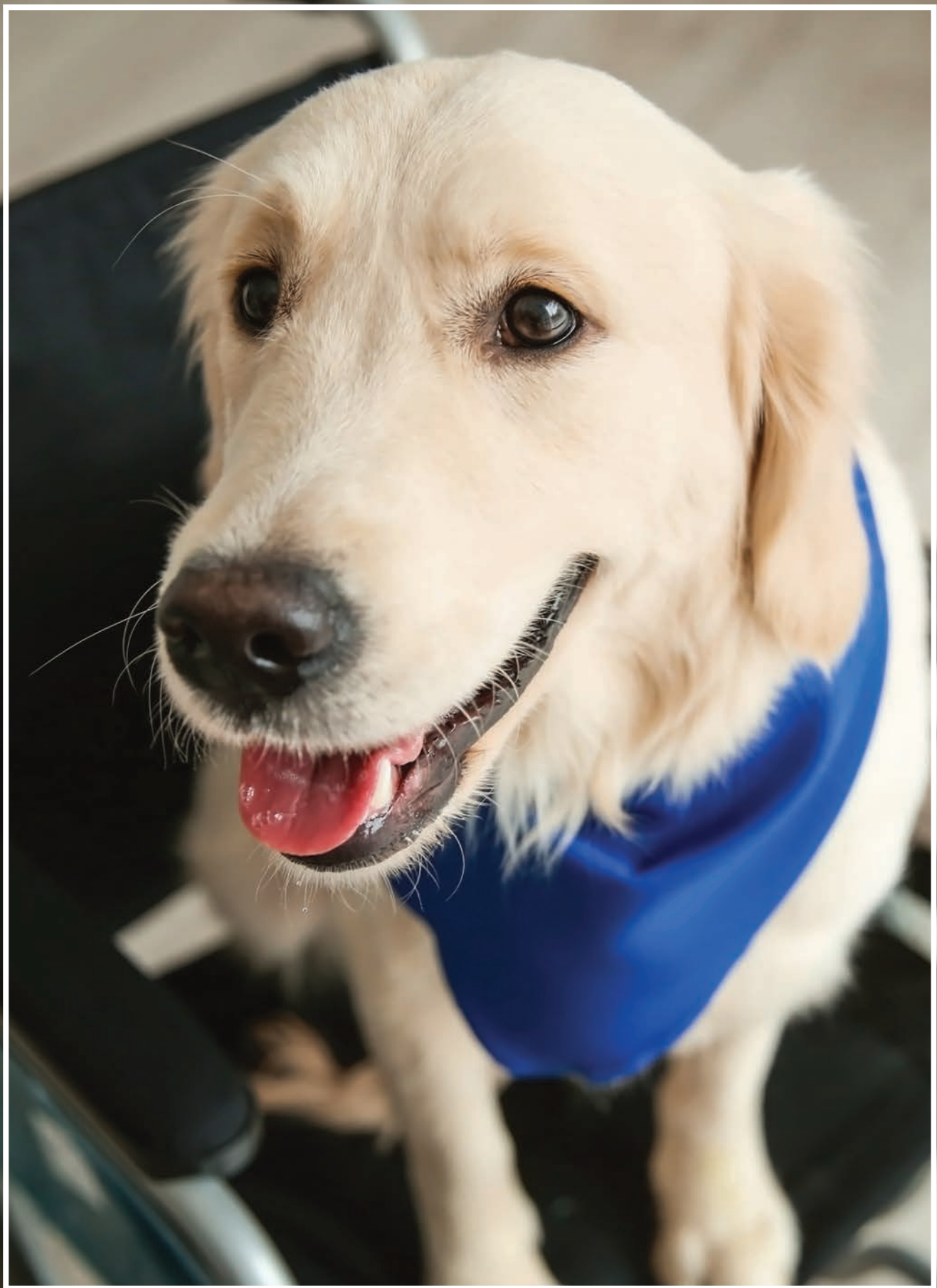
Blind Persons’ Rights Act

The Blind Persons’ Rights Act (“BPRA”) provides persons with blindness with legal rights in two key areas: 1) the right to be accompanied by a guide dog in all

public places, and 2) the right to keep or be accompanied by a guide dog in a self-contained dwelling unit.

The BPRA prohibits the discrimination of blind persons with guide dogs with respect to any term or condition of occupancy of any self-contained dwelling unit and also prohibits denying them occupancy for the reason that they have a guide dog.

What does this mean for condo corporations? Even if the corporation’s rules prohibit pets or have certain restrictions on pets (e.g. the size and number of pets), the condo would still be required to allow residents to keep guide dogs in units. The only requirement is that the animal has to be a true guide dog (as defined in the BPRA and described above) in order to benefit from the rights and protections under the BPRA. It does not apply to “service animals” who would not otherwise meet the definition of a guide dog under the statute.



