

STAFF REPORT*CITY OF OCEANSIDE*

DATE: January 7, 2015

TO: Honorable Mayor and City Councilmembers

FROM: John P. Mullen, City Attorney

SUBJECT: Introduction of an Ordinance Adding Section 4.6.5 to the Oceanside City Code to Regulate the Retail Sale of Dogs and Cats

I. SYNOPSIS

The item before the City Council is the introduction of an ordinance creating a new city code section to prohibit the retail sale of dogs and cats unless the dog or cat is obtained from an animal shelter, a humane society, animal rescue organization, or non-commercial breeding establishment. The ordinance does not apply to persons or businesses selling dogs or cats from the location where the animal is born and reared. Existing pet stores are provided approximately six months from the effective date of the ordinance to comply with the new requirements.

II. BACKGROUND

On September 25, 2013 and December 3, 2014, the City Council heard public testimony on proposals to create a city code section to regulate the sale of dogs and cats from pet stores in the City of Oceanside. Substantial public opposition to the sale of dogs from "puppy mills" was presented to the Council during the two public meetings.

The American Society for the Prevention of Cruelty to Animals ("ASPCA") defines a puppy mill as "a large-scale commercial dog breeding operation where profit is given priority over the well-being of the dogs. Unlike responsible breeders, who place the utmost importance on producing the healthiest puppies possible, breeding at puppy mills is performed without consideration of genetic quality. This results in generations of dogs with unchecked hereditary defects." (<http://www.asPCA.org/fight-cruelty/puppy-mills/puppy-mill-faq>). The United States Humane Society has documented the veterinary problems associated with puppy mill dogs. This research, along with several puppy mill investigations is found at: <http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html>). Investigative reports on puppy mills compiled by the Companion Animal Protection Society are found at: (<http://www.caps-web.org/component/k2/item/456?Itemid=269>).

During the public testimony on December 3, 2014, the City Council was presented with evidence alleging that the operator of the Oceanside Puppy store obtains his animals from breeding facilities that meet the characteristics of a puppy mill. Furthermore, speakers claimed that Oceanside Puppy allegedly obtains some of their puppies from breeders cited for indirect violations of USDA regulations. Subsequent to the December 3, 2014 public meeting, advocates in favor of local regulation have sent to the City Council various reports concerning the license status of breeders who supply dogs to Oceanside Puppy. (Ex. 1)

Following public testimony on December 3, 2014, the City Council directed the City Attorney to draft an ordinance prohibiting the sale of dogs or cats from pet stores unless the animal is obtained from an animal shelter or a rescue organization. The Council indicated that the existing pet shop should be provided at least six months following the effective date of the ordinance to come into compliance.

III. THE DRAFT ORDINANCE

The proposed ordinance is similar to local ordinances restricting the sale of dogs and cats at pet stores that have been adopted by several dozen cities in the United States, including approximately sixteen California cities. The California cities that have adopted ordinances include, among others, the cities of San Diego, Chula Vista, Huntington Beach, Laguna Beach, Dana Point, Irvine, Aliso Viejo, West Hollywood, Los Angeles and South Lake Tahoe.

The proposed Oceanside ordinance adds sections 4.6.5(a) through (f) to Chapter 4 of the Oceanside City Code. The draft ordinance provides that “[n]o Pet Store or Pet Store Operator shall engage in the Retail Sale of dogs or cats on or after the effective date of the ordinance codified in this chapter unless the dog or cat was obtained by the Pet Store or the Pet Store Operator from an Animal Shelter; 2. the Retail Sale is authorized by subsection c of this section; or 3. one of the exemptions in subsection d of this section applies.” The term Retail Sale includes “to display, offer for sale, barter, auction, give away, lease, or transfer of any dog or cat.” Section 4.6.5(a)(8). The term “Animal Shelter” is defined in section 4.6.5(a)(1) to include a public animal shelter, a humane society, or duly incorporated organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs or cats.

The draft ordinance allows the retail sale of dogs or cats provided the animals are obtained from a non-commercial breeding establishment, defined as a person, firm, partnership, corporation or other entity that has sold, transferred or given away all or part of three or fewer litters, or less than twenty (20) dogs, or less than (20) cats during the preceding twelve (12) months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

Section 4.6.5(c) of the proposed ordinance allows existing pet stores currently in compliance with the City Code to continue to engage in the retail sale of dogs or cats until September 1, 2015.

The proposed ordinance does not apply to: 1. a person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, leases or otherwise transfers or disposes of dogs or cats that were bred and reared on the premises of the person or establishment; 2. a publicly operated animal shelter; 3. a private humane society or animal rescue organization; and 4. a publicly operated animal shelter, humane society, or animal rescue organization that operates out of or in connection with a pet store.

IV. LEGAL CONSIDERATIONS

A. Lawsuits are pending in several cases challenging local pet store ordinances

Oceanside is not the first city to consider whether to adopt an ordinance regulating the sale of dogs or cats at pet shops. There have been several lawsuits filed by pet shop owners and/or breeder organizations challenging the validity of local ordinances similar to the one proposed for Oceanside. This office is aware of at least five cases that have been filed in federal courts throughout the country.

David Salinas, the owner of Oceanside Puppy, filed a lawsuit in federal court in the Southern District of California alleging that the City of San Diego violated various provisions of the United States Constitution when it adopted an ordinance substantially similar to the ordinance before the City Council. Mr. Salinas' application for a temporary restraining order to halt implementation of the statute was unsuccessful. Furthermore, on December 13, 2013, the court denied Mr. Salinas' application for a restraining order to enjoin protestors from engaging in expressive activity at his pet store. Thereafter, Mr. Salinas dismissed the City of San Diego from the case and both of plaintiffs' lawyers withdrew as counsel. Nevertheless, Mr. Salinas continued his suit against several private individuals and organizations who advocated in favor of the City of San Diego ordinance. That case was dismissed on September 11, 2014 and the successful defendants are entitled to recovery of their attorney fees incurred in the case. Attorney fees motions are pending before the district court.

Our office is following several other federal court cases involving challenges to ordinances regulating the sale of dogs or cats in commercial pet stores. These cases are pending in the federal courts in Arizona, Illinois, Rhode Island and Florida. It is important to note that none of these cases has resulted in a final judgment and, therefore, none provide definitive guidance at this point.

The case in Arizona arises from a local ordinance adopted by the City of Phoenix that went into effect immediately after its adoption. This ordinance restricts pet stores from selling dogs unless obtained from a rescue organization or a shelter. The federal district court enjoined enforcement of the ordinance until the case is decided on the merits. Discovery in that case is ongoing and the City of Phoenix will be filing a motion for summary judgment on or before February 5, 2015. It is possible a judgment in this case could be appealed to the Ninth Circuit Court of Appeals.

The case in Illinois was filed by the Missouri Pet Breeders Association and a local pet store and challenges the validity of an ordinance adopted in April 2014 by the Cook County Board of Commissioners. The ordinance requires that pet stores purchase dogs from rescue groups, humane societies, government run shelters and breeders who use no more than five reproducing females. Cook County stipulated to stay enforcement of the ordinance during the pendency of the case. The County has filed a motion to dismiss the case for failure to state a viable legal claim. All briefs are required to be filed by February 16, 2015 and a decision from the district court is anticipated in March 2015.

The case in Rhode Island stems from the adoption of a local ordinance passed by the East Providence City Council. The ordinance bans the sale of dogs or cats in commercial establishments and became effective immediately after its passage. A local pet store has filed suit alleging violations of several clauses of the United States Constitution. The City and the pet store have filed motions for summary judgment and the court has received oral argument. The parties are now waiting for a decision from the federal court.

The final case involves an ordinance adopted by the city of Sunrise, Florida. The law prohibits the sale of dogs or cats that are bred in an industrialized breeding operation, a process by which the mother is forced to produce multiple litters per year. The stores are allowed to obtain dogs and cats from a "hobby breeder" defined to include a person or entity that causes or allows the breeding or studing of a dog or cat resulting in no more than a total of one litter per calendar year. A local pet store challenged the validity of the law in a state court lawsuit. That case was removed by the city to federal court on June 17, 2014. Plaintiff has filed a motion for a preliminary injunction to be heard on January 8, 2015.

B. Litigation will likely focus on Commerce Clause, Equal Protection And Due Process Issues

As explained above, we are waiting on decisions in several cases challenging city and county pet store ordinances. There is a significant possibility of litigation attacking the Oceanside ordinance if it is adopted. We anticipate opponents will argue that the ordinance violates the Commerce, Equal Protection, and Due Process Clauses of the United States Constitution.

The Supreme Court has adopted a two-tiered approach to analyzing state economic regulation under the Commerce Clause. First, if a state directly regulates or discriminates against interstate commerce or when its effect is to favor in-state economic interests over out of state interests, the Court has generally struck down the statute without further inquiry. Second, if the law has only indirect effects on interstate commerce and regulates evenhandedly, the Court looks to whether the state's interest is legitimate and whether the burden on interstate commerce clearly exceeds the presumed benefits of the statute. This test will also apply to the review of local ordinances under the Commerce Clause.

The United States Court of Appeals for the Ninth Circuit issued a decision in a Commerce Clause case in 2013 that is instructive. In that case, out of state companies sought to enjoin enforcement of a California law banning the sale of any product that is the result of force feeding a bird. The court determined the law prohibiting the sale of foie gras produced through force feeding was not discriminatory since it banned both intrastate and interstate products. The appellate court also found that the state had a legitimate interest in preventing animal cruelty. As noted by the court, “[p]laintiffs give us no reason to doubt that State believed that the sales ban in California may discourage the consumption of products produced by force feeding birds and prevent complicity in a practice that is deemed cruel to animals.” *Association Des Eleveurs De Canards Et d’Oies Du Quebec et. al v State of California*, 729 F.3d 937, 952 (9th Cir. 2013). Finally, the court rejected the notion that the state law amounted to a total ban on the sale of foie gras. The court concluded that the law precludes a more profitable method of operation—force feeding birds for the purpose of enlarging its liver. “It may be that Plaintiffs are precluded from using force feeding to produce foie gras, but the dormant Commerce Clause does not . . . guarantee Plaintiffs their preferred method of operation.” *Id.* at 949.

It is difficult to predict how a court will rule on a Commerce Clause challenge to Oceanside’s ordinance, if adopted. However, the Ninth Circuit decision in the foie gras case is helpful. The proposed Oceanside ordinance, like the state law in the foie gras case, treats out-of-state interests on par with in-state interests. While there may be an incidental burden on commerce generally, there appears to be no additional burden on *interstate* commerce. Since the proposed ordinance does not discriminate between in-state and out-of-state interests, a reviewing court will look to whether any incidental burden on commerce is clearly excessive to the presumed benefits of the ordinance.

As reflected in the draft findings before the Council, the ordinance seeks to advance several local goals, including curbing the overpopulation of dogs and cats in the City, protecting the City’s general fund by stabilizing the City’s state mandated costs of animal control and shelter expenses, promoting the humane treatment of dogs and cats, and protecting consumers of dogs and cats. Similar to the foie gras case, the findings reflect the City Council’s concern about becoming complicit in disturbing breeding

practices, even if the practices are not illegal under federal law. The detailed legislative findings set forth in the draft ordinance demonstrate each of these issues have a factual basis.

A lawsuit challenging the Oceanside ordinance, if adopted, may also raise equal protection claims due to the exemptions contained in section 4.5.6(d). Equal protection of the laws requires that people who are similarly situated with respect to the legitimate purpose of the law receive like treatment. However, the Equal Protection Clause does not mean that any regulation that treats one group differently from another violates the Constitution. Laws that draw lines do not violate equal protection when the statute distinguishes persons on a permissible basis. Ordinances that regulate economic activity (not based on a race, religion or some other protected classification) are subject to the “rational basis” test. Under this test, the ordinance will be upheld if there is any “reasonably conceivable set of facts that could provide a rational basis for the classification.” Using this test, the California Court of Appeal upheld the City of Los Angeles’ mandatory spay/neuter statute based upon the City’s stated purpose of controlling its pet overpopulation problem and promoting the public health and safety of the community. *Concerned Dog Owners of California v City of Los Angeles* (2011) 194 Cal.App.4th 1219.

The draft Oceanside ordinance is supported by the detailed findings that attempt to satisfy the rational basis standard. For example, the findings demonstrate that the City’s animal control contractor is receiving several thousand dogs and cats each year at its Oceanside campus. The ordinance aims to improve the adoption rates at these facilities and thereby lower the local euthanasia rates. The findings also reflect the Council’s concern with the rising cost of meeting the City’s shelter and animal control obligations under state law. In addition, the findings also reflect the Council’s concerns about the conditions found in many puppy and kitten mills and the need to protect consumers from the veterinary problems often found with puppy mill animals.

Finally, it is possible that an opponent may allege due process violations in a future lawsuit. A law violates due process when it fails to provide adequate notice to people of ordinary intelligence of the conduct that is prohibited and the standards to protect against arbitrary enforcement. An opponent raising this issue, however, will face an uphill battle. A party that challenges the facial validity of an ordinance on vagueness grounds generally must “demonstrate that ‘the enactment is impermissibly vague in all of its applications.’” (*Hotel & Motel Assn. of Oakland v. City of Oakland* (9th Cir. 2003) 344 F.3d 959, 972.) Facial challenges are considered “manifestly, strong medicine that has been employed by the Court sparingly and only as a last resort.” (*California Teachers Assn. v. State Bd. of Education* (9th Cir. 2001) 271 F.3d 1141, 1155.). A due process challenge on vagueness grounds would be difficult for an opponent to successfully pursue.

