
Dogs, Dogs, Dogs *The Guide Dog & Service Dog Act*

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The *Guide Dog and Service Dog Act* (the "Act") became law on January 18, 2016 making British Columbia the most progressive Province in Canada for persons with disabilities. This new legislation modernizes guide dog and service dog guidelines by raising training standards, improving accessibility to the public, including strata corporations, and strengthening public safety.

The Act clarifies that discrimination is unacceptable. It gives certified guide or service dog handlers and their dogs (the "team") access rights equal to those enjoyed by the public without dogs.

The changes brought about by the Act address:

- certification for service dogs and guide dogs;
- rights of the team in a strata property and tenancy arrangement;
- rights of certified retired dogs to reside with their handlers;
- public access rights for certified dogs in training;
- a higher training standard;
- a more robust decision-making process for certification; and,
- strengthened compliance and enforcement structure.

What is the purpose of a guide and service dog?

Guide and service dogs help people who require assistance to avoid hazards or to perform certain tasks. Guide dogs assist people with visual impairment, while service dogs provide a variety of assistance to people with other kinds of disabilities such as hearing impairment or epilepsy. A guide or service dog can, for example, lead a person through public areas, alert a person to sounds and open doors.

Currently, only dogs can be certified under the Act. However, this does not prevent a person with a disability from making a request for a living assistance or companion pet in appropriate circumstances

pursuant to the *Human Rights Code*. For greater certainty, the *Guide Dog and Service Dog Act* does not alter or remove any rights granted under the *Human Rights Code*.

How are guide dogs and service dogs certified in BC?

Both the dog and the handler must be certified. They are a team. There are two ways to become certified. The team must be trained at a school accredited by Assistance Dogs International or the International Guide Dog Federation. Alternatively, they must pass a certification test offered by the Justice Institute of BC ("JIBC"). In the latter event, additional supporting documentation from a BC veterinarian and a BC medical practitioner or nurse practitioner must be provided with the application.

The Registrar is authorized to issue and renew the following certificates:

- guide dog team consisting of a blind person and his or her trained guide dog;
- service dog team consisting of a person with a disability and his or her trained service dog;
- dog trainer;
- dog-in-training; and,
- retired guide or service dog team.

The Act raised the certification bar. Only dogs who behave appropriately with all kinds of people in different environments and who are trained to the highest standards will be granted unlimited access to public areas and permitted to maintain public safety.

What is a certification test with the JIBC?

This test examines the temperament and disposition of the dog in a public setting, such as a shopping mall or a restaurant. It generally assesses the following:

- Is the dog calm, stable and reliable in public situations commonly encountered by a dog and its handler?
- Does the handler have control over the dog at all times?
- Is the dog safe to be in public?
- Does the dog demonstrate the high standard of training expected of guide and service dogs?

In order to pass the assessment, the validator must be satisfied that:

- The dog's nerves are steady.
- The dog's temperament and disposition are sound.
- The dog is well-mannered in public, in the presence of crowds, other dogs and traffic.
- The dog is attentive to the handler and responds to commands without showing stress or avoidance.

In order to be certified, the dog/handler team must meet the minimum standard on 40 different tasks. The rigorous testing standards are designed to enhance public confidence in successful certified teams.

How does a person obtain a certificate for a guide dog or service dog?

A person seeking certification must submit an application and supporting documentation including evidence of accreditation from an accredited school and a picture to the Security Programs Division, Ministry of Public Safety and Solicitor General.

If the dog has not been trained by a school that is accredited by Assistance Dogs International or the International Guide Dog Federation, then an application must be submitted to the Security Programs Division together with a medical form, evidence that the dog has been spayed or neutered and a passport style photograph of the dog.

How does a person obtain a certificate for a dog in training or a dog trainer?

A dog trainer must obtain a dog trainer certificate and the dog in training must obtain a dog in training certificate from the Security Programs Division. An application with the proper documentation in support is required.

Can a person obtain a certificate for a retired guide dog or service dog?

A person may now apply for a retired guide dog or service dog certificate from the Security Programs Division. The application must include evidence of previous certification. A retirement certificate enables a retired certified dog to continue to reside with its handler regardless of any strata bylaws or rental provisions to the contrary.

There are limitations on a retired dog certificate. Retired dogs do not have access to restaurants, buses, hotels or other public places granted to working guide dogs and service dogs under the Act.

Does certification have to be updated and can it be revoked?

The certified dog and handler team must be reassessed every two years upon renewal of the certification. Dog and handler teams will go through a reassessment at JIBC, excluding grandfathered teams and teams that graduated from accredited training schools. The dog and handler teams that graduated from accredited training schools will follow their own monitoring and evaluation process. However, the Registrar can at any time ask that a team be reassessed upon receipt of a complaint.

