



# THE CAT FANCIERS' ASSOCIATION, INC.

World's Largest Registry of Pedigreed Cats

## Why CFA Supports “Owner” and Not “Guardian”

Animals have always been considered “property” in law. This property status is an important legal principle providing protection for pet owners with certain limitations. For instance, as tangible “property” owned animals cannot be confiscated without allowing Constitutional due process rights to the owner. Property status laws are the basis for commercial transactions regarding owned animals. Owners of cats and dogs also have liabilities including responsibility for damages caused by their animals and the need to comply with federal, state and local laws related to the welfare and control of their pets.

In the late 1970s animal “rights” advocates began to argue that animals should be equal to humans. Peter Singer in his 1977 book, *Animal Liberation*, claimed that “to discriminate against beings solely on account of their species is a form of prejudice, immoral and indefensible.....” A law student in 1977 proposed the idea of recognizing legal rights for “nonhumans”. She proposed existing guardianship laws, which are for protection of incompetent or human minors, as the model for protection of the rights of dogs and cats.<sup>1</sup> By the early 1980’s animal rights activists started using the term “guardian” instead of “owner” and in the 90’s the meaning of “guardian” became linked with taking away legal property rights of pet owners.

In 1999 the "guardian" word as a replacement for owner became part of a national campaign, led by In Defense of Animals, called "They Are Not Our Property - We Are Not Their Owners". IDA disavows the concept and language of animal ownership and seeks to "reconstruct the social and legal relationship between humans and animals".

IDA is a relatively small, independent animal rights group in Marin County California that has sought campaigns to distinguish itself from larger organizations. The Guardian Campaign fit this need by combining the ideological "animal rights" goal to eliminate the property status of animals with an immediate action plan to amend laws to substitute the word "guardian" for "owner" wherever local residents and lawmakers were willing to try. IDA and supporters argued that people would understand "guardian" to mean a higher level of responsibility for animals and hold themselves and others to a higher standard of care and treatment than an owner would. They sometimes progressed to equate owning with exploitation or abuse.

After IDA started their public efforts to change laws in 1999, owners, veterinarians and others came to see the campaign as an insidious plot to undermine the very existence of animals without, in effect, improving the value or treatment of animals. While no specific "guardianship"

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<sup>1</sup> Tischler, Joyce S., *Rights for Non-human Animals: A Guardianship Model for Dogs and Cats*, 14 San Diego L. Rev. 484 (1977).

model has yet emerged in a legal sense, many presume the legal meaning of "guardian" would impose only obligations and controls on owners. Those who kept animals would be without personal rights or economic interest, which would lead to litigation on a wide array of issues. IDA had hopes of "shifting the paradigm" of the legal, social and moral status of animals. However, over the last 10 years the "guardian" campaign has lost traction.<sup>2</sup>

The political reasons for The Cat Fanciers' Association's continued insistence on the use of "owner" are straightforward and practical. While some individuals or organizations may refer to "pet parent" or other friendly sounding terms, considering the legal context, it is important to maintain the word "owner". The use of "guardian" is a step toward an agenda that CFA believes does not benefit the animals or their owners.

The nature of human guardianship is fiduciary. The law is for the benefit of the human ward, not the guardian. Ownership of animals is a personal choice, often expensive or involving sacrifices in housing, work or other lifestyle decisions. Dogs and cats today are usually thought of as members of the family and individuals who want the benefits of pet ownership deserve to be protected by Constitutional property rights.

CFA's non-political reasons for exclusive use of "owner" are also straightforward and practical.

The Cat Fanciers' Association is a registry of pedigreed cats bred and owned by individuals who use the registry services based on their relationship to the cats as property. CFA has programs designed to benefit the welfare and health of all cats and to protect people's ability to own cats. The rights and obligations entailed in the concept of animals as property should be maintained, while people care for them humanely, in order to advance CFA's mission. CFA believes that pedigreed cat breeds, with their varied, valued and predictable traits, must be carefully preserved and passed down as a legacy. Use of any terminology outside the lexicon of property terms would confuse, complicate or stigmatize CFA's services of recording offspring bred and transferred.

