



# **The Cat Fanciers' Association, Inc.**

*"World's Largest Registry of Pedigreed Cats"*

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## **Ownership, not Guardianship:**

### **Keeping Our Rights to Protect Dogs and Cats**

The foremost defense against detrimental legislation or legal actions against cat or dog owners is the property status of animals. Animals may be possessed, bred, sold, leased and subjects of contracts in market commerce where their valuation is a function of supply and demand where prices include producers' costs and buyers' desire for scarce or value-added qualities. Claims by or against owners are settled by laws governing personal property including contracts, liability for damages to or by property, liens and wrongful taking or otherwise depriving an owner of property by damage or wrongful taking. The legal system reflects the economic reality that animals are produced to supply a demand by buyers who are willing to purchase them whether for personal enjoyment, to produce more animals or for utilitarian purposes.

#### **Property rights restricted**

Status of property does not mean that owners are not restricted as to how property is used. The law restricts use of animals in many ways just as it restricts the use of other types of property when a legally protected public interest is at stake. For example, the public has an interest in preventing immoral human behavior in causing unwarranted animal suffering just as it does in regulating historic buildings for social benefit. Such regulations recognize the inherent economic value of the property yet balance protection of property interests against the public interest.

Within the animal rights community are proponents of changing the status of animals from property to, for lack of a better term, persons. While extending various "rights" to animals can seem very reasonable in terms of conditions of animals' welfare or even enjoyment, changing their status as property would consequently eliminate the very owners' rights that ultimately protect animals and provide remedies that hold people legally accountable for a broad spectrum of acts involving animals.

While law school professors and students have written books and law review articles proposing schemes to eliminate property status for animals, these are largely incomprehensible to the average reader. However, In Defense of Animals of Mill Valley, California led by president, Dr. Elliot Katz has been conducting the "They Are Not Our Property" Campaign targeted to the public.

IDA writes, "companion animals" as an effort to "transform their social and moral status from property to living beings with their own needs and interests initially requires language changes from "owner" to guardian, "pet" to friend, "it" to he/she "that" to a given name and other like substitutions".

*The final goal is not social and moral but legal.* Advertising the campaign, Dr. Katz writes, "You can start by always adopting or rescuing animals, never buying or breeding them." Moving from rhetoric to legislation in 1999, Dr. Katz led the well publicized effort in San Francisco to use the term "guardian" as the equivalent of "owner" in the San Francisco Municipal Code. The proposal was passed by the San Francisco Commission on Animal Control and Welfare but has not found a sponsor among the Board of Supervisors.

### **San Francisco a joke?**

Worldwide media attention focused on the "guardianship" proposal in San Francisco, not because it was recognized as an incremental step to eliminating cats and dogs by eliminating breeding but because it sounded like a joke. Commentators snickered and speculated about pets suing people without realizing that in a legal context a guardian is not merely a person who "guards" but a person to whom the state (through the court) has merely given authority and responsibility to care for the person and assets of someone who cannot care for himself. The guardian has no personal interests to be protected and can protect the "ward" only through the authority of the state.

As applied to cats and dogs, gone would be the rights to breed, transfer, show or even possess along with all property interests in animals. If we are our animals' guardians, then the joke is on us.

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