Dog and handler teams in existence on the date the Act came into force are "grandfathered" to ease the transition of teams to the new regime. Such teams still have to submit applications for certification under the Act, but they will not be required to undergo assessments by the JIBC unless the Registrar has concerns about the safety of the team and/or the public.

The handler of a certified team must inform the Registrar in writing within 30 days of:

- any changes in his or her contact information;
- the passing of the dog;
- if the handler or the dog or both no longer meet conditions, qualifications and requirements;
- if the handler no longer requires the assistance of a certified dog;
- if the dog no longer performs the functions of a guide or service dog;
- if the dog trainer no longer trains on behalf of the accredited training school; and,
- if the dog-in-training has been permanently removed from the training program.

The Registrar has the authority to cancel or refuse to renew a certificate if:

- the conditions, qualifications or requirements are no longer being met;
- the terms and conditions of certification are not being complied with; or,
- other prescribed circumstances arise.

The prescribed circumstances include:

- where the dog has threatened the safety of a person or other animal while exercising a public access right;
- the dog trainer no longer trains dogs on behalf of the accredited training school referred to in the application;
- the dog-in-training is permanently or indefinitely removed from the training program; and,
- false or misleading information was provided in support of the application.

If the Registrar cancels or refuses to renew a certificate, then the handler must be notified in writing and the handler must surrender the certificate to the Registrar. There is no requirement for the Registrar to provide notice in writing if the dog is found to constitute a risk to the safety of persons or other animals or if the handler has not provided the requisite change of contact information.

What effect does certification have on a person with a disability?

A certified team (dog and trainer) has the same rights and responsibilities as a person without a dog. As long as the dog is well behaved, the dog cannot be denied

access to restaurants, buses, hotels or any other public area. Further, strata bylaws and rental provisions that prohibit or restrict pets do not apply to dogs certified under the Act. The *Human Rights Code* provides additional protection from discrimination for persons with disabilities.

A dog in training certificate grants a certified dog and trainer team access rights to public places for training purposes. However, strata bylaws and rental provisions that prohibit or restrict pets will continue to apply to certified dogs in training. In other words, dogs in training are not exempted from the application of a pet bylaw.

What are the offences, penalties and remedies available under the Act?

The following constitute offences under the Act:

- denial of public access rights to a certified dog and handler team;
- charging additional fees to a certified dog and handler team;
- denying a certified dog and handler team tenancy rights (residential and manufactured home park);
- imposing discriminatory terms and conditions for a tenancy on a certified team;
- falsely representing a dog as a certified guide or service dog under the Act; and,
- failing to surrender a certificate after a request from the Registrar.

Further, the *Prevention of Cruelty to Animals Act* makes it an offence to interfere with, obstruct or harm a service animal.

The penalties for a violation may include a fine of up to \$3,000.00 and the issuance of a violation ticket if a person makes a false claim regarding certification. This penalty is new.

If a certified guide or service dog is wrongfully denied access to a public place, then the incident may be reported to the Security Programs Division. It will review complaints and if an investigation determines that access was wrongfully denied, then progressive enforcement powers are available ranging from providing information, education, a formal warning, a violation ticket, and/or a fine upon prosecution. Remedies may also be available under the *Human Rights Code*.

What bylaws should a strata corporation consider?

The Act could either trump or significantly impact pet restriction or pet prohibitions bylaws in a strata corporation. The strata corporation should consider a review of its pet bylaws to ensure compliance. It may consider bylaw amendments to:

- exempt certified teams which comply with the Act;
- allow a retired certified dog with a retirement certificate to reside with its handler;
- require certified training dogs to comply with the bylaws of the strata corporation;
- require residents to notify the strata corporation of any changes to a certificate under the Act;
- provide reasonable accommodation by permitting a living assistance pet or companion pet to a person suffering from a disability under the *Human Rights Code* with or without conditions;
- address offenses and enforcement provisions consistent with the Act; and,
- address other pet provisions to meet the requirements of a strata corporation.

The strata corporation should refrain from addressing rental provisions in the bylaws. Section 141 of the *Strata Property Act* prohibits the insertion of terms in tenancy agreements. It reads as follows:

141 (1) The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot except as provided in subsection (2) (rental prohibition or rental limitation).

Conclusion

Every strata corporation should review the *Guide Dog and Service Dog Act*, regulations and policy guidelines. It should seek the assistance of a strata lawyer to assist with any related bylaw amendments or enforcement issues. For further information, you may visit the following website:

<http://www2.gov.bc.ca/gov/content/justice/human-rights/guide-and-service-dog>.