Oregon Guardian Connections
The Newsletter of the Guardian Conservator Association of Oregon
Issue Number 1 - May 2014

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The Pets Issue
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Contents
President’s Letter - 1
One Dog’s Story - 2
Pet Trusts: A new Oregon Statute opens options for pet owners estate planning - 4
The Feud: A cautionary tale - 6
Resource Corner: Rescue options for dogs, cats, horses or parrots - 7
Editor’s Note: Call for submissions

Presidents Letter

Dear Members and Friends of GCA:

If you were in our Members’ Meeting in February, you heard about all the ways that GCA is trying to improve communication throughout Oregon. We are exploring new ways to reach out to our colleagues, including our new Newsletter, Oregon Guardian Connections.

For this premier issue we say “Congratulations!” to our Editor-in-Chief,” Kevin Burke.

We hope that this newsletter will offer you another opportunity to read about what your colleagues are doing when faced with certain elements of the overall care and services they provide. Here, in our flagship issue you will see stories about pets, and it will serve as a reminder of pets as they relate to Person-Centered Planning.

You will find items of interest from the heartstrings and the purse strings!

So, we hope you enjoy this first attempt at another form of communication.
Please let us know what you think. Your constructive feedback is always welcome.

And, while you’re at it, please be thinking about ways that you might like to contribute in other ways, “behind the scenes” or on the front line, to create a stronger, more all-encompassing GCA. We believe that each of you has a special interest or talent that can be the source of betterment for GCA.

Creative thinking outside the box will infuse the GCA with energy that can help assure forward motion. And united, each member contributing that little something extra, we will make it an Association that is truly for the members, by the members.

1
Please feel free to suggest topics of interest for the next issue of Oregon Guardian Connections that will reach you in August. This is YOUR newsletter, so please consider it a project that will welcome your contributions.

Nancy
Nancy Doty, President
Guardian Conservator Association of Oregon

One Dog’s Story
Kevin Burke, Editor

It was about ten thirty in the morning when I parked my car in front of a house on a quiet street in North Portland. The walls were pale blue, recently painted. The roof and white metal front door also looked new. The owner had been fixing it up for the last phase of his life before everything went wrong. This was a neighborhood where people came home from work as plumbers, sheet metal workers or longshoremen. They raised their families, planned as well as they could and hoped for the best. Sometimes it didn’t work out the way they hoped.

The man who owned this house had developed a dementia and been virtually held prisoner in his own home by his alcoholic son. I was here to tie up a loose end. I had to evict the son so the house could be sold to pay for the owner’s care. The owner was well cared for, but he would never see his house again. All his life’s dreams had ended in one more of the of the million little tragedies guardians face every year.

The truly strange touch at the house that morning was a piece of plywood, about four feet by four feet, propped up on the porch with a sign that said Bewar of Dog written in what looked like black Sharpie. The handwriting looked like a child’s. I stopped at the chain link fence at the edge of the property, checked that I had a clear path back to my car and called out.

“Is anybody there?”

My chest felt the bass of the dog barking inside that house. Throaty, deep and relentless, the barking was one long sustained sound that built on itself like a rock guitarist blasting his own song to bits, growing louder when a black snout pushed open the storm door and one of the fattest dogs I ever seen waddled onto the porch.

She kept barking, the harsh thunder of her voice building like she was some hound of Hades, ready to drag anyone who did not give her a biscuit down to fire and
damnation. Strangely, she was wagging her tail and grinning all through the ferocious display.

“Whoosh gonna take care of this dog?!” a voice yelled from the shadows. A thin man stepped onto the porch and brushed past the dog. He steadied himself on the porch rail as he nearly stumbled down the steps towards me. A thick smell of cigarettes and beer hit my nostrils before he had gotten halfway down the walk. He had black hair and a thin mustache and an untrimmed beard sort of splashed across his chin and cheeks.

“Tell me that? Whoosh gonna take care of it. It’s not my dog. I’m not doing nothing for it.”

The dog moved with short waddling steps, sort of shuffling its feet to the edge of the porch. She stopped at the top of the first step and waited there, barking, wagging her tail and smiling at me with the half snarl of a scared barking dog that can mean anything from “are you my new friend?” to “I’m gonna take a chunk out of your leg!”

“Somebody’s got to come get this dog. It’s got to be put down,” the drunk man said. He weaved a bit as he watched me. I checked the door to make sure no one else was coming out.