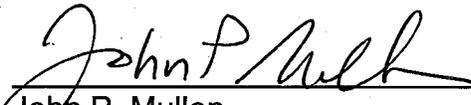
An opponent may also claim the ordinance violates due process because is not a valid exercise of the City's police power. Similar arguments attacking animal control regulations have been rejected by the California appellate courts. In the Los Angeles spay/neuter case discussed above, the appellate court reiterated prior precedent from the California Supreme Court holding that the licensing of dogs and the regulation of the manner in which they are kept and controlled are within the legitimate sphere of the City's police power. *Id* at 1234. According to Health and Safety Code section 121695, a local entity's authority to regulate and control dogs within its boundaries should be construed broadly and nothing in the state statute prohibits the City from enacting more stringent requirements that set forth in state law.

V. CONCLUSION

The ordinance before the City Council is consistent with the direction provided on December 3, 2014 and is ready for introduction. As detailed above, litigation is likely and none of the pending four federal cases has yet resulted in a final judgment. The ordinance has been crafted to protect the City against the potential claims that may be filed if it is adopted. Unlike many of the local ordinances in the pending cases, the proposed ordinance includes an approximate six-month amortization period to enable the existing pet store time to modify its business practices to comply with the law. Nevertheless, there remains a substantial risk of litigation. While the City's position is defensible for the reasons set forth above, it is difficult to predict with certainty given the lack of precedent from the courts.

A representative from the Pet Industry Joint Advisory Council ("PIJAC") met with the City Attorney after the City Council's December 3rd meeting. That organization opposes the council direction and instead supports ordinances adopted in Rockland and Nassau counties in New York. Those ordinances prohibit the sale of puppies less than eight weeks old. They also limit the sale of animals if the breeder has uncured direct violations of USDA over a defined time period. The New York laws also forbid the sale of animals if the breeder has three or more indirect violations in the prior year. Finally, the ordinances also include regulations relating to the primary animal enclosures. A copy of the documents provided by PIJAC is attached as Exhibit 2.

PREPARED BY:



John P. Mullen
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE ADDING SECTION 4.6.5 TO CHAPTER 4,
ARTICLE 1 OF THE OCEANSIDE CITY CODE TO REGULATE
THE RETAIL SALE OF DOGS AND CATS

WHEREAS, the City Council of the City of Oceanside makes the following findings:

1. The City of Oceanside (“City”) is a charter city under Article XI, section 5 of the California Constitution and is authorized to make and enforce all ordinances with respect to its municipal affairs; and

2. The City is subject to several statutory obligations for animal control and animal sheltering services; and

3. California Health & Safety Code sections 121690(e)-(f) require cities and counties to “maintain or provide for the maintenance of a pound system and a rabies control program” as well as “to provide dog vaccination clinics, or to arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city...”; and

4. California Health and Safety Code section 121695 provides that “[n]othing in this chapter and [s]ection 120495 is intended or shall be construed to limit the power of any city, city and county, or county in its authority in the exercise of its police power or in the exercise of its power under any other provisions of law to enact more stringent requirements, to regulate and control dogs within the boundaries of its jurisdiction.”; and

5. California Food & Agricultural Code section 31105 requires cities and counties to provide for: “(a) The taking up and impounding of all dogs which are found running at large in violation of any provision of this division and (b) The killing in some humane manner or other disposition of any dog which is impounded”; and

6. California Health and Safety Code section 31106 allows a city to enter into a contract with a humane society or other organization to fulfill its obligations under California Food and Agricultural Code section 31105; and

1 7. The Oceanside City Code, Chapter 4, establishes a system to satisfy the state
2 requirements and the City has contracted with the San Diego Humane Society and S.P.C.A.
3 (“SDHS”) to administer its state mandated duties under Chapter 4 as well as to provide
4 additional animal control and sheltering services; and

5 8. The Professional Services Agreement (“PSA”) between the City and the
6 SDHS became effective June 26, 2013 (Document No. 13-D0460-1). That agreement requires
7 the City to pay SDHS \$823,632 annually, plus an annual increase based upon the consumer
8 price index, for the animal control and sheltering services provided to the City; and

9 9. Statistics maintained by SDHS confirm that there is a significant dog and cat
10 overpopulation issue in Oceanside. Stray dogs taken in by SDHS under the PSA are housed at
11 2905 San Luis Rey Road in Oceanside. Stray cats are brought to 572 Airport Road. In fiscal
12 year (“FY”) 2010-2011, (July 1 to June 30 of the following calendar year), 3,188 stray dogs and
13 cats from Oceanside were received by the SDHS at the two Oceanside locations. In FY 2011-
14 12, 3,296 stray dogs and cats from Oceanside were received by the SD Humane Society at the
15 two Oceanside locations. In FY 2012-2013, 3,243 stray dogs and cats from Oceanside were
16 received by the SD Humane Society at the two Oceanside locations. In FY 2013-2014, 3018
17 stray dogs and cats from Oceanside were received by the SDHS at the two Oceanside locations.
18 SDHS euthanizes approximately 7 percent of the stray dogs and cats it takes in under the PSA;
19 and

20 10. Stray dogs and cats from the City of Vista are also received by the San Diego
21 Humane Society at the Oceanside campus and SDHS accepts owner surrenders at its Oceanside
22 campus. Therefore, the Oceanside campus receives roughly 5,000 dogs and cats each year
23 including owner surrenders and strays.

24 11. The City Council of the City of Oceanside received public testimony on
25 September 25, 2013 and December 3, 2014 prior to debating whether to give direction to staff
26 to draft a proposed ordinance to regulate the commercial sale of dogs and cats; and

27 12. Based upon the public testimony and evidence presented, the City Council finds
28 that the allowing the sale of dogs and cats from commercial breeding operations contributes to

1 the pet overpopulation problem in Oceanside; and

2 13. Existing federal and state laws, including the federal Animal Welfare Act,
3 the California Lockyer-Polanco-Farr Pet Protection Act, the California Polanco-Lockyer Pet
4 Breeder Warranty Act, and the California Pet Store Animal Care Act, illustrate society's trend
5 towards promoting the humane treatment of animals by regulating dog and cat breeders, as well
6 as pet shops and stores; and

7 14. According to the Humane Society of the United States ("HSUS"), hundreds of
8 thousands of dogs and cats in the United States have been housed and bred at substandard
9 breeding facilities known as "puppy mills" or "kitten factories" that mass-produce animals for
10 sale to the public, and many of these animals are sold at retail in pet shops. The HSUS research
11 is available at: [http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-](http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html)
12 [research.html](http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html). Investigative reports on puppy mills compiled by the Companion Animal
13 Protection Society are found at: ([http://www.caps-](http://www.caps-web.org/component/k2/item/456?Itemid=269)
14 [web.org/component/k2/item/456?Itemid=269](http://www.caps-web.org/component/k2/item/456?Itemid=269)); and

15 15. Because of the lack of proper animal husbandry practices at these facilities,
16 animals born and raised at these "puppy mills" and "kitten factories" are more likely to have
17 genetic disorders and lack adequate socialization, while breeding animals utilized there are
18 subject to inhumane housing conditions and are indiscriminately disposed of when they reach
19 the end of their profitable breeding cycle; and

20 16. Prohibiting the unregulated sale of dogs and cats in pet shops may lower the sale
21 of dogs and cats from inhumane "puppy mills" and "kitten factories," may lower the shelter
22 animal euthanasia rate, and lead to a greater adoption rate of shelter and recued animals; and

23 17. There are many reputable, responsible dog and cat breeders who refuse to
24 sell through pet shops and who work carefully to screen families and ensure good, lifelong
25 matches; and

26 18. The City seeks to prohibit the sale of dogs and cats in pet shops, unless the
27 animals are obtained from a city or county or other governmental animal shelter or animal
28 control agency, humane society, animal rescue organization, or non-commercial breeding

1 establishment; and

2 19. The City Council, after hearing the testimony and evidence presented on
3 December 3, 2014, directed the City Attorney to draft an ordinance to regulate the sale of dogs
4 and cats from pet stores in Oceanside; and

5 WHEREAS, the City Council heard additional testimony and evidence on January 7,
6 2014.

7 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

8 SECTION 1. Sections 4.6.5(a) through 4.6.5(f) are added to Chapter 4 of the Oceanside
9 City Code as follows:

10 a. *Definitions.* For purposes of this chapter, the following definitions shall apply:

11 1. "Animal Shelter" means a public animal shelter operated by any city or any
12 county or other public agency or an entity operating under contract with any city or county or
13 other public agency. Animal Shelter shall also include a humane society or duly incorporated
14 organization devoted to the rescue, care and adoption of stray, abandoned or surrendered
15 animals.

16 2. "Cat" means an animal of the Felidae family of the order Carnivora.

17 3. "Certificate of Source" means a document declaring the source of the dog
18 or cat sold or transferred by the Pet Store. The certificate shall include the name and address of
19 the source of the dog or cat.

20 4. "Non-Commercial Breeding Establishment" means a person, firm,
21 partnership, corporation or other entity that has sold, transferred or given away all or part of
22 three or fewer litters, or less than twenty (20) dogs, or less than (20) cats during the preceding
23 twelve (12) months that were bred and reared on the premises of the person, firm, partnership,
24 corporation, or other association.

25 5. "Dog" means an animal of the Canidae family of the order Carnivora.

26 6. "Existing Pet Store" means any Pet Store or Pet Store operator that
27 displays, sells, delivers, offers for sale, barter, auctions, gives away, leases, or transfers dogs or
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1 cats in the City of Oceanside on the effective date of this section, and is in compliance with all
2 applicable provisions of the Oceanside City Code on the effective date of this section.

3 7. "Pet Store" means a retail establishment open to the public and engaging in
4 the business of offering dogs or cats for retail sale.

5 8. "Pet Store Operator" means a person who owns or operates or a pet store,
6 or both, and/ or who hires employees at a pet store to engage in the Retail Sale of dogs or cats.

7 9. "Retail Sale" includes to display, offer for sale, barter, auction, give away,
8 lease, or transfer any dog or cat.

9 b. *Prohibition.* No Pet store or Pet Store Operator shall engage in the Retail Sale of
10 dogs or cats on or after the effective date of the ordinance codified in this chapter unless: 1. the
11 dog or cat was obtained by the Pet Store or Pet Store Operator from an Animal Shelter; 2. the
12 Retail Sale is authorized by subsection c of this section; or 3. one of the exemptions in
13 subsection d of this section applies.

14 c. *Existing Pet Stores.* An Existing Pet Store may continue to engage in the Retail
15 Sale of dogs or cats until September 1, 2015.

16 d. *Exemptions.* This chapter does not apply to:

17 1. A person or establishment that sells, delivers, offers for sale, barter,
18 auctions, gives away, leases or otherwise transfers or disposes of dogs or cats that were bred
19 and reared on the premises of the person or establishment;

20 2. A person or establishment that engages in the Retail Sale of dogs or cats
21 that are obtained from a Non-Commercial Breeding Establishment.

22 3. A publicly operated Animal Shelter;

23 4. A private humane society or duly incorporated organization devoted to the
24 rescue, care and adoption of stray, abandoned or surrendered dogs or cats;

25 5. A publicly operated Animal Shelter, humane society, or duly incorporated
26 organization devoted to the rescue, care and adoption of stray, abandoned or surrendered dogs
27 or cats that operates out of or in connection with a Pet Store.

28

1 e. *Retail Sale of Shelter and Rescue Animals.* Nothing in this chapter shall prevent a
2 Pet Store or Pet Store Operator from providing space and appropriate care for dogs or cats
3 owned by an animal shelter, or duly incorporated organization devoted to the rescue, care and
4 adoption of stray, abandoned or surrendered dogs or cats and maintained at the pet store for the
5 purpose of engaging in the retail sale of those animals.

6 f. *Certificate of Source.* A Pet Store Operator shall post and maintain in a
7 conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a
8 Certificate of Source for each dog or cat offered for Retail Sale ensuring the dog or cat was
9 obtained in full compliance with this chapter, and the Pet Store Operator shall provide a copy of
10 such Certificate of Source to the purchaser or transferee of any dog or cat.

11 SECTION 2. The City Clerk of the City of Oceanside is hereby directed to publish this
12 ordinance, or the title hereof, as a summary, pursuant to state statute, once within fifteen (15)
13 days after its passage in the San Diego Union Tribune-North County, a newspaper of general
14 circulation published in the City of Oceanside.

15 SECTION 3. This ordinance shall take effect and be in force on the thirtieth (30th) day
16 from and after its final passage.

