



By **Thomas C. Schild, ESQ., CCAL**

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Pit Bull Turmoil—Maryland Legislative Dogfight Continues

After failing to reach agreement on dog bite legislation during its special session in August, the Maryland General Assembly is expected to again consider bills in January 2013 in response to a recent decision of the Maryland Court of Appeals, which imposed strict liability on pit bull owners and property owners where such dogs are present.

Strict Liability for Pit Bull Injuries

The Maryland Court of Appeals, Aug. 21, affirmed its April 26 ruling that owners of pit bulls and property owners who have the right to control the presence of pit bulls are strictly liable for injuries caused by such dogs. However, it did modify its earlier decision so it does not apply to mixed breed pit bulls.

In *Tracey v. Solesky*, the court ruled that property owners who know, or have reason to know, of the presence of a pit bull on their property are liable for injuries caused by such dogs, whether or not they know a particular dog has a history of vicious propensities. Concluding that all pit bulls are inherently dangerous animals, the court changed the long-established common law (i.e., court-made law) liability standard for pit bull owners and property owners.

According to the court ruling, the strict liability standard for injuries caused by pit bulls “simply requires that those who possess them or permit them on their property take reasonable steps to assure that they do not run loose or otherwise are in a position to injure other people.”

The appeals court decision has been widely criticized for its conclusion that pit bulls are inherently dangerous, for applying a different standard of liability to one breed of dog and for making landlords and others

with the right to control the presence of pit bulls on their property strictly liable for injuries caused by such dogs.

Dog Bite Legislation Stalls

In response to the appeals court decision, the Maryland General Assembly considered several bills regarding liability for injuries caused by dogs during its recent special session.

Members of CAI's Maryland Legislative Action Committee attended the Senate and House committee hearings to explain the special problems of condominiums, homeowners associations and housing cooperatives in banning, identifying and removing pit bulls and mixed pit bull breeds. Unlike landlords, which can readily ban pit bulls and evict tenants who violate pet restrictions, it is far more difficult, time-consuming and costly for a community association to ban certain breeds of dogs and have prohibited dogs removed from the community. The final House version of the legislation included an amendment to make clear that condominiums, homeowner associations and housing cooperatives are not subject to the strict liability standard.

The Senate and House each passed bills to generally extend the strict liability standard to owners and keepers of all dogs, with a few exceptions for veterinarians, police and military personnel and other specified circumstances. Additionally, the versions approved in both the Senate and House overturn the strict liability standard for property owners and restore the common law liability standard for property owners, which was in effect prior to the *Tracey* court ruling.

Although the House and Senate passed similar versions of legislation, the differ-

ences in the two versions were not resolved before the General Assembly adjourned until January 2013 without enacting any dog bite legislation.

In Prince George's County, all pit bulls are prohibited by county law.

Legislative Dogfight to Continue

The topic of dog bite liability is expected to be revisited again during the regular 2013 legislative session.

CAI's MD LAC will continue to advocate for a clear exception from the strict liability standard for condominiums, homeowner associations and housing cooperatives. To assist the MD LAC in its lobbying efforts, CAI members are encouraged to send a letter to the MD LAC describing the practical difficulty and cost of regulating or prohibiting pit bulls in condominiums, homeowner associations and housing cooperatives to assure such dogs do not run loose or injure people. Letters can be sent by e-mail to caimdlac@caidc.org or mailed to the chapter office. 📧

What's happening? If you've had an interesting experience while living or working in the community association industry—be it humorous, moving, shocking or inspirational—write about it for “Cul-de-sac,” *Quorum*, 7600 Leesburg Pike, Suite 100 West, Falls Church, VA 22043. Fax: (703) 941-1740. E-mail: publications@caidc.org.