“The old man’s dog has got to be put down.”

“Oh you don’t have to worry about the dog.” I said. “We’ll make sure his dog is okay.”

Once she realized we had biscuits the dog, her name was Star, thought putting on a new leash and heading out with one of my staff was a great idea. The vet who examined her said she did not need to be put down, she needed to be put on a diet, maybe take some arthritis medications. When Star showed up at my house the next day she could barely walk. Chrissy, our Chesapeake Bay retriever was so overjoyed to meet a new friend that her tail nearly spun off her hindquarters. Star wagged her tail. She grinned. She let me hoist her up the steps to our house.

The smell of old cigarettes made my stomach clench when I lifted Star into the tub for a bath. When I drained the tub the water was thick as river water with a charcoal-colored sediment. Star endured the bath the way dogs have always endured baths; she drooped her head and waited it out. I rubbed her head with one of our good bath towels and she shook her hindquarters and soaked my T shirt and my hair. That was the first time I saw her grin.

Agreeing to foster Star was the best mistake I made that year. I soon learned that though all the major breeds have organized rescue networks - foster care and placement assistance for Yorkies, Shelties or Pomeranians are fairly easy to find - there was no such thing as an overweight black lab mix rescue team. It’s been four years since that bath and Star is part of our family. She’s recovered from her exposure to second hand smoke and one small part of her owner’s story has a happy enough ending.
As fiduciaries we often are forced to make difficult decisions. For many clients there is nothing more important than knowing their treasured pets are safe. Adult family homes and assisted living facilities are increasingly willing to accept small dogs and cats as companion animals. But sometimes we are reduced to calling around, hoping for the best. Many times I have sighed with relief to hear that a willing neighbor has agreed to look after a forlorn cat. This first issue of the GCA newsletter is devoted to sharing stories and tips about rescuing the pets that were often the only solace for an isolated elder going through the crisis that lead to a protected proceeding.

**Pet Trusts**

Ellyn R. Stier, Attorney at Law, Lake Oswego Elder Law, P.C.

Oregon’s protective proceeding statutes charge a guardian with providing for the “care, comfort, and maintenance of the protected person.” ORS 125.315(1)(b) Pets provide an enormous amount of comfort to their human owners. Concerns of what will happen to their pets if placed in a long-term care facility that cannot accommodate pets or when they die are a source of enormous anxiety to pet owners. Fortunately, protected persons who have sufficient capacity retain their civil right to engage the services of an attorney and to create a will or revocable living trust which includes a special type of trust designed specifically for the care of pets.

Oregon’s pet trust statute, ORS 130.185, allows pet owners to create a trust naming a custodial caregiver, trustee, and/or enforcer of a trust created for the sole purpose of caring for the owner’s pets, either during a period of disability or after their death. Unless specifically addressed otherwise in a person’s will or trust, the law provides that any friend, family member or animal shelter can take custody of a pet valued at under $2,500.00 upon the death of its owner, and the Personal Representative need not account for the pet (ORS 114.215(3)). There is no guideline or oversight for the quality of care the pet receives. Unless the Personal Representative intervenes, the pet could be given away to a stranger or euthanized. However, a Personal Representative has no authority unless or until appointed by the court.

If a protected person has sufficient capacity to generally know what property they own, who their natural heirs (i.e. closest relatives) are, and identify their pets and rationally determine an amount of money to set aside for the care of their pets, he or she can work with an attorney to create a pet trust. Even a person subject to a conservatorship can potentially have sufficient capacity to create a pet trust. The threshold is much lower than the capacity required to enter into a contract or to execute a deed.

There are three potential persons or agencies to identify when creating a pet trust: the caregiver, the trustee, and the enforcer. Of
course, they can be one and the same, but in situations where the remainder beneficiaries of the pet trust are greedy relatives or non-pet lovers, it is wise to have these checks and balances in place. The pet trust statute in itself does not require any standard of care for a pet, or any type of annual report or accounting. The standard of care might include language regarding regular veterinary check-ups, appropriate housing and companionship, recommended training, boarding and/or day-care instructions, and end-of-life provisions similar to those found in an Advance Directive or POLST for humans. The caregiver selected for the pets should be someone who is willing and able to follow these instructions, and the trustee should have sufficient funds to honor these wishes. The pet owner might consider including all of their supplies associated with the care of the pet in the bequest to the trust. A colleague included their client’s dog’s favorite easy chair in their pet trust.