17 SECTION 4. Severability.

18 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
19 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
20 shall not affect the validity of the remaining portions of this Ordinance. The City Council
21 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each
22 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section,
23 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

24 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
25 California, held on the ____ day of _____, 2015, and, thereafter,

26 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
27 Oceanside California, held on the ____ day of _____, 2015, by the following vote:

28 AYES:

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NAYS:

ABSENT:

ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

CITY CLERK



CITY ATTORNEY



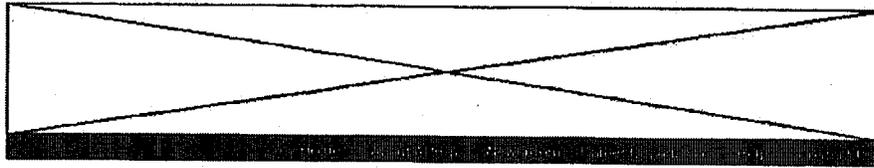
GREAT DANE

Male

9/30/14

**ABRAHAM GRABER
MONTGOMERY IN**

Exhibit 1



A.C.I.S. SEARCH TOOL - Animal Care Information System Search Tool

[Home](#) | [Advanced Search](#) | [FAQ](#) | [Visitor Statistics](#)

Search

32-A-0425

Name, Customer Number, USDA Certificate Number, Licensee/Registrant Address

[Search](#)

[Clear Search](#)

Results

[Licensee/Registrant Information](#) | [Inspection Information](#) | [Research Annual Report Information](#)

Inspection Information

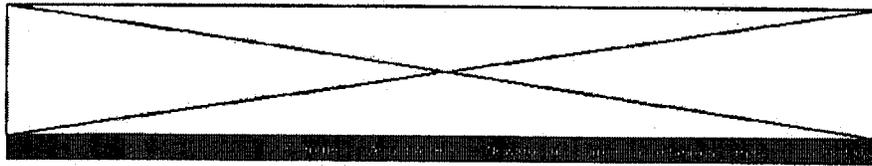
Inspection Date [Apply Sort](#)

Previous Next

Print	Detail	Licensee/Registrant ID	Inspection Site Name	Inspection Date	Non-compliances (NCI)
	Details	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Sep 30, 2014	Direct 0 Indirect 3 Repeat 0 Total 3
	Details	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jan 18, 2013	Direct 0 Indirect 3 Repeat 0 Total 3
	Details	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jan 16, 2013	Direct 0 Indirect 1 Repeat 0 Total 1
	Details	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jul 16, 2012	Direct 0 Indirect 0 Repeat 0 Total 0
	Details	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jul 16, 2012	Direct 0 Indirect 0 Repeat 0 Total 0

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32-A-0425

Name, Customer Number, USDA Certificate Number, Licensee/Registrant Address

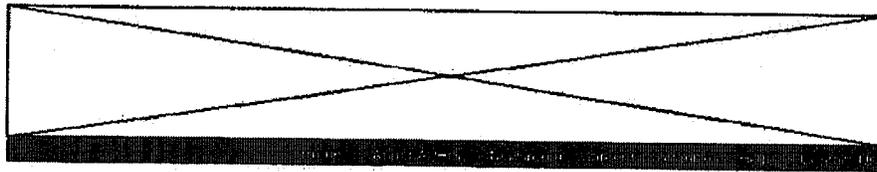
Results

[Licensee/Registrant Information](#) | [Inspection Information](#) | [Research Annual Report Information](#)

Inspection Information

Print	Detail	Licensee/Registrant ID	Inspection Site Name	Inspection Date	Non-compliances (NCI)
	<input type="button" value="Details"/>	Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jul 13, 2012	Direct 0 Indirect 2 Repeat 0 Total 2
	<input type="button" value="Details"/>	Customer No: 323232 Certificate No: 32-A-0357	ABRAHAM GRABER / LEVI WAGLER	Mar 27, 2012	Direct 0 Indirect 1 Repeat 0 Total 1

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32-A-0425
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Inspection Information

Inspection Date: [dropdown] Apply Sort Previous 1-5 of 7 Next 2

Print Detail

<p>United States Department of Agriculture Animal and Plant Health Inspection Service</p>	27204163000218 <small>Access Map, JC</small>		<table border="0"> <tr> <th>Licensee/Registrant ID</th> <th>Inspection Date</th> <th>Non-Compliances (NCI)</th> </tr> <tr> <td>Customer No: 323232</td> <td>ABRAHAM Sep 30, 2014</td> <td>Direct 0</td> </tr> <tr> <td>Certificate No: 32-A-0425</td> <td>GRABER & LEVI WAGLER</td> <td>Indirect 3</td> </tr> <tr> <td></td> <td></td> <td>Repeat 0</td> </tr> <tr> <td></td> <td></td> <td>Total 3</td> </tr> </table>	Licensee/Registrant ID	Inspection Date	Non-Compliances (NCI)	Customer No: 323232	ABRAHAM Sep 30, 2014	Direct 0	Certificate No: 32-A-0425	GRABER & LEVI WAGLER	Indirect 3			Repeat 0			Total 3
	Licensee/Registrant ID	Inspection Date		Non-Compliances (NCI)														
	Customer No: 323232	ABRAHAM Sep 30, 2014		Direct 0														
	Certificate No: 32-A-0425	GRABER & LEVI WAGLER		Indirect 3														
		Repeat 0																
		Total 3																
Inspection Report																		
Level: Wagler, Abraham L., Gaster 6676 E 300 N Montgomery, IN 47558																		
Customer ID: 323232 Certificate: 32-A-0425 Site: 001 ABRAM GRABER & LEVI WAGLER Type: ROUTINE INSPECTION Date: Sep-30-2014																		

3.1 (c) (2) HOUSING FACILITIES, GENERAL
 There are three runs that have cracks that run the length of the runs, from the cement wall to the gates. The cracks are not sealed or filled and are a reservoir for dirt and debris that can not be sanitized properly.
 Cracks in cement that are not repaired can provide a source of dirt and debris buildup and exposure to bacteria that can not be cleaned away or sanitized according to Sec 3.11(D), possibly exposing the regulated animals to future health issues.
 The cracks in the cement needs to be repaired and sealed in order to allow for proper cleaning and sanitation and management of the primary enclosure.
 To be corrected by: October 14, 2014.

3.1 (d) HOUSING FACILITIES, GENERAL
 There is no lighting in the indoor portion of the facility, windows line the walls on both sides of the kennel however the light is not enough to illuminate the indoor primary kennels. A flashlight was needed to conduct the inspection in the kennel in order to see the floor space, loaders and cleanliness of the primary enclosure, as well as to be able to see the adults or puppies in those well kennels.
 It is important that there is a light source that adequately illuminates each primary enclosure to ensure that proper cleaning of all surfaces is being maintained and to conduct efficient health checks on all animals when they are inside. Low light conditions could cause an illness or injury to go unnoticed and for improper cleaning or maintenance of surfaces to go unobserved.
 The licensee must put in a light source that will illuminate the primary enclosure inside the facility in order to allow for proper cleaning and health checks of the animals.
 To be corrected by: October 22, 2014

Prepared By: ANMARIE HOUSER, A CI
 Title: ANIMAL CARE INSPECTOR
 Date: Oct-01-2014
 Received By: [Redacted]
 Title: [Redacted]
 Date: Oct-02-2014

United States Department of Agriculture
 Animal and Plant Health Inspection Service

Inspection Report

3.10 WATERING
 There are four outdoor enclosures that house a total of 17 dogs that have four plastic water buckets that are lined with a film of dark green algae along the sides and bottom of the buckets.
 It is important that all water buckets are kept clean and sanitized on a regular basis in order to prevent the buildup of algae or accumulation of dirt and debris in the drinking water. Algae can be a source of illness or disease if it is not cleaned out of the water containers, and algae in the buckets can not be sanitized.

Animal Care Inspection Report (Form IAC-100) is to be completed with Dec 2.11 (b) on a regular basis to prevent the

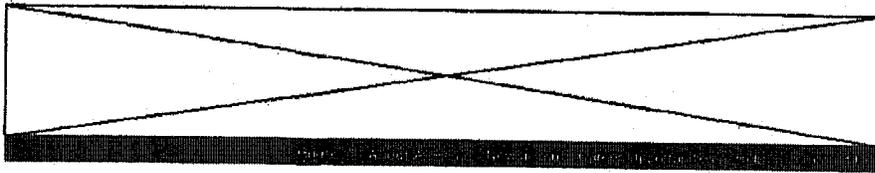
Inspection Animal Count	Animal Common Name	Animal Group Name
34	DOG ADULT	DOGS
20	DOG PUPPY	DOGS

Inspection and exit interview conducted with facility representative.

Click this icon to export this data into an excel spreadsheet format

<p> Details</p> <p> Details</p> <p> Details</p> <p> Details</p>	<p>Prepared By: [REDACTED] Title: ANIMARE HOUSER, A CI ANIMAL CARE INSPECTOR Inspector 6022 Date: Oct-01-2014</p> <p>Received By: [REDACTED] Title: [REDACTED] Date: Oct-02-2014</p> <p>Page 2 of 2</p>	<table border="0"> <tr> <td>Customer No:</td> <td>323232</td> <td>ABRAHAM Jan 18, GRABER 2013 & LEVI WAGLER</td> <td>Direct 0 Indirect 2 Repeat 0 Total 2</td> </tr> <tr> <td>Certificate No:</td> <td>32-A-0425</td> <td></td> <td></td> </tr> <tr> <td>Customer No:</td> <td>323232</td> <td>ABRAHAM Jan 15, GRABER 2013 & LEVI WAGLER</td> <td>Direct 0 Indirect 1 Repeat 0 Total 1</td> </tr> <tr> <td>Certificate No:</td> <td>32-A-0425</td> <td></td> <td></td> </tr> <tr> <td>Customer No:</td> <td>323232</td> <td>ABRAHAM Jul 16, GRABER 2012 & LEVI WAGLER</td> <td>Direct 0 Indirect 0 Repeat 0 Total 0</td> </tr> <tr> <td>Certificate No:</td> <td>32-A-0425</td> <td></td> <td></td> </tr> <tr> <td>Customer No:</td> <td>323232</td> <td>ABRAHAM Jul 16, GRABER 2012 & LEVI WAGLER</td> <td>Direct 0 Indirect 0 Repeat 0 Total 0</td> </tr> <tr> <td>Certificate No:</td> <td>32-A-0425</td> <td></td> <td></td> </tr> </table>	Customer No:	323232	ABRAHAM Jan 18, GRABER 2013 & LEVI WAGLER	Direct 0 Indirect 2 Repeat 0 Total 2	Certificate No:	32-A-0425			Customer No:	323232	ABRAHAM Jan 15, GRABER 2013 & LEVI WAGLER	Direct 0 Indirect 1 Repeat 0 Total 1	Certificate No:	32-A-0425			Customer No:	323232	ABRAHAM Jul 16, GRABER 2012 & LEVI WAGLER	Direct 0 Indirect 0 Repeat 0 Total 0	Certificate No:	32-A-0425			Customer No:	323232	ABRAHAM Jul 16, GRABER 2012 & LEVI WAGLER	Direct 0 Indirect 0 Repeat 0 Total 0	Certificate No:	32-A-0425		
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Inspection Information

Inspection Data [dropdown] [Apply Sort]

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Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Sep 30, 2014		Direct 0 Indirect 3 Repeat 0 Total 3
Customer No: 323232 Certificate No: 32-A-0425	ABRAHAM GRABER & LEVI WAGLER	Jan 18, 2013		Direct 0 Indirect 3 Repeat 0 Total 3



United States Department of Agriculture
Animal and Plant Health Inspection Service

Inspection Report

ABRAHAM GRABER
LEVI WAGLER

Customer ID: 323232
Certificate: 32-A-0425
Site: 001
ABRAHAM GRABER & LEVI WAGLER

8676 E 900 N

Type: ROUTINE INSPECTION
Date: Jan-18-2013

MONTGOMERY, IN 47558

2.40 (b) (2)

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

(b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:
(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care.

There is a hairpin male Great Dane dog that has a wound near his left eye. It is red and has some discharge out around the area. The licensee's brother noticed this earlier in the day and had posted off a scab taking some hair with it.

This dog needs to be seen by the attending vet so that a diagnosis can be made and a treatment plan put in place to address his condition. This treatment plan should be documented and be available for review at the next inspection.

Correct by: 2/18/13

3.1 (c) (1) (B)

HOUSING FACILITIES, GENERAL.

(B) Be free of jagged edges or sharp points that might injure the animals.

Currently there are multiple feeders and waterers made from old 5 gallon buckets that have been checked on and now have sharp edges surrounding the rim of these buckets. While the licensee occasionally goes through and trims down these sharp edges, there are currently multiple ones in the kennel that need to be trimmed. These sharp edges can poke the dogs as they eat and drink and harm them. All sharp edges need to be kept away from the dogs so that they cannot harm themselves.

Correct by: 1/25/13

Prepared By: ELIZABETH TAYLOR, ACI
Title: ANIMAL CARE INSPECTOR

Date: Feb-06-2013

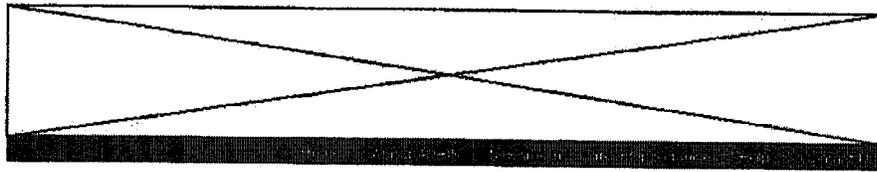
Received By: [Redacted]
Title: [Redacted]

Date: Feb-07-2013



United States Department of Agriculture
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United States Department of Agriculture
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Licensee/Registrant ID	Inspection Site Name	Inspection Date	Non-compliance (NCI)
Customer No: 323232	ABRAHAM GRABER & LEVI	Jul 13, 2012	Direct 0 Indirect 2 Repeat 0 Total 2
Certificate No: 32-A-0425	WAGLER		

Inspection Report

ABRAHAM GRABER
 LEVI WAGLER

Customer ID: 309228
 Certificate No: 001
 ABRAHAM GRABER & LEVI WAGLER

6678 E 900 N
 MONTGOMERY, IN 47556

Type: PRELICENSE INSPECTION #1
 Date: Jul-13-2012

2.40 (b) (2)
 ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

(b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:
 (2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care

There is a black female Great Dane, #4, that is in poor body condition. The dog's hip bones and spine are easily visible as are her ribs. The licensee said that the dog had recently whelped pups and that he had noticed that she was thin. The applicant has had no success with switching brands of dog food.

A dog with sustained weight loss can impact other body systems and can cause harm to the animal. Keeping all dogs in good body condition is very important to maintaining the animals health.

This dog needs to be seen by the attending vet so that a diagnosis can be made and a treatment plan put in place to address her weight loss. This treatment plan should be documented and be available for review at the next inspection.

2.40 (b) (3)
 ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

(b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:
 (3) Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

There is a female black Great Dane, #4, that is in very poor body condition. Her spine, hipbones, and ribs stick out prominently. The owner had noticed that the dog was thin and had changed her feed to help her gain weight.

