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RETIREMENT VILLAGES TRIBUNAL

DATE: 11 JUNE 2002

APPLICATION NO: V008-02

APPLICANTS: BRUCE & LILAH KAYE

RESPONDENT: PRIME CRS as agent for ASPLEY COURT RETIREMENT VILLAGE

DATE OF HEARING: 11 JUNE 2002

REFERENCE: RVT V008-02 11 JUNE 2002

REASON FOR DECISION:

1. The question of law we resolve in this way.
2. The letter of 27 February 1997 is not in conflict with the licence agreement which was signed by the Applicants in July 1997.
3. The letter says that an existing pet can be accommodated at the Aspley Court Village and in the event of a death, a replacement pet is certainly allowed. However, that is not open season to allow any pet and the tribunal would read that general comment, subject to the residents complying with the terms of the licence agreement.
4. The tribunal notes that the Respondent does not resile from what is in the letter of 27 February and the tribunal is certainly aware that there can be good reasons why a consent process needs to be in place to ensure that the pet that is coming in as a pet, in the first instance, or a replacement pet at the second instance, is a suitable pet for a retirement village situation which is different from a normal residential situation.

5. The Applicants, prior to bringing the Doberman replacement pet onto the premises, should have applied for and obtained written consent of the scheme operator.
6. That is not to be critical of the Applicants because they, in the view of the tribunal, misinterpreted the quite specific reply that was given to them in response to their quite specific request of 25 February 1997. They misinterpreted that letter as allowing them to bring any replacement pet onto the premises and the tribunal has formed the view that the letter is not to be interpreted that widely.
7. Mr Kaye appears a most appropriate person to control and care for such a dog as his Doberman Pinscher. The exercise regime he described is suitable for such a large dog and his access to parkland is the best possible situation for the dog.
8. Mr Kaye was prepared to agree to restrain the dog in a manner acceptable to the tribunal.
9. However, the parties require the tribunal to decide whether or not the dog is a suitable dog for a retirement village.
10. The tribunal has considered all of the submissions and the issues.
11. Unfortunately for Mr Kaye we have concluded that a Doberman Pinscher is too large for a retirement village. They are large dogs which have a propensity to jump up on people, even in a friendly manner. For older people this could be terrifying and could result in a physical harm.
12. As such, the tribunal considers dogs of this size unsuitable residents of retirement villages.
13. We note the Respondent's offer to assist Mr Kaye to find a suitable home for the dog which he obviously loves and we hope that this might still occur but, unfortunately, it shall not be in the retirement village.

Orders

14. We order that the Applicants remove the Doberman Pinscher off the premises by 4.00pm on 9 July 2002.
15. The tribunal, for the reasons outlined before, does not consider that the letter of 27 February 1997 was false and misleading and therefore rejects the Applicants' application for orders based on that premise.
16. Should the Applicants wish to replace the Doberman Pinscher with a suitable dog, they should comply with Article M of his licence agreement and seek prior written consent of the scheme operator.

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MR B COTTERELL - CHAIRPERSON

for the RETIREMENT VILLAGES TRIBUNAL

Barry Cotterell

Peter Hogan

Jenny Newman

Chairperson

Member

Member

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