Many experts recommend a minimum of $25,000.00 per pet to fund a pet trust, which can be managed by an individual or a professional trustee, especially if the pets have medical issues or special needs for training and care. The role of the trust enforcer is to then make sure that the funds are being properly disbursed solely for the care of the pets, and that the caregiver is honoring the pet owner’s wishes. The most common disputes about pet trusts come from greedy remainder beneficiaries who want a sick or elderly pet to be euthanized rather than to continue to expend trust funds for the pet’s care. For these reasons, oral or self-help pet trusts should be discouraged. The trust enforcer, like the trustee, can be compensated for their service if appointed by a court or if the terms of the trust itself allow for compensation. If the protected person so desires, they could nominate their current fiduciary to serve as the trustee and/or enforcer of the pet trust.

A simpler solution for pet owners who do not have sufficient funds, or who do not have a caregiver that they can name in a pet trust, is to leave their pets to a rescue organization or no-kill shelter in their will or trust. However, there is no guarantee that the rescue will agree to take the pet, or even have room. The Oregon Humane Society has a “Friends Forever” program where they will ensure placement in a new home if they are left a gift of any amount in the pet owner’s will or trust. They will even honor a right of first refusal if the pet owner designates a person they would prefer to adopt the pet.

Pets, like children, need immediate care upon the death of a protected person. It is wise for a fiduciary to discuss the protected person’s wishes and plans for their pets as soon as practicable after the fiduciary is appointed and determine if a referral to an attorney to discuss the creation of a pet trust is warranted.

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The Duel
By Eugene Field

The gingham dog and the calico cat
Side by side on the table sat;
'T was half-past twelve, and (what do you think!)
Nor one nor t' other had slept a wink!
   The old Dutch clock and the Chinese plate
   Appeared to know as sure as fate
There was going to be a terrible spat.
   (I wasn't there; I simply state
   What was told to me by the Chinese plate!)

The gingham dog went "Bow-wow-wow!"
And the calico cat replied "Mee-ow!"
The air was littered, an hour or so,
With bits of gingham and calico,
   While the old Dutch clock in the chimney-place
   Up with its hands before its face,
For it always dreaded a family row!
   (Now mind: I 'm only telling you
   What the old Dutch clock declares is true!)

The Chinese plate looked very blue,
And wailed, "Oh, dear! what shall we do!"
But the gingham dog and the calico cat
Wallowed this way and tumbled that,
   Employing every tooth and claw
   In the awfullest way you ever saw---
And, oh! how the gingham and calico flew!
   (Don't fancy I exaggerate---
   I got my news from the Chinese plate!)

Next morning, where the two had sat
They found no trace of dog or cat;
And some folks think unto this day
That burglars stole that pair away!
   But the truth about the cat and pup
   Is this: they ate each other up!
Now what do you really think of that!
   (The old Dutch clock it told me so,
   And that is how I came to know.)
Rescuing and Placing Pets

First the good news. As caregiving options have multiplied so have the number of care settings that will accept pets. We have helped parrots live in nursing homes, cats join their owners in assisted living settings and made sure many dogs could stay with their people in Adult Family Homes. So many times just asking around is all it will take to help your client keep their pet.

Caregivers know that pets provide their clients with joy, solace and entertainment and reduce medical bills. For many vulnerable elders loving a treasured pet is a big part of what keeps them going. All this adds up to caregiving settings having good reasons to support pet ownership.

But a big if must be inserted in that equation. If the client can take care of their animal companion, pet ownership works for the caregivers and the client. Sometimes this simply cannot happen. Many facilities will allow staff to provide some help with pets, but there comes a time when a pet must find a new home. The fiduciary must take to the computer and phone and try and save an animal.

The following information was gathered to help you get started. You will need to do your own research and make your own arrangements, but hopefully the ideas here will help inspire you and provide networking opportunities.

Dogs

Your local shelter or humane society will have its own policies and procedures. Check into them. On one of my first cases I got a call to authorize euthanasia for the terribly neglected Yorkshire Terrier of a woman who had developed severe dementia. The dog had been dropped off at the local animal shelter prior to my appointment.

I traveled down to the shelter and visited with the staff there. The Yorkie needed several hundred dollars’ worth of grooming and veterinary attention, but I was able to locate a breed specific rescue group that picked her up from the vet and found her a foster placement until she could be placed in a new home. The cost was not significantly greater than the shelter’s proposed bill for euthanizing the dog. And for the rest of my client’s life she got to hear that her beloved “Arnold” was happily placed every time I visited her.