Prepared By: JEREMY T STEELE
 Title: COMPLIANCE SPECIALIST
 Date: Jul-13-2012

Received By: [Redacted]
 Title: [Redacted]
 Date: Jul-13-2012

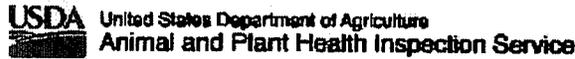


United States Department of Agriculture
 Animal and Plant Health Inspection Service

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The applicant should ensure that vet is communicated with on a frequent basis so that any health problems can be addressed. If a dog that has already been treated does not improve, then this should be documented and the vet should be contacted to further address the problems.

This dog must be seen and diagnosed by the attending vet to determine why she is losing weight. If the original recommendation from the veterinarian does not provide the results desired, then further communication with the vet is necessary to ensure that the veterinarian can recommend further treatment following current medical practices. All animals that show signs of weight loss should be closely monitored and this information relayed to the attending vet so that treatment can begin and be maintained.



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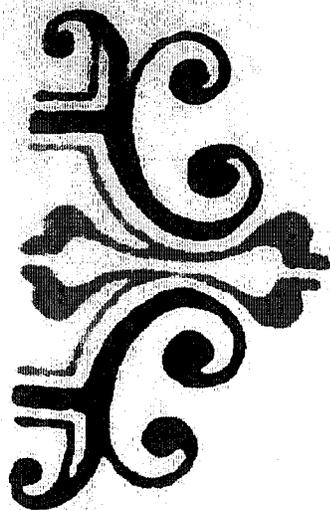
Licensee/Registrant Information



Licensee/Registrant Information	Address
Legal Name (DBA): ABE GRABER Customer No: 17855 Certificate No: 32-A-0217 Certificate Status: CANCELLED Status Date: Jun 4, 2012	P O BOX 44 BLOOMFIELD ,IN 47424 COUNTY: GREENE

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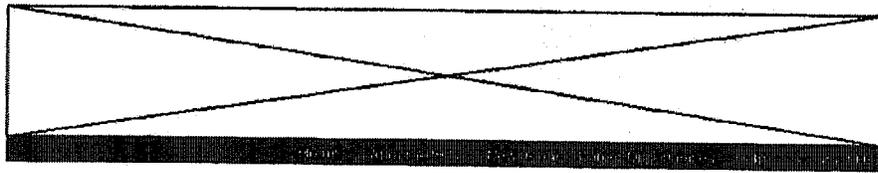


PAPILLON

Male

4/13/14

JACLYN WILLIAMS
MANSFIELD MO



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Print Detail



United States Department of Agriculture
 Animal and Plant Health Inspection Service

Inspection Report

Edward Williams
 Jaclyn Williams
 4916 Vineyard Cove Rd
 Norwood, MO 65717

Customer ID: 324882
 Certificate: 43-A-5667
 Site: 002
 EDWARD WILLIAMS & JACLYN WILLIAMS

Type: ROUTINE INSPECTION
 Date: Oct-15-2014

2.75 (d) (1) (v)

RECORDS: DEALERS AND EXHIBITORS.

In the Record of Acquisition of Dogs and Cats on hand, there are 10 dogs that do not have the microchip listed. Complete and accurate information for the animals is important to know the animals with certainty to facilitate record keeping requirements for inventory, disposition, transport, and healthcare documentation. The owner must include the microchip numbers of all dogs in the records.

3.1 (c) (5)

HOUSING FACILITIES, GENERAL.

(3) Cleaning

There were 0 plastic shelters in 3 enclosures that had a large amount of mud and dirt over at least one-half of the outer surface. Cleaning of hard surfaces is essential for a healthy environment and reduces disease hazards by eliminating harboring places for diseases and pests. The owner needs to remove the dirt and mud from these areas and assure that all hard surfaces are cleaned and sanitized as required at all times.

3.9 (b)

FEEDING.

There were at least 5 self feeders in the outdoor enclosures that had dirt, odorous, dead insects and other debris along the top inside surface, especially just under the lid. Dirt and loose debris can contaminate the food and decrease the nutritional value. The owner must ensure that feeders are kept clean and must be sanitized in accordance with Sec. 3.11(b) of this subpart to prevent the contamination and deterioration of the feed.

Prepared By: KATHRYN VERNON, A.C.I. USDA, APHIS, Animal Care
 Title: ANIMAL CARE INSPECTOR Inspector 5041

Date: Oct-15-2014

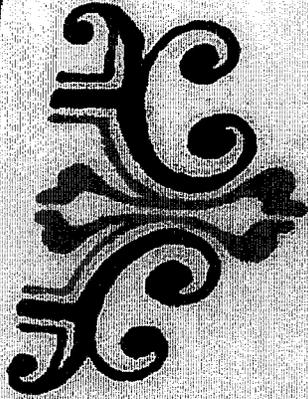
Received By: [Redacted]
 Title: [Redacted]

Date: Oct-15-2014



United States Department of Agriculture
 Animal and Plant Health Inspection Service

Inspection Report



GOLDEN RETRIEVER

Male

9/17/14

**CALVIN L. KNEPP
MONTGOMERY IN**

**NO NAMED BREEDER LICENSED
WITH THE USDA**

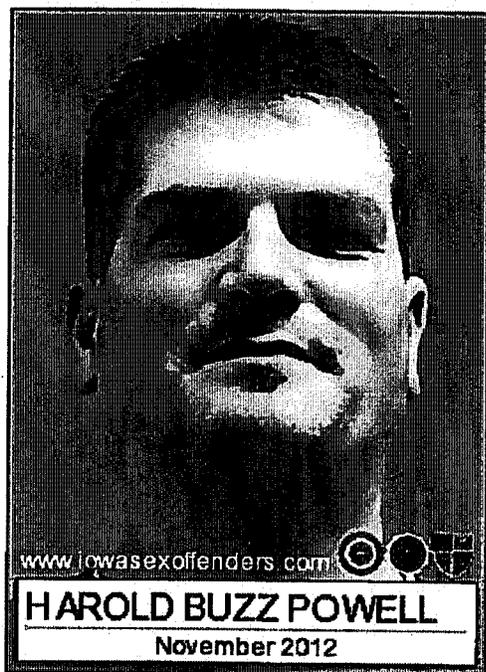


SHIBA INU

Male

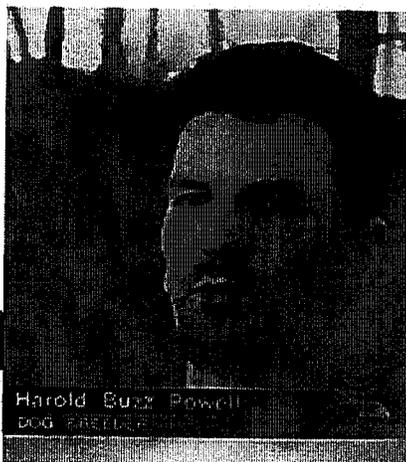
9/16/14

BUZZ (HAROLD) POWEL
INDEPENDENCE MO





Harold Buzz Powell
12/2009



Harold Buzz Powell
06/2009



Harold "Buzz" Powell

Mary LaHay <mlahay@iafriends.org>

Sun, Dec 14, 2014 at 10:32 AM

To: "Robert. M. Gibbens@aphis.usda.gov" <Robert.M.Gibbens@aphis.usda.gov>

Cc: rebekah snyder 

Dear Dr. Gibbens,

I hope this email finds you well.

I've been contacted by a person in California, Rebekah Snyder, who is working on a pet store city ordinance there. I've cc'ed Rebekah on this email. In the course of her data-gathering she found a pet store, Oceanside Puppy in Oceanside, CA, that is selling puppies listed as coming from Harold Buzz Powell. Here is a photo she took of a "cage card" in the store yesterday (appears that Powell is misspelled).

Can you verify whether or not Mr. Powell is USDA licensed?



Thank you!

Mary LaHay, President

Iowa Friends of Companion Animals

1321 - 41st Street

Des Moines, IA 50311

Phone: 515-556-5949

Email: mlahay@iafriends.org

Iowa Friends of Companion Animals

Our Mission:

"To advance the humane and responsible treatment of companion animals through collaboration and public awareness."



Harold "Buzz" Powell

Gibbens, Robert - APHIS <Robert.M.Gibbens@aphis.usda.gov>

Mon, Dec 15, 2014 at 5:53 AM

To: Mary LaHay <mlahay@iafriends.org>

Cc: rebekah snyder 

Hi Ms. Lahay. Mr. Powell is not licensed with the USDA. Is there additional information, such as Mr. Powell's address and/or the number of puppies or number of breeds that he had for sale at Oceanside Puppy?

Thanks.

Robert M. Gibbens, DVM

Director, Western Region

USDA, APHIS, Animal Care

2150 Centre Avenue, Bldg. B

Ft. Collins, CO 80526

Phone: 970-494-7478

Fax: 970-472-9558

■ **Join the Animal Care Stakeholder Registry and receive emails on topics of interest**

From: Mary LaHay [mailto:mlahay@iafriends.org]

Sent: Sunday, December 14, 2014 11:33 AM

To: Gibbens, Robert - APHIS

Cc: rebekah snyder

Subject: Harold "Buzz" Powell

[Quoted text hidden]

This electronic message contains information generated by the USDA solely for the intended recipients.



Oceanside Puppy

1906 Oceanside Blvd. Oceanside, CA 92054

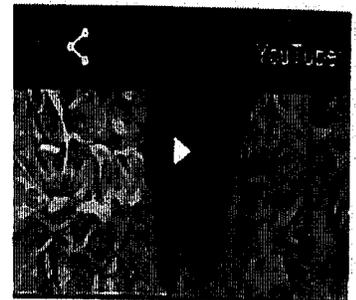
Phone: (760) 967-5852

Puppy Guarantee



When you buy a puppy from Oceanside Puppy our relationship does not end with the delivery of your healthy puppy. While we do our absolute best to raise 100% healthy puppies the fact is that puppies are living creatures just like us and sometimes we can get sick. However, we take preventative measures to minimize common ailments in puppies. A puppy's health depends on many factors such as diet, exercise, environment, genetics and many other factors, but if something goes wrong we guarantee to try to make it right. Of course we may never be able to guarantee that nothing will happen to a puppy but we will always continue to strive and guarantee that we are doing our best to get you the puppy of your dreams happy and healthy.

OUR NEWEST PUPPY VIDEO



WIN A PUPPY FOR \$1 ENTER BELOW

^{*} Indicates requires

Email Address

First Name

All of our breeders are federally and state licensed breeders and we've set strict requirements for our breeders. Our breeders are required to have their puppies health checked by a licensed

In March 2014, The HSUS received a complaint about a sick puppy sold online by Clover Acres Farm in Kansas City, KS, which does not appear to have a state or federal license, despite offering multiple breeds of puppies for sale online, and has an F rating with the local Better Business Bureau. The recent complaint alleged that Clover Acres had sold a sick puppy via *puppyfind.com*, a classified ad site that is often linked to puppy mills. On another website, *rock-creek-kennel.com*, which uses the same phone number as Clover Acres Farm, the operator offers to ship puppies sight-unseen to buyers anywhere in the contiguous U.S. This would require him to have a federal license, but The HSUS could also find no record of a license. The owner of Clover Acres Kennel aka Rock Creek Kennel appears to have a history of operating problematic or unlicensed kennels. In May 2012, Shayne Turner, currently the owner of Rock Creek aka Clover Acres, and a registered sex offender named Harold "Buzz" Powell, invoked the ire of Miami County residents for operating an unpermitted breeding operation called Bully Farms Kennel. Bully Farms had drawn attention due to neighbors' complaints about odor and noise: graphic-online.com/news/article_98cae498-1339-5089-a518-8e9ca15eadbc.html.

Both Turner and Powell have been linked to problem kennels under a number of different aliases and in different states. Harold "Buzz" Powell is currently living in Iowa, according to the sex offender registry, but he has also lived near Turner in Kansas. In Wyoming, Iowa, 65 dogs were removed from Powell's Thunder Ridge Kennel in March 2010. A judge later allowed most of the animals to be returned to Powell, but 15 were retained on suspicion of mistreatment. The charges were later dismissed. Powell, however, has been in trouble with the law numerous times for a variety of offenses. It appears Powell later moved to Kansas, according to the sex offender registries, and then back to Iowa. A Kansas animal welfare inspection report from January 2013 shows that Powell was suspected of operating an unlicensed puppy mill in Kansas City, but that when inspectors arrived he had been evicted, leaving behind "evidence that animals had been housed in the garage." The HSUS contacted the Kansas Department of Agriculture in March 2014 regarding the new complaint, and the Department reported that neither Turner nor Powell is licensed to operate a dog breeding kennel in Kansas as of March 2014. The Rock Creek Kennel website, however, is still active.

Source: <http://hudson-imkindofabigdeal.blogspot.com/2014/10/hsus-list-of-101-problemed-puppy-mills.html>

examiner.com

LIFE / PETS / GENERAL PETS

Puppy mill raid

March 27, 2010
12:00 PM MST



One of the thin Boston Terriers

Jennifer Misfeldt

As you may already know, I am a volunteer for the Mid-America Boston Terrier Rescue. The MABTR is a volunteer based organization run completely on donations. They are based out of Omaha, Nebraska where Jennifer Misfeldt works feverishly to save Boston Terriers all over the United States. MABTR serves Nebraska, Colorado, Kansas, Missouri, North and South Dakota, Wyoming, Minnesota, Utah and Arkansas.

On March 15, 2010 a very sad story began to unfold. Iowa Voters for Companion Animals led a raid on a suspected puppy mill in Wyoming, IA. Thunder Ridge kennels, owned by Harold "Buzz" Powell is under fire for having dogs that were ill and possibly neglected. At the time, licensed veterinarians determined that 65 dogs should be removed due to signs of illness and neglect.