CFA also has a very active international presence with participants around the world. Effective organizational communication with both domestic and overseas readers demands standard English usage with clear, easily translatable meanings. In fact, much of the international interest in cats as pets and participation in CFA activities has been possible only after the fall of communism and expansion of private ownership of property, including pet animals. This has helped raise the value of cats worldwide.

CFA actively promotes respect for and humane treatment of all cats. Populations fall across a spectrum from the owned and purposefully bred pedigreed cats to the loosely "owned" or cared for "neighborhood" cats to the completely feral (unsocial) freeroaming cats. In principle, CFA wants the owners of legally owned cats called owners and the caretakers of the remainder designated appropriately to specific contexts. For example, those who neuter and feed feral cats can be referred to as "caretakers" or "caregivers" when that is their only function. This avoids incongruous and sometimes unintended consequences that can deter well-meaning citizens from

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<sup>2</sup> For background and documentation, see "The Property Status of Animals" on The Animal Council website: <http://www.theanimalcouncil.com/property.html>

caring for cats other than those they own. This also distinguishes responsibility and avoids undermining the relationship of true owners with their own cats.

In recognition of these issues, at its October 3, 2003 meeting the CFA Board of Directors unanimously approved an official CFA position statement as follows: <sup>3</sup>

**I OWN my cat!! - CFA's statement concerning the "guardian" term:**

"The Cat Fanciers' Association, Inc. strongly supports caring and responsible pet ownership. CFA upholds the traditional property rights of animal owners that provide the basis for their ability to make decisions about their animals' well-being, including health, reproduction and transfer to a new owner. Owned cats are valued family members. As legal property, they cannot be taken away from us except by Constitutional due process. The term "guardian", whether inserted into animal laws or in common usage, contradicts this critical protective and personal relationship. CFA rejects the concept of animal "guardianship", which can be challenged or revoked, because of the potential legal and social ramifications that would negatively impact veterinarians, animal rescuers, breeders and sellers of animals as well as pet owners."

Other organizations have written letters or published statements in opposition to the use of "guardian". These include the American Veterinary Medical Association, The American Kennel Club, the Pet Industry Joint Advisory Council, the Animal Health Institute, National Animal Interest Alliance, the American Dog Owners Association, Responsible Pet Owners Alliance, TX, The California Veterinary Medical Association and the office of the Los Angeles City Attorney.

In 2000 Boulder, Colorado passed the first amendment to an animal ordinance to include the "guardian" term. Over the last 10 years there are only about 30 local jurisdictions throughout the United States that have legislated the term in animal statues in addition to the State of Rhode Island and one town in Canada.<sup>4</sup> There may be a few others, of which we are unaware, but the campaign has not gained significant momentum.

So far, language inserting "guardian" in animal laws defines the term to mean the same as owner. There is no legal change to the animals as property concept nor any law with a guardian structure similar to that in human law. Yet proponents claim the change in laws symbolizes a higher standard of care for cats and dogs that helps reduce animal cruelty. In CFA's view this is false and counter productive rhetoric. The campaign is a step toward an extreme animal rights goal to

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<sup>3</sup> CFA Guardian Statement; Use of the term animal "guardian" instead of owner.

<http://www.cfa.org/articles/guardian-vs-owner.html>

<sup>4</sup> 2000 – Boulder, Colorado

2001 – Berkeley and West Hollywood, California; Rhode Island; Sherwood, Arkansas

2002 - Amherst, Massachusetts/ Menomonee Falls, Wisconsin

2003 – San Francisco, California; Marin County (13 Cities joint powers agreement); Sebastopol, California; Woodstock, New York

2004 – St. Louis, Missouri; Albany, California; Wanaque, New Jersey; Windsor, Ontario

2005 – Bloomington, Indiana

2006 - Imperial Beach, California (San Diego area); Santa Clara County, California

2007 – San Jose, California

2008 – Beverly Hills, California

eliminate the raising and selling of cats and dogs or even the keeping of pets, seen by some as a form of exploitation. Gradually many involved with animals are realizing that use of the “guardian” term does not improve respect for or better care of animals and in fact lessens their protection.

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*Fanc-e-Mews*, January 1, 2010