If you need to place a pure bred dog your first stop should be the American Kennel Club’s website. Click Breeds at the top of the page and you will see a place to click on Breed Rescue. Type in the breed of dog and see where the closest rescue society specific to that breed is located. With just a bit of
effort I was able to find Oregon Basset Hound Rescue. Most of these rescue networks are loose associations of volunteers that will find foster placement for a pooch awaiting adoption.

If no breed specific rescue is available, RescueMe.org is a lovely website that has a specific link to Oregon Dog Rescue. Just go to the website and type Oregon Dog Rescue groups into the search engine. In addition to shelters their list of Oregon rescue groups includes a number of alternative rescue groups with names like Ananda Animal Rescue and Sanctuary and Sanctuary One. Many sanctuaries are dedicated to taking animals awaiting euthanasia in shelters, but at the least a sanctuary local to you will be a good place to start networking.

Cats, Cats, Cats

Helping cats stay with their person can be much easier than helping dogs make the transition to a care setting. But finding new homes for cats can be like selling popsicles in a blizzard. Most fiduciaries have stories about staff taking in homeless felines. You need to remember you are standing in the shoes of the homeless pet’s companion. Kitties you are helping are not “unowned” (the worst classification for animals seeking adoption) and ought to be eligible for placement at the Humane society or foster programs. Networking and financial support can bring results. Some additional options for assistance include:

CRAFT; Cat Rescue Adoption and Foster Team of Central Oregon (Bend Area)

CAT; Cat Adoption Team in Sherwood Oregon

Cats’ Cradle Rescue: Portland Area

Rabbits

Oregon has some Rabbit rescue societies including Red Barn, Rabbit Rescue in Creswell, Rabbit Advocates in Portland and the Oregon House Rabbit Society.

All Animals Sanctuaries

There are farm animal sanctuaries in Oregon including Out to Pasture Sanctuary, Lighthouse Farm Sanctuary, Wildwood Farm Sanctuary and Green Acres Farm Sanctuary. All have websites and a much greater need for their services than availability for placement. As with other animals finding a home for a goose or a hen will take networking and sanctuaries can be a great place to start.

Don’t give up!

You would not think of giving up when your client needs help with their care. The safety and happiness of their pet can mean everything to your client’s emotional wellbeing. For example, I learned a few years ago that fish stores will often take exotic fish when their owners can no longer support a fish tank. Deliver fish to store for adoption, one point five hours, no-charge, read the staff billing log for that activity. When our client pulled through his medical crisis one of the first things he asked was if we had taken care of his fish.
**Book Blurb**

*Guardian: The Art of Restoring Lives*

*By Kevin Burke*

(Excerpt from the foreword) Since 2001 I have been a professional guardian, a job that is equal parts medical protector and financial bodyguard. This book tells the story of my small part in the battle against one of the great crime waves of history -- the looting of the estates of elderly Americans.

The statistics of elder financial abuse in America are staggering. The best estimates are that something like two point seven billion dollars a year are scammed from as many as a million victims. Financial abuse of the elderly is a quiet crime. Victims are isolated from their families and coerced into assisting in their own downfall. Bank accounts are transferred and deeds are executed by vulnerable elders who may not even understand what they are signing.

Something awful happens to elders who are ripped off by corrupt caregivers, phony investment advisors or the sweet young gal they met in the produce department at Safeway or Kroger. They become depressed, stop eating, stop caring and turn away from this world. People who steal money from elders also steal lives, but those lives can be restored.

The stories here have been adapted from some of my first cases. I have changed the names and rearranged details and anecdotes to protect identities, but the stories are essentially true.

*Guardian* can be purchased at the Espresso Book Machine at Powell’s or through my website, kevinburkewrites.blogspot.com.

**Editor’s Note**

Thanks so much for taking a look at our first issue. We are looking forward to providing a format for communication, inspiration and the exchange of resources for GCA members and friends. Please do submit articles, thoughts and notices. Details of our next issue are as follows:

**Welcome to the New GCA**

Full reveal of the newly reorganized GCA

How to get involved!

What we hope to accomplish!

Random Submissions of items of interest to professional fiduciaries are always encouraged!

Deadline August 1st, 2014