The rescue group planned to take the dogs to Kirkland Community College where they would be examined by a vet and then rehomed. As the dogs arrived, however, the breeder began to call and place threats towards the rescue workers and the college. As a result, the college demanded that the dogs be removed from their property in 48 hours.

Without any notice rescue groups were contacted for help. Of the 65 dogs removed, 17 of them were Boston Terriers. MABTR was asked to and agreed to take 14 of the 17. The other three Boston Terriers were placed in an all-breed rescue. To make matters even more difficult, none of the dogs were allowed to leave Iowa. Jennifer and the MABTR worked around the clock trying to find foster homes in Iowa willing to take on a potentially challenging case. Jennifer enlisted help not only from Iowa foster families but from previous adopters and transport volunteers. Amazingly, she managed to place the 14 Boston Terriers in 12 foster homes and do it before the deadline March 17th.

On March 23, 2010, after the dogs had been living in real homes for a week there was devastating news. Veterinarians present at the scene of the raid had recanted on their previous statements due to threats from the breeder. The raid was also not done correctly in that not enough documentation or photos were done by the veterinarians present on site at the time of the raid. The County Attorney, who is fresh out of college and taking this as her first case, ordered all but 17 of the dogs be returned to Harold Powell, the breeder. Volunteers were crushed! They had already bonded with the dogs and offered the breeder money to relinquish the dogs. He declined the offer.

On March 30th another hearing will be held to determine if Harold Powell will face charges and if the dogs including the 17 Boston Terriers will have to be returned to him. All parties involved will be present in court including rescue workers and volunteers. If the hearing does go in favor of Harold Powell the volunteers plan a mass press release. They also plan to approach the breeder one more time in an effort to purchase the well over 100 dogs he keeps in his facilities.

What can we do for these dogs and other dogs in atrocious situations?

The first thing we can do is not purchase puppies from pet stores. Pet store puppies generally come from "Puppy mills", facilities where dogs are warehoused and bred over and over to make money on the puppies. Breeder dogs are kept their entire lives in small, crowded kennels where their sole purpose is to pump out puppies. Dogs may be underfed, have little or no vet care, and disease runs rampant.

Officials removed more than 30 dogs (Shibu Inu's) from his property for neglect in March 2014

<http://thegazette.com/2010/03/15/photos-investigators-search-dog-breeding-kennel-for-signs-of-neglect>

Here are the photos of those dogs taken from the breeder and given to Last Hope Animal Rescue Group for recovery and rehabilitation:





Inspection Report

Harold Powell

Customer ID: 321406

Certificate: 42-A-1384

Thunder Ridge Kennel

Site: 001

10806 Hwy. 64

Harold Buzz Powell

Type: ROUTINE INSPECTION

WYOMING, IA 52362

Date: Mar-15-2010

2.40 (b) (2)

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

(b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include: (2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care.

A total of 66 dogs at the facility were identified to be in need veterinary care by a veterinarian licensed in the state of Iowa during the time of inspection. These veterinary care issues included chronic skin conditions, gingivitis, dehydration, an umbilical hernia, ear parasites and infections, chronic eye problems, abscesses of the scrotum, and various purulent discharges from the penis and anus as per the veterinarian.

The use of appropriate methods to prevent, control, and treat diseases and injuries must be employed to assure that the animals are receiving care according to the currently accepted veterinary professional standards. To be corrected: All issues of veterinary care shall be addressed by the facilities attending veterinarian from this day forward.

2.50 (a) (1)

TIME AND METHOD OF IDENTIFICATION.

(a) A class "A" dealer (breeder) shall identify all live dogs and cats on the premises as follows: (1) All live dogs and cats held on the premises, purchased, or otherwise acquired, sold or otherwise disposed of, or removed from the premises for delivery to a research facility or exhibitor or to another dealer, or for sale, through an auction sale or to any person for use as a pet, shall be identified.

The undersigned licensee uses microchip identification as the method to identify the adult breeders at the facility. No fewer than 28 animals were unable to be identified using the microchip scanner at the facility. The undersigned facility owner indicated that some of the animals were likely implanted with a different brand of microchip. The microchip scanner at the facility would not be able to identify these animals as per the undersigned facility owner.

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CHAD T MOORE, A C I

USDA, APHIS, Animal Care

Date:

Title:

ANIMAL CARE INSPECTOR

Inspector 1046

Mar-22-2010

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HAROLD POWELL

Title:

OWNER

Date:

Mar-22-2010



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The inability to readily identify the dogs at the facility does not assure that each animal can be properly tracked for purposes of the Act, regulations, and standards.

To be corrected: Assure that all animals at the facility are properly identified/identifiable by March 29, 2010.

2.75 (a) (1)

RECORDS: DEALERS AND EXHIBITORS.

Each dealer, shall make, keep, and maintain records or forms which fully and correctly disclose the required information concerning each dog purchased or otherwise acquired, owned, held, or otherwise in his or her possession or under his or her control, or which is transported, euthanized, sold, or otherwise disposed of by that dealer.

Twenty-three dogs did not have record of the date of acquisition, the date of disposition, or where they went.

This does not allow for proper tracking by an APHIS official.

All required information must be collected and maintained. To be corrected in all future acquisitions and dispositions.

2.78 (a)

HEALTH CERTIFICATION AND IDENTIFICATION.

No dealer shall transport in commerce any dog unless the dog, cat, or nonhuman primate is accompanied by a health certificate executed and issued by a licensed veterinarian.

Twelve dogs were purchased on February 20, 2010, and seventeen dogs March 10, 2010 and transported into the state by the license holder. The license holder did not obtain health certificates for these dogs.

Failure to obtain health certificates does not ensure that the dogs are in good health to withstand transport and it does not ensure that dogs are free from diseases contagious to other animals.

All dogs transported into or out of the state by the license holder must have a health certificate executed and issued by a licensed veterinarian. To be corrected in all future transactions.

2.126 (a) (2)

ACCESS AND INSPECTION OF RECORDS AND PROPERTY.

(a)Each dealer shall, allow APHIS officials: (2) To examine records required to be kept by the Act and the regulations in this part

The documented, veterinary approved exercise plan for the dogs at the facility was unavailable for review during the

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Title:	OWNER		Mar-22-2010



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time of inspection. The undersigned licensee indicated that he was unable to find the document.

A review of the documented, veterinary approved exercise plan is necessary to assess that the animals are being exercised at the facility and to promote their well-being.

To be corrected: Assure that the approved document is available for inspection upon request from this day forward.

3.1 (a)

HOUSING FACILITIES, GENERAL.

Structure; construction. Housing facilities for dogs and cats must be designed and constructed so that they are structurally sound. They must be kept in good repair, and they must protect the animals from injury, contain the animals securely, and restrict other animals from entering.

1. There were no less than 6 enclosures in the whelping room that have heat lamps on the tops of the enclosures. The electrical cords drape down the heat lamps and across the top of the enclosures before they go up the walls to their electrical sources.

These cords can be reached by the dogs, and therefore, provide a physical hazard to the dogs.

The cords must be situated so that the dogs can not gain access to them. To be corrected: March 26, 2010.

2. The upper left hand enclosure in the back breeder room (as you face the wall having outdoor runs) is in disrepair. The floor of the enclosure bows downward.

This does not allow for even footing by the dogs and does not ensure that the enclosures has structural strength to withstand the weight of the dogs.

This enclosure must be repaired or replaced to ensure that the dogs may comfortably inhabit the enclosure and that their weight will not cause the collapse of the bottom. To be corrected: March 29, 2010.

3.1 (e)

HOUSING FACILITIES, GENERAL.

Storage. Supplies of food and bedding must be stored in a manner that protects the supplies from spoilage, contamination, and vermin infestation. The supplies must be stored off the floor and away from the walls, to allow cleaning underneath and around the supplies. Foods requiring refrigeration must be stored accordingly, and all food must be stored in a manner that prevents contamination and deterioration of its nutritive value. All open supplies of food and bedding must be kept in leakproof containers with tightly fitting lids to prevent contamination and spoilage. Only food and bedding that is currently being used may be kept in the animal areas. Substances that are toxic to the dogs or cats but are required for normal husbandry practices must not be stored in food storage and preparation areas, but may be stored in cabinets in the animal areas.

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Date:
Mar-22-2010



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There was a bucket of feed in the whelping room that has no cover. A feed can was behind the door that leads to the breeder rooms. This can remained uncovered for the duration of the inspection. At the end of the inspection, the license holder produced a lid that had been behind the food container. Both food containers were situated under window ledges that were covered with dead insects. Also, there were three bottles of bleach being stored on the floor in the whelping room.

Failure to store opened supplies of food in a leakproof container with a tightly fitting lid does not protect it from contamination. The presence of bleach in the current manner poses a physical hazard to the dogs.

~~The open feed must be stored in leakproof containers with tightly fitting lids. The bleach must be stored in a cabinet.~~
To be corrected by: March 26, 2010.

3.1 (f)

HOUSING FACILITIES, GENERAL.

Drainage and waste disposal. Housing facility operators must provide for regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks? If the facility uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system must be located far enough away from the animal area of the housing facility to prevent odors, diseases, pests, and vermin infestation.

Food and animal waste from washdowns has been allowed to accumulate immediately adjacent to the outdoor runs of the main building. The pile is not less than five feet in diameter and not less than one foot at the highest point. In addition to the amount present, the accumulation is showing signs of degradation. Therefore, it is clear that this has been allowed to accumulate for some time.

This does not provide for the health and well being of the animals.

The accumulation of food and animal waste must be removed and disposed of properly. Further, the area must be cleaned routinely to prevent the excessive accumulation. To be corrected by: March 29, 2010.

3.2 (b)

INDOOR HOUSING FACILITIES.

Ventilation. Indoor housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation.

The main building had a very strong odor. Some windows were open at the time of the inspection. However, they did not provide sufficient fresh air.

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This does not protect the health and well being of the dogs.

The ventilation must be improved through windows, vents, and fans and satisfactory husbandry practices. To be corrected: March 29, 2010.

3.2 (d)

INDOOR HOUSING FACILITIES.

Interior surfaces. The floors and walls of indoor housing facilities, and any other surfaces in contact with the animals, must be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (e.g., a suspended ceiling with replaceable panels).

The main building has many areas on the walls and ceilings that that are not impervious to moisture. The concrete floor has not been sealed so as to make it impervious to moisture.

Surfaces that are not impervious to moisture can soak up urine, water, and other liquids. This can increase odor levels and disease risks.

The floors, walls, and any other surfaces in contact with the dogs must be made impervious to moisture or replaced with surfaces that are impervious to moisture. To be corrected by: June 28, 2010.

3.4 (c)

OUTDOOR HOUSING FACILITIES.

Construction. Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures. The floors of outdoor housing facilities may be of compacted earth, absorbent bedding, sand, gravel, or grass, and must be replaced if there are any prevalent odors, diseases, insects, pests, or vermin. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities—including houses, dens, etc.—that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

The dog house in the outdoor enclosure has been chewed at along the bottom. The wood is no longer impervious to moisture. The inside of the dog house has not been made impervious to moisture. The cattle panels that make up the enclosure fence are rusted. The enclosures next to the residence have surfaces in contact with the dogs that have not been made impervious to moisture.

Surfaces that are not impervious to moisture can soak up urine, water, and other liquids. This can increase odor levels and disease risks. Rusty surfaces cannot be readily cleaned or sanitized.

The dog house and the surfaces in the enclosures next to the residence must be made impervious to moisture or replaced with surfaces that are impervious to moisture. The fence must be altered so that it is not rusty or replaced

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Title: OWNER

Date:
Mar-22-2010



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with a fence that is free of rust. To be corrected by: May 24, 2010.

3.6 (a) (2) (i)

PRIMARY ENCLOSURES.

Primary enclosures must be constructed and maintained so that they have no sharp points or edges that could injure the dogs.

Six of the enclosures in the center room have wires along the bottom of the door opening that been bent so that they protrude into the enclosures.

This poses a physical hazard to the dogs.

The enclosures must be altered to prevent the wires from being a hazard or they must be replaced with enclosures that do not pose a physical hazard to the dogs. To be corrected by: March 29, 2010.

3.6 (a) (2) (ii)

PRIMARY ENCLOSURES.

Primary enclosures must be constructed and maintained so that they protect the dogs from injury. The veterinarian present indicated that some of the Boston Terriers, due to their body structure, had abscesses and/or ulcerations from the constantly being on the mesh in use.

This does not provide for the comfort and well being of the dogs.

The enclosures must be altered so that the dogs are not prone to injury from the mesh. To be corrected by: April 26, 2010.

3.6 (a) (2) (x)

PRIMARY ENCLOSURES.

Primary enclosures must be constructed and maintained so that they have floors that are constructed in a manner that protects the dogs' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' feet to pass through any openings in the floor.

The dog with the call name Nancys Snow Puff had two puppies. The feet of these puppies were observed passing through the openings in the floor.

This poses a physical hazard to the puppies.

The floor must be altered or replaced so that the feet may not pass through. To be corrected by: March 29, 2010.

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Date:
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3.6 (c)

PRIMARY ENCLOSURES.

(c) Additional requirements for dogs--(1) Space. (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet.

Several of the enclosures housing the dogs at the facility had inadequate space for the animals present within them during the time of inspection. The first enclosure (closest to the door) in the middle row of the whelping room did not have the minimum space needed for the dogs contained within. The enclosures had 3 square feet of floor space when subtracting space taken for the food and water bowls. The enclosure contained 3 dogs. The minimum floor space required for these 3 dogs is approximately 17 square feet. The second enclosure contained 2 dogs. The minimum floor space for these two dogs was not met, but is unknown as these and several of the other dogs were removed from the facility before measurements could be taken.

Minimal enclosure spacing for the animals is paramount to provide for their well-being.

