

## **“GONE TO THE DOGS”**

When Ohio House Bill 416 was signed by former Governor Bob Taft in June, 2006, provisions within the legislation gave Ohioans the right to designate a pet as the beneficiary of a trust fund. The enactment of this new law, which went into effect in January, 2007, made Ohio one of 37 states which have adopted such “pet trust” legislation. It also pleased attorney Lacie O’Daire of the Cleveland legal firm of Walter & Haverfield LLP who, as an owner of several animals herself, realized that the new law would benefit both pets and their owners.

As Ms. O’Daire explains, a pet trust is a legal arrangement in which a designated trustee is given the financial means to provide for the care of an animal in the event of its owner’s illness or death. An owner may also provide specific instructions for the care of the pet, should he or she become unable to handle such caretaking responsibilities. “This allows us,” says Ms. O’Daire, “to statutorily create a trust to take care of animals. Before, the pet wasn’t a recognized beneficiary. If a family member was upset, they could get it overturned.”

Speaking from experience, Lacie noted that her own cat, Maggie, “could be a poster child for the law.” As she explained, “Maggie’s owner was put into a nursing home, where she eventually passed away. After her owner died, she spent ten months in a shelter without a window.” Unfortunately, Maggie’s story is not unique. According to Sharon Harvey of the Animal Protective League, the agency has accepted, since 2005, an annual average of 100 pets whose owners had recently died.

When considering the establishment of a pet trust, an owner must take several items into account. Included among these are the animal’s usual life span, the level of care which may be required and, if the pet itself passes away, how the remaining assets in the trust are to be disbursed. “When people think pet trust they think dogs and cats,” asserted Ms. O’Daire, “but it includes parrots, snakes, lizards and horses. A standard rule of thumb is \$25,000. You can get a small life insurance policy worth that, and name a trustee for the pet.”

Lacie recommends that plans for the care of a pet be made through the designation of a trustee in a separate trust provision in one’s estate planning documents or life insurance policy. It is also important to ensure that the person who agrees to care for a pet remains true to his or her commitment; consequently, she advises that separate individuals be named to serve as the trustee of the pet trust and as the actual animal caregiver. In such an arrangement, the trustee would be responsible for overseeing the actions of the caregiver, in order to ensure that the pet owner’s wishes were carried out.

Ms. O’Daire has, herself, already taken advantage of the new Ohio law. As the owner of a horse, two dogs and three cats, she chose to purchase a life insurance policy with a designated trustee who will be there to care for her own pets in the event that she would become unable to do so. “I think in time it will be more common,” she says. “If something happened to me, I would want them to be taken care of. Now that it’s in the statute, it’s more reasonable and practical for everyone to do it.”

Similarly, Lakewood resident Byron Nemeth, a web designer with Pacifica Studios, has used the new legislation to provide for his 5-year old tabby, Chiquita, who was rescued from an animal shelter. Summarizing the sentiments of many pet owners, he stated, “I’d sell off my entire studio to insure she’s cared for. It’s great that her trust will be protected and she will have rights—not that animals should have human rights—but animal rights need to be respected by humans.”

*(In order to read the entire article, please see the August 20-26, 2007 issue of Crain’s Cleveland Business, Vol. 28, No. 33, published by Crain Communications, Inc.)*