

Sunday Column – Companion Animals = Property

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It is only in recent years that state courts have begun to confront the status of companion animals as property. It doesn't seem right but, technically, that is what our pets are in the eyes of the law.

This means that if an owner simply doesn't want his dog anymore he can take her to the veterinarian or animal control shelter and have her euthanized. Not all shelters or veterinarians will perform this service for a trivial reason but there is nothing illegal about it if they do. The owner has the right to dispose of his property and the dog has no legal standing in this scenario.

This is beginning to change. In 2012, a California Court of Appeals determined that animals are fundamentally different than other forms of property. There were two cases before the court that year. One case concerned a dog injured through veterinary negligence in the course of a surgery. The other was a dog who was shot by a neighbor.

In both cases a lower court awarded compensation equal to the market value, or the cost of replacing the animal. In a world overpopulated with dogs and cats market value doesn't amount to much. It hardly captures the grief we feel when we lose our pets. It also didn't come close to compensating these pet owners for the veterinary fees incurred to treat the injuries inflicted on their dogs.

The court stated that, "Given...the reality that animals are living creatures, the usual standard of recovery for damaged personal property – market value – is inadequate when applied to injured pets."

Last year the Oregon Supreme Court heard a case in which a starving dog was removed from the owner's property and taken to a shelter. The shelter veterinarian drew blood in the process of assessing the animal's health and the owner was charged with animal cruelty.

In this case, the dog owner claimed unreasonable search and seizure of her property. However, the trial judge agreed with the prosecutor, that taking this owner's dog in for examination was similar to a suspected child-abuse victim taken into protective custody for examination and care.

The Oregon Supreme Court held up the decision of the trial court and this became the third in a series of landmark decisions in favor of companion animals in that state.

A couple of weeks ago we held a memorial service for a PAWS Humane alum I'll call Angel for the purpose of this column. She spent a few months with us, with a portion of that time in foster care. Angel loved everyone and we loved her back.

Angel was adopted into what appeared to be a “perfect” family. Six months later we got a call that her body had been found under a tree where she had been tied up and shot.

This is what keeps adoption counselors up at night. We do not pay these people enough to endure the grief caused by an adoption gone bad. You cannot judge a book by its cover and nothing about this adoption indicated the eventual outcome for this sweet dog.

In the case of Angel, the general consensus of law enforcement and animal control was that the owner had a right to shoot his own dog on his own property. As it turns out, this is not true, even here in the South, but that is how this case was handled. By the time we sought legal counsel it was too late for law enforcement to go back and do it right.

The times are changing and one day I am certain we will see animals for what they are, living sentient beings who deserve the most basic protections.

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