Assure that all dogs at the facility are housed in enclosures that provide at least the minimum floor space required for each animal. To be corrected: Several of the animals were removed from the facility during the time of inspection. The remaining animals were either moved into, or remained in enclosures that then met the minimum required floor space.

3.9 (b)

FEEDING.

Feeding. If the food receptacles are not disposable, they must be kept clean and must be sanitized.

The food receptacles for all outdoor housed dogs are excessively dirty.

This can increase disease risks and inhibit normal food intake.

The food receptacles must be cleaned and sanitized. To be corrected by: March 23, 2010.

3.10

WATERING.

If potable water is not continually available to the dogs and cats, it must be offered to the dogs as often as necessary to ensure their health and well-being, but not less than twice daily for at least 1 hour each time, unless restricted by

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Date:
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Title: OWNER

Date:
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the attending veterinarian. Water receptacles must be kept clean and sanitized.

***Some of the dogs were found to be dehydrated by the veterinarian on site. When questioned about watering, the license holder indicated that the dogs had last watered in the late afternoon on the day prior. The inspectors arrived at the facilities on or about 3:30 P.M. Therefore, the dogs had not received water twice in a 24 hour period.

This does not provide for the health and well being of the dogs.

In the future, dogs must receive potable water continually or must be provided water two or more times daily for at least one hour.

***Nine water bowls had been excessively chewed and, therefore, no longer could be cleaned and sanitized adequately.

This does not provide for the health and well being of the dogs.

Excessively chewed water bowls must be replaced with bowls that can be cleaned and sanitized. To be corrected by: March 29, 2010.

***The water bowls for all the outdoor housed dogs are excessively dirty.

This can increase disease risks and inhibit normal intake of water.

The water bowls must be cleaned and sanitized. To be corrected by: March 23, 2010.

3.11 (a)

CLEANING, SANITIZATION, HOUSEKEEPING, AND PEST CONTROL.

Cleaning of primary enclosures. Excreta and food waste must be removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors.

All wash downs in the breeding rooms have an excessive accumulation of animal and food waste. The top, right hand enclosure of the smallest unit in the breeder rooms has an excessive accumulation inside of animal waste in it. The outdoor wash downs were covered solid with animal and food waste. The chain link enclosures on the home property have an excessive accumulation of wet bedding and animal waste.

This does not provide for the health and well being of the dogs.

All wash downs and the enclosures must be cleaned to remove the excessive waste and as often as necessary to

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Date:
Mar-22-2010



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prevent an excessive accumulation. To be corrected by: March 23, 2010.

3.11 (b) (2)

CLEANING, SANITIZATION, HOUSEKEEPING, AND PEST CONTROL.

Used primary enclosures and food and water receptacles for dogs must be sanitized at least once every 2 weeks using one of the methods prescribed in paragraph (b)(3) of this section, and more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta, and other disease hazards.

The doggy doors leading to the outdoor runs had an excessive accumulation of animal, feed, and waste residues on them.

This can increase disease risks.

The enclosures must be cleaned and sanitized. To be corrected by: March 25, 2010.

3.11 (c)

CLEANING, SANITIZATION, HOUSEKEEPING, AND PEST CONTROL.

Housekeeping for premises. Premises where housing facilities are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this subpart, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter.

An abundance of clutter and building materials were present inside of the facility during the time of inspection. Several PVC pipes, empty dog food bags, building insulation, saw horses, a ladder, plastic bags, and a posthole digger were among the items present in the animal rooms and corridors.

These items inhibit the ability to properly clean the facility and serve as a potential nesting area for rodents and other pests.

Remove all trash, building materials, tools, etc. from the animal areas to facilitate cleaning and eliminate potential nesting areas for rodents and other pests. To be corrected: March 29, 2010.

3.11 (d)

CLEANING, SANITIZATION, HOUSEKEEPING, AND PEST CONTROL.

Pest control. An effective program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.

There is an excessive presence of lady bugs or Asian lady bugs throughout the facility. They were particularly

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Mar-22-2010



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abundant on the door and windowsills. In two instances, there were open bags of food directly below the windowsills. This does not protect the health and well-being of the animals.

An effective pest control program must be developed, implemented, and maintained. To be corrected: April 26, 2010

Note: Chad Moore and Cynthia Neis ACIs, USDA, APHIS, AC conducted the inspection with the undersigned facility owner on March 15th and 16th 2010. The inspection exit interview was conducted with the above inspectors and facility owner on March 22, 2010

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Inspector 1046

Date:
Mar-22-2010

Received By:

HAROLD POWELL
OWNER

Date:
Mar-22-2010

ANIMAL WELFARE INSPECTION

Name of Business: Town Basenji Rescue License No.: _____

Address: 10750 Hwy 64, Wyoming 52362

Owner(s): Buzz Powell

Inspection Date: Monday, November 10, 2008 Time: _____

Inspection category(ies):
 Commercial Breeder _____ Animal Shelter _____ Pet Shop _____
 Boarding Kennel _____ Pound _____ Dealer _____
 Commercial Kennel _____ Public Auction _____ Privately Owned Pound _____

Number of Animals: Dogs _____ Cats _____ Other _____

INSPECTOR: MARK "X" ON LINE, IF ADEQUATE. CIRCLE ITEM NUMBER, IF INADEQUATE

HOUSING FACILITIES	PREMISES	VETERINARY CARE
1. Structure & Repair _____	14. Drainage _____	25. Isolation Facilities _____
2. Shelter _____	15. Odor _____	26. Preventative Programs _____
3. Ventilation & Temperature _____	16. Sanitation _____	27. Symptoms of Illness _____
4. Lighting _____		28. Therapy Provided _____
5. Ceilings, Walls, Floors _____	SANITATION	29. Apparently Healthy _____
6. Storage _____	17. Washrooms, Basins, Sinks _____	
7. Runs & Exercise Areas _____	18. Supplies & Materials _____	TRANSPORTATION
8. Drainage _____	19. Cleaned & Sanitized _____	30. Primary Enclosures _____
9. Waste Disposal _____		31. Vehicles _____
	CARE AND HUSBANDRY	32. Care in Transit _____
PRIMARY ENCLOSURES	20. Adequate Feed _____	
10. Structure & Repair _____	21. Adequate Water _____	RECORDS
11. Space _____	22. Exercise _____	33. Purchase, Sale, Transfer, Adoption _____
12. Ventilation & Temperature _____	23. Vermin control _____	34. Boarding, Grooming, Training _____
13. Secured Latches _____	24. Personnel _____	35. Euthanasia _____
		36. Vet Inspection Form (Year) _____

ITEM NUMBER	EXPLANATION OF INADEQUACY (CIRCLED ITEM ABOVE) AND RECOMMENDATION FOR COMPLIANCE	DATE CORRECTIONS TO BE COMPLETED
	<p>Please send a Letter of Inquiry to Mr. Powell for operating without a license. He is said to be selling and possibly breeding canines.</p> <p>Thank you.</p>	

INSPECTOR'S SIGNATURE: [Signature] DATE: 11/10/2008

OWNER OR AUTHORIZED AGENT (SIGNATURE): _____

APPROVED _____ CONDITIONALLY APPROVED _____ DISAPPROVED _____

ANIMAL WELFARE INSPECTION

Name of Business: Iowa Basenji Rescue/Wildfire Kennels License No.: New Licensure

Address: 10750 Hwy 64, Wyoming, 52362

Owner(s): Harold Powell & Marilyn Atwood

Inspection Date: Tuesday, September 18, 2007

Time: 10:05 - Noon

Inspection category(ies):
 Commercial Breeder Animal Shelter Pet Shop
 Boarding Kennel Pound Dealer
 Commercial Kennel Public Auction Privately Owned Pound
 Number of Animals: Dogs ~ 65 Maximums Other

INSPECTOR: MARK "X" ON LINE, IF ADEQUATE. CIRCLE ITEM NUMBER, IF INADEQUATE

HOUSING FACILITIES		PREMISES		VETERINARY CARE	
1. Structure & Repair	<u>x</u>	14. Drainage	<u>x</u>	25. Isolation Facilities	<u>x</u>
2. Shelter	<u>x</u>	15. Odor	<u>(15)</u>	26. Preventative Programs	<u>x</u>
3. Ventilation & Temperature	<u>x</u>	16. Sanitation	<u>x</u>	27. Symptoms of Illness	<u>x</u>
4. Lighting	<u>x</u>	SANITATION		28. Therapy Provided	<u>x</u>
5. Ceilings, Walls, Floors	<u>x</u>	17. Washrooms, Basins, Sinks	<u>x</u>	29. Apparently Healthy	<u>x</u>
6. Storage	<u>x</u>	18. Supplies & Materials	<u>x</u>	TRANSPORTATION	
7. Runs & Exercise Areas	<u>x</u>	19. Cleaned & Sanitized	<u>x</u>	30. Primary Enclosures	<u>x</u>
8. Drainage	<u>x</u>	CARE AND HUSBANDRY		31. Vehicles	<u>x</u>
9. Waste Disposal	<u>x</u>	20. Adequate Feed	<u>x</u>	32. Care in Transit	<u>x</u>
PRIMARY ENCLOSURES		21. Adequate Water	<u>x</u>	RECORDS	
10. Structure & Repair	<u>x</u>	22. Exercise	<u>x</u>	33. Purchase, Sale, Transfer, Adoption	<u>x</u>
11. Space	<u>x</u>	23. Vermin control	<u>x</u>	34. Boarding, Grooming, Training	<u>x</u>
12. Ventilation & Temperature	<u>x</u>	24. Personnel	<u>x</u>	35. Euthanasia	<u>x</u>
13. Secured Latches	<u>x</u>			36. Vet Inspection Form (Year)	<u>T&A</u>

ITEM NUMBER	EXPLANATION OF INADEQUACY (CIRCLED ITEM ABOVE) AND RECOMMENDATION FOR COMPLIANCE	DATE CORRECTIONS TO BE COMPLETED	
	Weimanners - four adults Shelties - 7 adults Basenjis 8 adults + 2 + 1 Welsh corgi - 4 adults Chihuahua's - 4 adults + 6 + 2 + 1 + 1 Cocker spaniel - 1 + 2 pups Dachsund - 2 + 1 (pg) Min Pins - 3 Boston terriers - 5 + 1 (pg)	Papillion - 1 ^a + 2 pups (surrogate) Maltese - 2 & Bernese Mtn. Dogs, 2 ♀ 2 Golden Retrievers 1 Poodle standard (Breeder)	

INSPECTOR'S SIGNATURE: [Signature]

DATE: 09.18.2007

OWNER OR AUTHORIZED AGENT (SIGNATURE): [Signature]

APPROVED

CONDITIONALLY APPROVED

DISAPPROVED

(Continuation Sheet)

ANIMAL WELFARE INSPECTION

Name of Business: Iowa Basenji Rescue

License No. New License

Address: 10750 Hwy. 64, Wyoming, 52562

Owner(s): Harold Powell & Marilyn Atwood

Inspection Date: Tuesday, Sept. 18, 2007

Time: 11:45

All drains (floor) covered.

67.2(1)c. All plywood walls have to be impervious to moisture

67.3(3) f. one female Boston terrier does have a veterinary appointment Wednesday, September 19, 2007 (11:00), Dr. Brian Darrow, DVM. (Rabies and illness).

Setting population number at sixty-five.

67.5(1b2) Records: To be sent as an example.

Name, sex, breed, s/n, identifying marks, age, proof of all vaccinations, surgery's, illness, purchase agreement, adoption agreement, buyer information includes

Whelping: separate and strict sanitation

(two telephone numbers, address, etc.)

⑤ Plywood will be sealed. October 31, 2007.

⑧ Drainage (waste removal) - flushed/pumped. November 15, 2007.

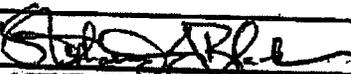
⑮ Odor (manure - from previous tenants is very apparent), one week

⑳ one Boston terrier female to be seen Wed. Sept. 19, 2007.

③① CVI TBA, 12/31/2007 (prior to).

