

PREFACE

This is the Board's revised Circular on Pet dogs and Street dogs. The earlier circular issued on 1st February, 2014, is hereby withdrawn.



ANIMAL WELFARE BOARD OF INDIA
भारतीय जीव जन्तु कल्याण बोर्ड
(Ministry of Environment and Forests, Govt. of India)
(पर्यावरण एवं वन मंत्रालय, भारत सरकार)

MAJ. GEN. (Retd.) Dr. R. M. KHARB, AVSM
CHAIRMAN

20th February, 2014

TO WHOMSOEVER THIS MAY CONCERN

SUBJECT: PET DOGS AND STREET DOGS – THE BOARD'S REVISED CIRCULAR

This Circular is being issued in place of an earlier Circular on this subject, dated 1st February, 2014. It seeks to supplement what was earlier issued, and to add to it ; and the Circular of 1st February, 2014, stands hereby withdrawn.

The Board is acting in response to several requests received, to lend clarity and provide answers to recurring vexed questions. What I state below, is based on inputs received from the Board's legal members and lawyers, on the correct position in law with respect to various aspects concerning pet dogs and street dogs.

The issuance of this Circular has also been necessitated because it is well known that in recent times, RWAs, Apartment Owners' Associations, Cooperative Group Housing Societies, and other gated complexes have taken to imposing many unreasonable restrictions on pet owning residents, such as disallowing the use of lifts or parks by pets, or even banning pets altogether. They're also known to frequently encourage mistreatment, dislocation, and dumping of street dogs. Moreover, compassionate persons that wish to tend to and feed street dogs are often discouraged, and pressurized to refrain from doing so. There is widespread resentment against these moves, which apart from being unreasonable, are also unlawful and against recent court rulings.

As an RWA, or an Apartment Owners' Association, Cooperative Group Housing Society, gated complex, etc., you may often be getting complaints regarding street dogs, and requests that they be driven away, through beatings by security guards or otherwise, or just dumped elsewhere. If you accede to these requests, you will not only be violating laws and pronouncements of courts, but will not achieve any permanent solution either. The problem will become perennial; and you will also run afoul of animal welfare people that are increasing in number by the day, and banding themselves into well organized groups.

Set out below, are some DOs and DONTs, with respect to PET DOGS & STREET DOGS.

- I. **WITH RESPECT TO PET DOGS & PET OWNING RESIDENTS: What you CANNOT do :-**
BANNING pets, whether allowed :
- c) Even by obtaining consensus, or even if the majority of the residents want it, you cannot legally introduce any sort of 'ban' on the keeping of pet dogs by residents. You cannot insist that 'small sized' dogs is acceptable, and 'large sized' dogs are not. You cannot cite dog barking as a valid and compelling reason for any ban sought to be introduced by you.
 - d) Even by amending bye-laws or regulations or otherwise, such a 'ban' cannot be put into place since it is illegal, and does not have the sanction of law. In fact, in trying to 'ban' pets, or limit their number, you interfere with a fundamental freedom guaranteed to the citizens of India, i.e. the freedom to choose the life they wish to live, which includes facets such as living with or without companion animals.

.....2

- c) If the residents that have pets are not violating any municipal or other laws, you cannot object. The general body cannot frame or amend bye-laws that are at variance with the laws of the country. Even by a complete majority, a general body cannot adopt an illegality. Please remember, you do not have the right to legislate, and 'lay down law' for residents, and apartment owners or even tenants.

Use of LIFTS by pets :

- d) There are court rulings to the effect that pets cannot be disallowed from the use of lifts ; and no charges can be imposed either, by housing societies for the use of lifts by pets. One court is in fact known to have observed that dogs are family, and can use lifts for free. Please ensure that this sort of restriction is not therefore imposed – neither a ban, nor any special charges for the use of lifts by pets.

Use of PARKS by pets :

- e) Banning pets from gardens or parks, is short-sighted. Firstly, you may or may not own the garden or park in question. Secondly, pets that are not properly exercised may show aggression in frustration; and that, surely, cannot contribute to the benefit of the residents. It may be better to fix timings when pets can be walked without inconvenience to other residents. These timings can then be intimated to the general body.

Use of leashes / muzzles by pet owners, defecation by pets in community premises, imposition of fines and other similar measures :

- f) You can request pet owners to keep their pets on leash, when walking them in common areas. You cannot however insist on the use of muzzles. Please remember, the law already provides for penalties for negligent pet owners, which the aggrieved parties can avail of.
- g) In the absence of central or state laws requiring cleaning of pet excreta by pet owners, you cannot impose any rule, regulation or bye-law, with respect to mandatory cleaning of the same, or impose special charges or fines on pet owners. You can, of course, request them to do so.
- h) You can also experiment with the creation of various pet defecation areas within community premises. These can be imaginatively spaced out within the precincts, and you can request pet owners to train their pets into using the same. You cannot however impose fines and special charges of any kind on pet owners, because there is no mandate in law for the same.

Intimidation :

- i) Lastly, please also always bear in mind that if any association succeeds in intimidating a pet owner into 'giving up' or 'abandoning' a pet, it will actually have abetted violation of law; and may well be aggravating the menace of ownerless animals on the street, that are not accustomed to living on the street and therefore get involved in and lead to accidents, injuries and deaths. Please also bear in mind that intimidation is an offense in law.

II. WITH RESPECT TO STREET DOGS : What you CANNOT do :-

- 1) Beating and driving away street dogs, is NOT ALLOWED ; animal birth control and release back into same locality/territory, is ALLOWED :

As per Indian law street dogs (i.e. stray dogs) cannot be beaten or driven away or dumped elsewhere or killed. They can merely be sterilized in the manner envisaged in the Animal Birth Control (Dogs) Rules, 2001, vaccinated, and then returned back to their original locations. For the area-wise sterilization program that the law mandates shall be followed, dogs have to be returned back to their original habitat after sterilization and immunization.

- 2) The rationale behind release back of street dogs into the same locality/territory after sterilization and vaccination:

Dogs, being territorial in nature, tend to fight off other dogs, and keep them from entering their territories; and in this manner, the dog population in each territory / within each locale, stabilizes.

- 3) Street dog feeding, whether inside or outside community premises and gated complexes:

There is no law that prohibits the feeding of street animals. Citizens who choose to do so are in fact performing a duty cast upon them by the Constitution of India - of showing compassion to all living creatures. Various Courts, including High Courts, have upheld street dog feeding since the same reduces human - animal conflict and suspicion, and facilitates animal birth control (by making dog catching easier).

- 4) Animal cruelty :

Please also note, animal cruelty is an offence – under Section 11 of the Prevention of Cruelty to Animals Act, and Sections 428 and 429 of the Indian Penal Code –punishable with imprisonment and fine.

- 5) Intimidation :

Attempts to interfere with, or harass persons who choose to tend to and feed community dogs, maybe tantamount to the very grave offence of criminal intimidation.

- 6) Aggression to dogs, counter productive :

Last but not the least : any aggression or hostility that the dogs may be subjected to, will only render them aggressive, and hostile to humans. They may then resort to snapping and biting in self-defence. If the same happens, the human aggressors shall be the only ones to blame.

Please bear in mind that the Board, vide the present Circular, is merely setting out what is lawful, and what is unlawful, on the subject of treatment or mistreatment of pet dogs and street dogs.


Dr. R.M. Kharb
Maj. Gen. (Retd.), AVSM
Chairman, AWBI