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THE SCOOP

It's only been a few weeks since you moved into your new home. As a first-time homeowner, you are looking forward to renovating your newly purchased Victorian into your dream home. You are just about to get started scrubbing the walls for tomorrow's paint-job when the doorbell rings. To your surprise, an Animal Services investigator has come to educate you on the municipal bylaws in regards to proper pick-up of dog excrement.

Apparently your one and only Poochy has been spotted doing his dirty little deed on the corner house's lawn down the street on more than one occasion. The homeowner must have reported you! But there must be some mistake. As an animal owner for years, you have always responsibly kept your dogs on a leash and picked up after them on your daily walks. But you do recall the doggy door uncle Ted installed as a housewarming gift in the back door last. Now you know that Poochy has been using the door alright, but the incomplete backyard fence has obviously given him too much freedom. What a horrible way to settle into the new neighborhood!

According to municipal bylaws in the GTA, all it takes is one "poop" incident on private property without proper pick-up for the property owner to assert his or her rights, and if the incident occurs several times, a dog-owner could be taken to court and face a \$205 fine (multiple offences could stretch this fine up to \$5000).

After the Animal Services investigator leaves, you decide to pick-up Poochy's droppings at the corner house. You walk over to the corner house as a responsible neighbour and notice several "No Trespassing" signs on the lawn. About two meters into the lawn from the sidewalk you spot a little pile of Poochy's poop, but you realize that picking it up will require stepping on the lawn. Would this be trespassing? Has Poochy trespassed?

Surely picking up after your dog isn't considered trespassing! What should you do? As soon as a person sets foot on another's property when it is prohibited by use of a sign or fence, the trespass law comes into effect if the property owner decides to enforce it. Therefore, the homeowner can report you and you can be fined up to \$2000 for stepping on the prohibited lawn. Luckily, trespass is specific to humans because dogs cannot read a "no trespass" sign. So seem that poochy is off the hook!

But what about the dog poop in this situation? Should you pick it up to avoid being fined \$205? Maybe not, Animal Services cannot do more than visit your home and educate you unless they actually see Poochy do his business on your neighbour's lawn. Your neighbour could also take you to court for not picking it up and you could be given the \$205 fine in this forum, but this is unlikely to happen in this catch-22 situation. However, the court may give you a \$205 fine for your incomplete fence. Municipal bylaws make it an offence to have inadequate enclosure for an animal that is kept or has free access to the outdoors.

The best thing to do for now is to skip the painting project and get that fence fixed as soon as possible. In the meantime, seal off Poochy's little doggy door until your newly prioritized project is complete.

So remember, all dog owners should act reasonably by 1) keeping outdoor dogs enclosed with a fence, 2) picking up after their dog, and 3) not letting their pets do their business on a lawn that prohibits trespassing.

For more information about this or any other real estate law related topics please do not hesitate to contact John Poletes at 416-482-1902, or e-mail him at john.poletes@bellnet.ca