Conditionally Approved, please license, as Commercial Breeder, not BK or PPD. Please refund Mr. Powell \$5.00

INSPECTOR'S SIGNATURE



DATE:

09.18.2007

OWNER OR AUTHORIZED AGENT (SIGNATURE):



APPROVED

CONDITIONALLY APPROVED

DISAPPROVED

Iowa Department of Agriculture and Land Stewardship -- ANIMAL WELFARE INSPECTION

✓
P

Name of Business: Iowa Basenji Rescue License No.: Not Licensed/ App. Submitted

Address: 16750 Hwy 64, Wyoming, 52362

Owner(s): Harold "Buzz" Powell & Marilyn Atwood

Inspection Date: Wednesday, July 25, 2007 Time: 16:09

Inspection category(ies):
 Commercial Breeder Animal Shelter Pet Shop
 Boarding Kennel Pound Dealer
 Commercial Kennel Public Auction Privately Owned Pound
 Number of Animals: Dogs Cats Other

INSPECTOR: MARK "X" ON LINE, IF ADEQUATE. CIRCLE ITEM NUMBER, IF INADEQUATE

HOUSING FACILITIES	PREMISES	VETERINARY CARE
1. Structure & Repair <input type="checkbox"/>	14. Drainage <input type="checkbox"/>	25. Isolation Facilities <input type="checkbox"/>
2. Shelter <input type="checkbox"/>	15. Odor <input type="checkbox"/>	26. Preventative Programs <input type="checkbox"/>
3. Ventilation & Temperature <input type="checkbox"/>	16. Sanitation <input type="checkbox"/>	27. Symptoms of Illness <input type="checkbox"/>
4. Lighting <input type="checkbox"/>		28. Therapy Provided <input type="checkbox"/>
5. Ceilings, Walls, Floors <input type="checkbox"/>	SANITATION	29. Apparently Healthy <input type="checkbox"/>
6. Storage <input type="checkbox"/>	17. Washrooms, Basins, Sinks <input type="checkbox"/>	
7. Runs & Exercise Areas <input type="checkbox"/>	18. Supplies & Materials <input type="checkbox"/>	TRANSPORTATION
8. Drainage <input type="checkbox"/>	19. Cleaned & Sanitized <input type="checkbox"/>	30. Primary Enclosures <input type="checkbox"/>
9. Waste Disposal <input type="checkbox"/>		31. Vehicles <input type="checkbox"/>
	CARE AND HUSBANDRY	32. Care in Transit <input type="checkbox"/>
PRIMARY ENCLOSURES	20. Adequate Feed <input type="checkbox"/>	
10. Structure & Repair <input type="checkbox"/>	21. Adequate Water <input type="checkbox"/>	RECORDS
11. Space <input type="checkbox"/>	22. Exercise <input type="checkbox"/>	33. Purchase, Sale, Transfer, Adoption <input type="checkbox"/>
12. Ventilation & Temperature <input type="checkbox"/>	23. Vermin control <input type="checkbox"/>	34. Boarding, Grooming, Training <input type="checkbox"/>
13. Secured Latches <input type="checkbox"/>	24. Personnel <input type="checkbox"/>	35. Euthanasia <input type="checkbox"/>
		36. Vet Inspection Form (Year) <input type="checkbox"/>

ITEM NUMBER	EXPLANATION OF INADEQUACY (CIRCLED ITEM ABOVE) AND RECOMMENDATION FOR COMPLIANCE	DATE CORRECTIONS TO BE COMPLETED
	<p>Left voice message @ 319-350-4550, concerning status of July 17, 2007 County Board meeting. Application on hold. I have not heard from Mr. Powell. Advertisement continues currently on Petfinder.com.</p>	

INSPECTOR'S SIGNATURE: [Signature] DATE: 07/27/2007
 OWNER OR AUTHORIZED AGENT (SIGNATURE): _____

APPROVED _____ CONDITIONALLY APPROVED _____ DISAPPROVED _____

Iowa Department of Agriculture and Land Stewardship -- ANIMAL WELFARE INSPECTION

Name of Business: Iowa Basenji Rescue License No.: _____

Address: 10750 Hwy 64, Wyoming, 52362

Owner(s): Harold "Buz" Powell and Marilyn Atwood

Inspection Date: Monday, June 25, 2007 Time: 16:17

Inspection category(ies):
 Commercial Breeder _____ Animal Shelter _____ Pet Shop _____
 Boarding Kennel _____ Pound _____ Dealer _____
 Commercial Kennel _____ Public Auction _____ Privately Owned Pound _____
 Number of Animals: Dogs 20-50 Cats _____ Other _____

INSPECTOR: MARK "X" ON LINE, IF ADEQUATE. CIRCLE ITEM NUMBER, IF INADEQUATE

HOUSING FACILITIES	PREMISES	VETERINARY CARE
1. Structure & Repair _____	14. Drainage _____	25. Isolation Facilities _____
2. Shelter _____	15. Odor _____	26. Preventative Programs _____
3. Ventilation & Temperature _____	16. Sanitation _____	27. Symptoms of Illness _____
4. Lighting _____		28. Therapy Provided _____
5. Ceilings, Walls, Floors _____	SANITATION	29. Apparently Healthy _____
6. Storage _____	17. Washrooms, Basins, Sinks _____	
7. Runs & Exercise Areas _____	18. Supplies & Materials _____	TRANSPORTATION
8. Drainage _____	19. Cleaned & Sanitized _____	30. Primary Enclosures _____
9. Waste Disposal _____		31. Vehicles _____
	CARE AND HUSBANDRY	32. Care in Transit _____
PRIMARY ENCLOSURES	20. Adequate Feed _____	RECORDS
10. Structure & Repair _____	21. Adequate Water _____	33. Purchase, Sale, Transfer, Adoption _____
11. Space _____	22. Exercise _____	34. Boarding, Grooming, Training _____
12. Ventilation & Temperature _____	23. Vermin control _____	35. Euthanasia _____
13. Secured Latches _____	24. Personnel _____	36. Vet Inspection Form (Year) _____

ITEM NUMBER	EXPLANATION OF INADEQUACY (CIRCLED ITEM ABOVE) AND RECOMMENDATION FOR COMPLIANCE	DATE CORRECTIONS TO BE COMPLETED
	<p>After a brief telephone consultation regarding the delay of an initial inspection, Mr. Powell admits that he has begun adopting animals (canines) and was warned to stop immediately. Mr. Powell is awaiting County permission. (07/17/2007) I would request a Cease and Desist order and "Letter of Warning" for this operation. Thank You.</p>	

INSPECTOR'S SIGNATURE: [Signature] DATE: 06/29/2007
 OWNER OR AUTHORIZED AGENT (SIGNATURE): _____

APPROVED _____ CONDITIONALLY APPROVED _____ X DISAPPROVED _____

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

In the matter regarding:

**Harold Buzz Powell
10750 Hwy 64
Wyoming, IA 52362**

ORDER NO. AW-07-014

CEASE AND DESIST ORDER

COMES NOW, the Iowa Department of Agriculture and Land Stewardship and makes the following findings of facts:

- 1. Harold Buzz Powell has been breeding and/or selling or adopting dogs in Iowa. He maintains more than three breeding animals at the location.**
- 2. Harold Buzz Powell's operation is not licensed as a commercial breeder, dealer or an animal shelter by either the Iowa Department of Agriculture and Land Stewardship or the United States Department of Agriculture.**
- 3. The activity in which Harold Buzz Powell is engaged is regulated by Iowa Code chapter 162 and requires licensing.**
- 4. The Department was provided information that Harold Buzz Powell is selling or adopting dogs without a license.**
- 5. The Department has been in contact with Harold Buzz Powell about the need to obtain and maintain a license.**
- 6. Harold Buzz Powell was advised that he should not sell, adopt or offer for sale or adoption any dogs without first obtaining a license.**
- 7. Harold Buzz Powell has applied for a boarding kennel and privately-owned pound license. On June 25, 2007, Livestock Inspector Stephanie Black disapproved the**

application for licensing and warned Mr. Powell to immediately stop advertising and adopting out animals.

8. Such operation is a violation of Iowa Code chapter 162 and subjects Harold Buzz Powell to possible criminal prosecution. Each day of operation is a separate violation.

10. The continued operation of Harold Buzz Powell's facility as a nonlicensed commercial breeder/dealer or animal shelter creates a public health/safety threat to potential pet buyers or pet owners seeking to use the services of the facility without knowledge of its unlicensed status. It also places the animals being maintained in his facility in potential jeopardy because they are not being housed or care for in a manner consistent with facilities set by the State of Iowa and as required for other similar facilities.

THEREFORE, IT IS HEREBY ORDERED:

1. Harold Buzz Powell, or any person acting on his behalf, shall immediately cease and desist from engaging in any activities requiring a license from the Iowa Department of Agriculture and Land Stewardship, including, but not limited to, operating as a commercial breeder, dealer or animal shelter or without first obtaining the requisite license.

2. Harold Buzz Powell, or any person acting on his behalf, failure to abide by this order shall subject him to additional civil and criminal penalties provided for under the Iowa Code chapter 162.

Dated this 21st day of August, 2007


David D. Schmitt, DVM
Acting State Veterinarian



This order may be appealed by submitting a written request for an administrative hearing within 30 days of receipt of this order. The written request should be directed to: David D. Schmitt, Acting State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

Return of Service

I, the undersigned employee of the Iowa Department of Agriculture and Land Stewardship do hereby attest that on Sept. 11, 2007, I served a true and accurate copy of the above document upon

Harold Buzz Powell

Dated this 11th day of Sept. 11, 2007.

Gary Allen

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

IN THE MATTER OF

**Harold "Buzz" Powell
Thunder Ridge Kennel
10806 Hwy 64
Wyoming, IA 52362**

**No. AW-07-014
Subpoena Duce Tecum**

**To: Harold "Buzz" Powell
10806 Hwy 64
Wyoming, IA 52362**

You are hereby ordered pursuant to chapters 17A, 159, and 163, Code of Iowa, to make available to the Iowa Department of Agriculture and Land Stewardship the following documents:

Copies of all purchase records, sale records, and rabies records for animals from January 1, 2009 to the present.

Copies of ads or postings on web sites that show dates and animals for sale by Buzz Powell or other entities which Buzz Powell has a financial interest. The time period for which records are sought is for the period beginning on January 1, 2009, to the present.

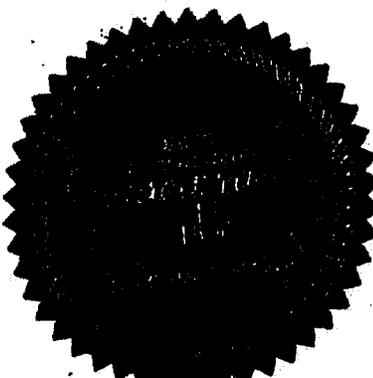
Such records shall be made available to the Iowa Department of Agriculture and Land Stewardship by making a copy of such records and delivering same to Gary Allen, IDALS Agriculture Compliance Investigator by August 15, 2009, or other mutually agreeable time.

Your failure to abide by this subpoena shall subject you to applicable penalties.

Dated this 3rd day of August 2009.



**David D. Schmitt D.V.M.
State Veterinarian**



Return of Service

I, the undersigned employee of the Iowa Department of Agriculture and
Land Stewardship do hereby attest that on _____,
2009, I served a true and accurate copy of the above document upon
_____.

Dated this _____ day of _____, 2009.

**RESEARCH STUDY BY DR.
MCMILLAN FROM COMMERCIAL
BREEDING ESTABLISHMENTS, 2013**

My name is Dr. Frank McMillan and I submit the following as my written testimony to the Task Force Concerning the Sale of Cats and Dogs at Connecticut Pet Shops from Inhumane Origins. You will find my biography at the bottom of the page.

We have conducted several scientific studies on dogs that have lived in large-scale breeding facilities – the type that serve as the source for the overwhelming majority of puppies sold through pet stores. Please find accompanying this document an Executive Summary of our two largest studies for your easy access to the key findings and conclusions of our research. The main point I would like to convey is that the psychological trauma to both the adult dogs and the puppies from their confinement in these commercial breeding establishments is extensive, severe, and long-lasting. There is no question as to the harm inflicted on the dogs from the inadequate care they receive in these facilities. Most importantly, based on current research of the psychological needs of dogs it can be stated that no federal or state laws now in existence are sufficient to protect the dogs from psychological harm. In other words, even if these breeding establishments were to abide by the strictest laws ever placed on the books the dogs in the facilities could still be living under conditions capable of inflicting grave harm. This is because the laws haven't come close to keeping pace with the advances in scientific knowledge about the nature of canine well-being.

In addition to this dismal state of affairs, we found that the puppies being sold through pet stores, once grown to maturity, exhibit dramatically higher rates of aggression than dogs coming from noncommercial, small-scale breeders. This means that the public is placed at a significantly increased risk of human injury from dogs coming from pet stores.

What we now know about canine welfare and well-being allows us not just to recognize where the animals' quality of life is impaired, but also to construct environments that permit animals to have a decent quality of life. Accordingly, there is no reason for any animals to be forced to endure a diminished quality of life just to produce offspring that can be placed in pet store windows to attract unsuspecting buyers – buyers who know little or nothing about the quality of life of the puppy's parents or that this puppy has more than a 200% increase in likelihood of biting them when it grows up.

**Franklin D. McMillan, DVM
Nov 20, 2013**

Franklin D. McMillan, DVM is the director of well-being studies at Best Friends Animal Society. Dr. McMillan is a board-certified specialist in veterinary internal medicine and was previously in private practice for 23 years as well as serving as clinical professor of medicine at the Western University of Health Sciences College of Veterinary Medicine. He is the author of the textbook *Mental Health and Well-Being in Animals* and has published dozens of scientific journal articles on the subjects of emotional health and suffering, stress, and quality of life in animals. Dr. McMillan's research concerns animal quality of life and the mental health and emotional well-being of animals who have experienced psychological trauma from abuse and neglect in all its forms.

Scientific studies of the dogs and puppies from commercial dog breeding establishments ('puppy mills')

Executive Summary

Background

Commercial breeding establishments, or puppy mills, are large scale facilities where dogs are confined in small enclosures for their entire reproductive lives with little to no exercise or positive human contact—for the sole purpose of mass-producing puppies to sell for profit through retail pet stores and via the Internet.

Synopsis

In two large-scale studies of dogs from high volume commercial breeding establishments – the adult breeding dogs as well as the puppies sold through pet stores – the evidence showed conclusively that these breeding facilities are highly injurious to both groups of dogs, resulting in severe, extensive, and long-term harm to the behavioral and psychological well-being of the dogs.

Study 1: The adult breeding dogs

What the study looked at

This study compared a wide array of psychological and behavioral characteristics of 1,169 dogs formerly kept for breeding purposes in commercial breeding establishments with pet dogs owned by members of the general public.

Researchers

Franklin D. McMillan, DVM Best Friends Animal Society
Deborah L. Duffy, PhD University of Pennsylvania School of Veterinary Medicine
James A. Serpell, PhD University of Pennsylvania School of Veterinary Medicine

The published paper

Mental health of dogs formerly used as 'breeding stock' in commercial breeding establishments. FD McMillan, DL Duffy, JA Serpell. *Applied Animal Behaviour Science* 2011; 135: 86-94.