	Legislation	Definition	What does it include/not include?
Service Animal	Integrated Accessibility Standards regulations under the Accessibility for Ontarians with Disabilities Act	An animal is a service animal if: The animal can be readily identified as one that is being used by the person for reasons relating to the person's disability, as a result of visual indicators such as the vest or harness worn by the animal; or The person [using the service animal] provides documentation from a prescribed regulated health professional confirming that the person requires the animal for reasons relating to the disability.	Any animal, as long as it can be shown that the animal is being used to assist the person with a disability, either by a visual indicator or medical certificate. This can be therapy or emotional support animals, or dogs assisting blind persons whether or not they qualify as a "guide dog" under the Blind Persons' Rights Act.
Guide Dog	Blind Persons' Rights Act Integrated Accessibility Standards regulations under the Accessibility for Ontarians with Disabilities Act Note: This term is also used in the Human Rights Code, but is not defined.	A dog trained as a guide for a blind person and having the qualifications prescribed by the regulations, such as successfully completing a prescribed training program.	Only dogs (no other animals) who are assisting blind persons (does not include other disabilities). The dog must also be trained through one of the prescribed training programs in order to be a guide dog, regardless of whether they are medically certified to be assisting a blind person.

How can the corporation be sure that a dog is a guide dog? The BPRA provides for a mechanism through which blind persons with guide dogs may obtain identification cards from the Attorney General, which suffices as proof that their dog is a guide dog under the BPRA. This means that no further proof, medical or otherwise, is required to be shown by the resident in order to exercise the rights under the legislation.

Integrated Accessibility Standards under the Accessibility for Ontarians with Disabilities Act (AODA)

The Integrated Accessibility Standards regulations under AODA requires service providers to ensure that persons with disabilities using a guide dog or service animal are permitted to enter the premises with the animal and to keep the animal with him or her.

Since the common elements of a condo corporation provide services and facilities within the meaning of AODA, steps must be taken to ensure that service animals are welcome in these areas. Condo corporations are also required to ensure that their staff

are properly trained on how to interact with persons with disabilities requiring the assistance of a guide dog or service animal.

For the purposes of accessing the common elements (i.e. its services and facilities), AODA does not require that a resident or visitor provide lengthy and detailed medical information to demonstrate that an animal is a service animal. Rather, as described above, the animal will be considered a service animal if:

a) The animal has visual indicators such as a vest or harness identifying that the animal is being used to assist a person with a disability; or

b) The resident or visitor provides a document from a prescribed regulated health professional (e.g. physician, nurse, psychologist, etc.) confirming that they require the animal for reasons relating to a disability.

If the resident or visitor is using a guide dog, as defined under the BPRA, they would simply need to show their identification card.

Note that AODA's service animal provisions have no bearing on the restrictions that condo corporations may place on residents' ownership of

pets. Instead, a resident whose need for a service animal conflicts with the rules of a condo corporation must establish a right to accommodation under the Human Rights Code.

Human Rights Code

The third piece of legislation that corporations must consider is the Ontario Human Rights Code (the "Code"). The Code prohibits discrimination against persons with disabilities in various areas, including employment and accommodation. "Disability" under the legislation includes "physical reliance on a guide dog or other animal." While the Code does not refer to "service animal," the protections granted by it capture any animal that is required for a disability-related need.

The Code provides the broadest protection with respect to service animals because it does not limit protection to just persons with guide dogs (such as the BPRA) nor just persons accessing the services and facilities (like the AODA). Under the Code, condos are required to accommodate persons with disabilities – whether they have a guide dog or service animal – up to the

point of undue hardship. Failing to do so would constitute discrimination under the legislation

Despite the broad application of the Code, accommodation-seekers must substantiate their request with appropriate medical documentation if they want to suspend the application of the corporation's rules around animals in the building. This means that a harness or a brief letter from a physician will not do in most circumstances (even though this would normally suffice under AODA for accessing public spaces). Rather, residents seeking accommodation will need to provide detailed medical information from a qualified health professional about their disability-related needs and, specifically, the requirement to use a service animal given these needs.

Responding to Requests

Upon receipt of a request to access a guide dog or service animal, the board of directors should respond promptly and consider what types of documentation that may be required to review the request. This will depend on the type of

request and type of animal, as explained above. The documentation will allow the board to determine whether the animal is actually required to address a disability-related need.

If it is established that accommodation is required, the board should engage in discussion with the person making the request about suitable options for

modation, often what is reasonable will not be the specific form of accommodation requested by the resident, such as to keep their specific pet on the grounds that it is a service animal.

When dealing with accommodation requests, management and the board should review the condo corporation's Human Rights and Accessibility Policies

Accommodation is a collaborative process that requires the involvement of both parties on an ongoing basis.

accommodation. Accommodation is a collaborative process that requires the involvement of both parties on an ongoing basis. For example, even if a service animal is permitted, the board may need to re-evaluate the need for the animal periodically where appropriate.

An important point to remember is that while a condo corporation is obligated to provide reasonable accom-

or, if unavailable, consider developing these policies to deal with the proper handling of these requests. ■

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