

## Are there dangers to dog parks?

**Dog parks make residents happy, well most of the time. Here are the watch outs from a liability and insurance perspective.**

Apartment landlords and condo associations are trying hard to keep up with the demands of existing, as well as prospective residents. The best places to live develop a true sense of community through activities and amenities.

One of the newest trends in amenities is setting aside space for dog owners to exercise their pets. The space, often called a "dog park," is typically a fenced area where dog owners or keepers can unleash the animal for free play with the owner or other dogs in the park. While responsible managers and associations keep gates and fencing maintained to prevent animals from exiting the park unleashed and provide trash cans for doggie bathroom breaks and other junk from human visitors, they need to go a few steps further.

Signage containing rules of conduct and even notifying park users of state laws on dog bites are an important component of risk management. While most pet owners using these spaces bring socialized dogs, it's never a sure bet that every dog will behave politely every visit. And, of course, there are the situations when an irresponsible dog owner or keeper will allow an untrained or violent animal loose in the park or a careless parent or childcare provider will permit a child to play unrestricted in the same space as the dogs.

If a dog bites or otherwise harms another dog or a person in your common-area dog park, you could face a liability lawsuit from the victim – even if you have posted signs and maintained the area. It's true that almost all states hold the dog's owner primarily responsible, even solely responsible, for many dog bites. However, many states have exceptions and some have "harboring" language that could expose dog-park property owners to findings of liability under the law.

As the owner of the common area where the dogs are permitted to run free, your apartment insurance or condominium association insurance's general liability policy would likely be sought as a source of compensation for injuries to victims. You could face lawsuits for damages or injuries, not to mention the often steep cost to defend such situations, that you would want your insurer to cover.

### Effect on Your Insurability

Because of the chronic nature of the exposure and the potentially exorbitant costs associated with a dog attack, some insurers are now reviewing the insurability of apartment buildings and condo associations that sponsor a dog park. If you have or are considering allotting space to a pet exercise common area, it is vital that you talk to your insurance agent *before you move ahead*. An unreported exposure like this can become highly problematic if there is a claim.

Additionally, since some insurers could decide against insuring residential complexes with dog parks, it may be possible to find liability insurance for the dog park separately from your commercial general liability insurance policy. While that may be possible, it takes an insurance agent who really knows the excess and surplus lines market, or other possible outlets.

Key to your acceptance by a commercial insurer is your risk profile. Some dog park owners have successfully shown insurance companies that they have minimized the dangers of liability, paving the way for liability insurance at affordable premiums. Both your legal counsel and risk manager can help you with ideas on mitigating dog-related injury and damage hazards. Those might include clear signage to all entering the grounds that the dog park is an "off-leash area" and that there is a danger of injury.

Keep in mind that a dog park is a lot like a swimming pool in that you can minimize hazards but you can never eliminate them. The key is practicing good facility management and very clearly informing users of their risks and responsibilities. Work with your insurance and legal advisors to formulate a

plan that will fit with your insurance coverage to make sure you have the most in financial protection for your apartment or condo community.

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