What the study found

- The results showed a broad range of abnormal behavioral and psychological characteristics in the former breeding dogs from large-scale commercial breeding establishments, including: significantly elevated levels of fears and phobias, pronounced compulsive and repetitive behaviors such as spinning in tight circles and pacing, house soiling, and a heightened sensitivity to being touched and picked up.
- The psychological harm demonstrated in these dogs is severe and long-lasting. Much of the harm is irreparable and will remain a continued source of suffering for years after the dogs leave the breeding facility, in some cases for the entire lifetime of the dog.

Conclusions

- Current laws at both the national and state levels are not based on current scientific knowledge of animal psychology, quality of life, suffering, and welfare, and are thus inadequate to protect dogs from the psychological harm resulting from living in commercial breeding establishments.
- Legislation to adequately protect the welfare of dogs in confinement needs to be updated to reflect current scientific knowledge.

Where a copy of the published study may be obtained: Dr. Frank McMillan (dr.frank@bestfriends.org)

Study 2: The puppies

What the study looked at

This study compared the psychological and behavioral characteristics of 413 adult dogs that were purchased as puppies from pet stores with adult dogs purchased as puppies from small-scale, private breeders.

Researchers

Franklin D. McMillan, DVM Best Friends Animal Society
James A. Serpell, PhD University of Pennsylvania School of Veterinary Medicine
Deborah L. Duffy, PhD University of Pennsylvania School of Veterinary Medicine
Elmabrok Masaoud, PhD Atlantic Veterinary College, University of Prince Edward Island
Ian Dohoo, DVM, PhD Atlantic Veterinary College, University of Prince Edward Island

The published paper

Differences in behavioral characteristics between dogs obtained as puppies from pet stores and those obtained from noncommercial breeders. FD McMillan, JA Serpell, DL Duffy, E Masaoud, IR Dohoo. *Journal of the American Veterinary Medical Association* 2013;242:1359-1363.

What was found

- Dogs obtained as puppies from pet stores received significantly less favorable scores than breeder-obtained dogs on most behavioral variables measured. Compared with dogs obtained as puppies from noncommercial breeders, dogs from pet stores had significantly greater aggression toward human family members, unfamiliar people, and other dogs; greater fear of other dogs and typical life events; and greater separation-related problems and house soiling.
- For no behavior evaluated in the study did pet store dogs score more favorably than noncommercial breeder dogs.
- The chances of a dog developing serious behavior problems is much higher for dogs purchased as puppies from pet stores, as compared to obtaining dogs from small, noncommercial breeders.

Conclusions

- On the basis of these findings combined with findings from earlier small-scale studies of pet store-obtained dogs, until the causes of the unfavorable differences detected in this group of dogs can be specifically identified and remedied, the authors of this study withhold any recommendation that puppies be obtained from pet stores.
- Dogs sold by pet stores are misrepresented to consumers as a high-quality product, when the data now shows that consumers are not receiving what they believe they are paying for. The increased risk of behavior problems that pet store customers face as their dog matures includes aggression issues, which pose a significant risk for human injury. Consumer protective legislation is urgently needed in this area.
- Legislation to improve the conditions in the large-scale commercial breeding facilities supplying puppies to pet stores is needed to assure that the puppies are not at any increased risk of maturing into adult dogs with serious behavior problems.

Where a copy of the published study may be obtained: Dr. Frank McMillan (dr.frank@bestfriends.org)

Overall Conclusions

- Current laws provide inadequate protection against harm to breeding dogs and puppies associated with commercial breeding establishments.
- Consumers purchasing puppies from pet stores are unknowingly assuming a risk of difficult and serious behavior problems in their dogs, including dog behavior that can endanger their own safety.
- If dogs are to be bred to produce puppies for sale, all of the dogs and puppies should be assured a decent quality of life based on the most current scientific research.

Human population in the U.S. is on the rise

U.S Census Estimates:

2015 = 321 million

2030 = 360 million

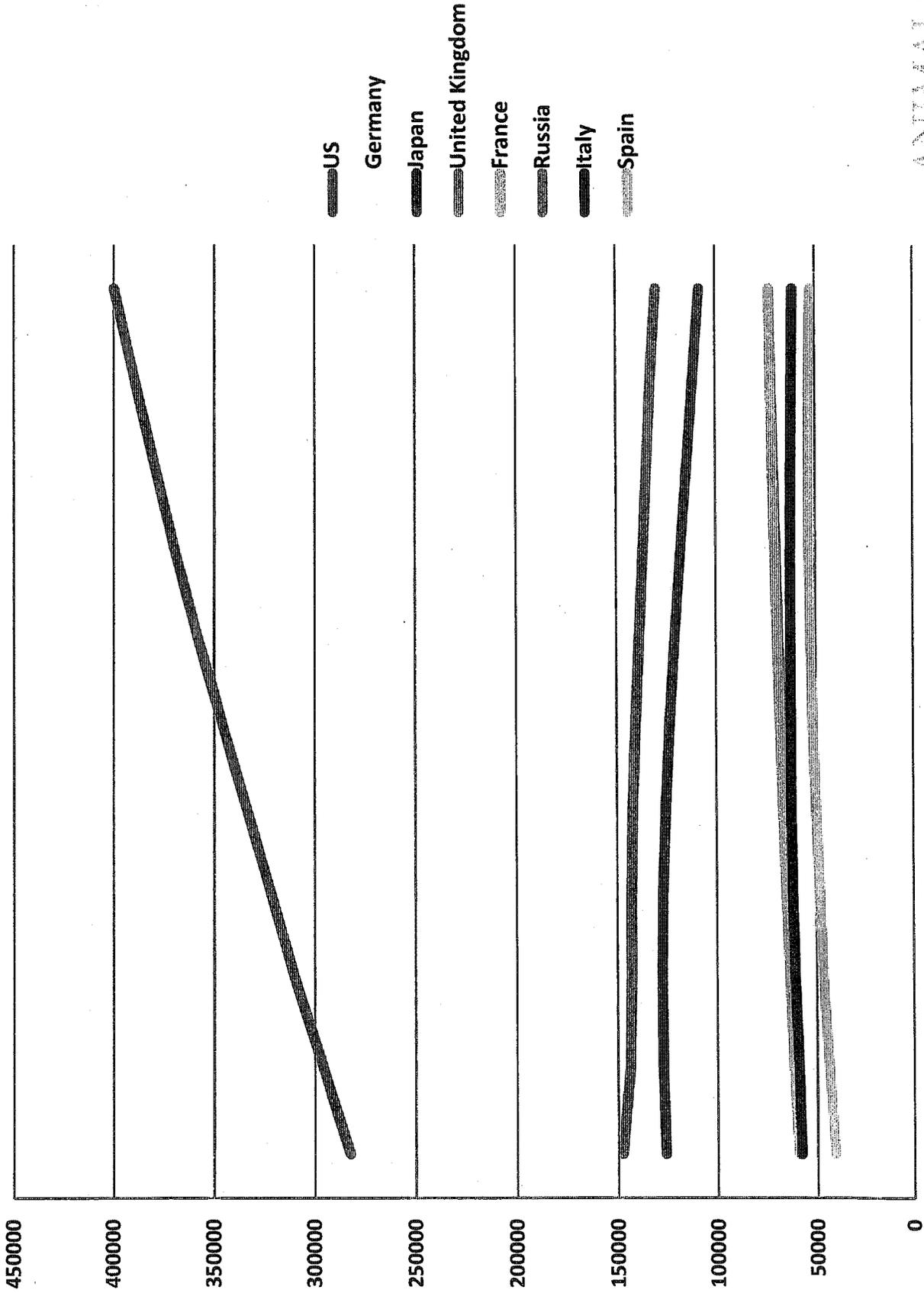
2060 = 420 million

<http://www.census.gov/population/projections/data/national/2012/summarytables.html>

Exhibit 2

Exhibit 2

Population Growth Projections



Source: <http://www.census.gov/population/international/data/idb>

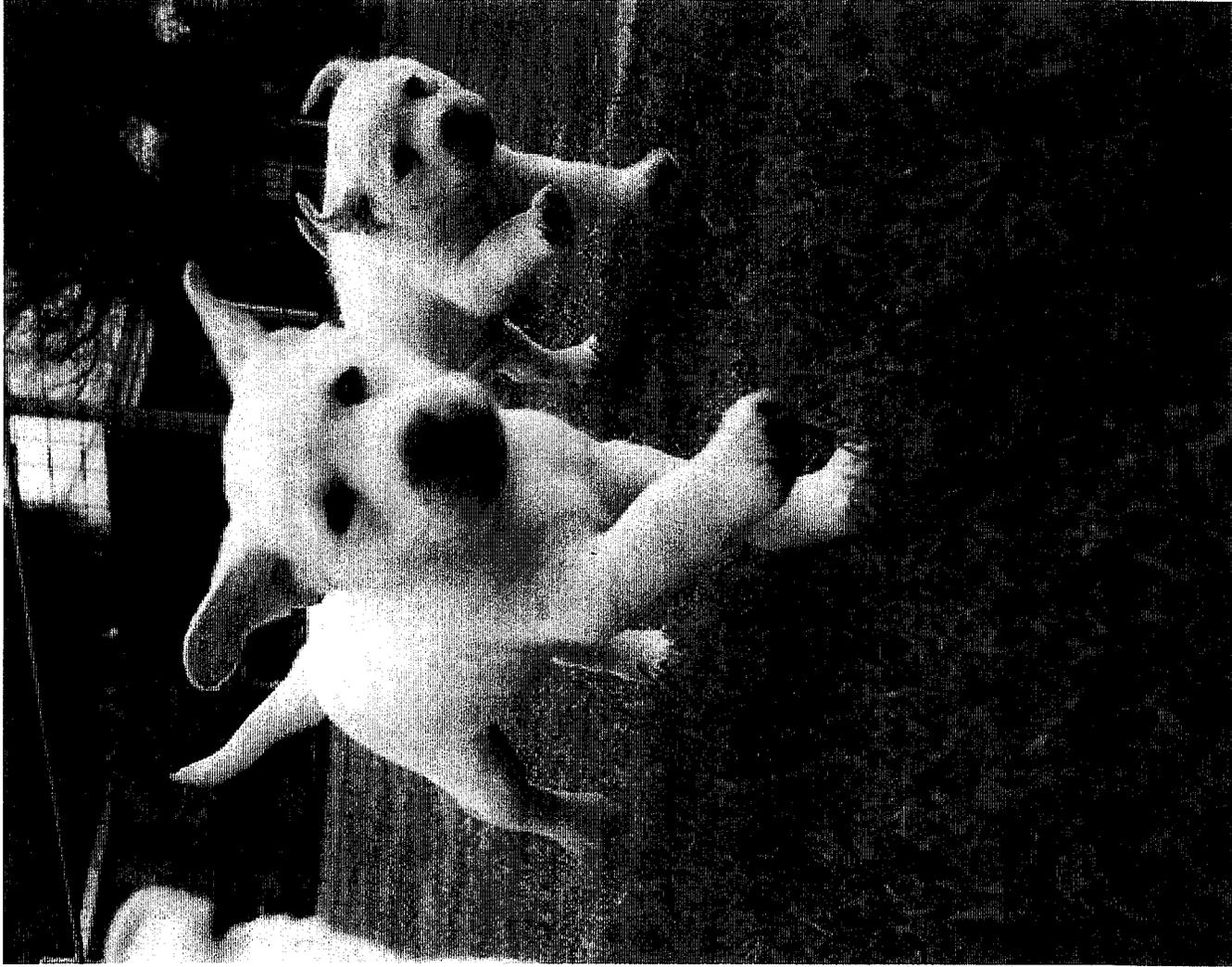
Fundamentals of Projections

Year	Population	US Households	36.5% of Households Own Dogs	X 1.6 for mean number of dogs per household	Plus 9% for replacement dogs	Total
2015	321,363,000	125,167,916	45,686,289	73,098,063	6,578,826	79,676,888
2020	333,896,000	132,205,279	48,254,927	77,207,883	6,948,709	84,156,593
2025	346,407,000	139,638,307	50,967,982	81,548,771	7,339,389	88,888,161
2030	358,471,000	147,489,245	53,833,575	86,133,719	7,752,035	93,885,754
2035	369,662,000	155,781,590	56,860,280	90,976,448	8,187,880	99,164,329
2040	380,016,000	164,540,158	60,057,158	96,091,452	8,648,231	104,739,683
2045	389,934,000	173,791,162	63,433,774	101,494,039	9,134,463	110,628,502
2050	399,803,000	183,562,289	67,000,236	107,200,377	9,648,034	116,848,411
2055	409,873,000	193,882,782	70,767,216	113,227,545	10,190,479	123,418,024
2060	420,268,000	204,783,528	74,745,988	119,593,581	10,763,422	130,357,003

+

What are the options for
where and how to
produce the number of
**healthy,
humanely-
bred dogs**

America will need over
the next 50 years?



6 Sources of New Dogs & Puppies (and their strategic implications):

1. Ad-hoc family breeders (“oops” puppies)
2. Feral dogs
3. Hobby breeders
4. Responsible commercial breeders
5. Puppy mills
6. Imports



Q: Where do dog imports originate?

- Mexico
- Central America
- South America
- Eastern Europe
- Korea/China/Philippines/Indonesia

... Do any of these countries **practice animal welfare** remotely approaching American standards?

... What do we do about this if **we have no choice** but to rely heavily on imports from foreign sources?

AMENDMENT IN THE NATURE OF A SUBSTITUTION – Clerk Item No. 237-14

Introduced by Presiding Officer Norma L. Gonsalves, Deputy Presiding Officer Richard J. Nicoletto, Alternate Deputy Presiding Officer Howard J. Kopel, and Legislators Francis X. Becker, Dennis Dunne, Sr., Denise Ford, Donald MacKenzie, Vincent T. Muscarella, Laura Schaefer, Michael Venditto, and Rose Marie Walker.

LOCAL LAW NO. 11 - 2014

A LOCAL LAW TO REGULATE PET DEALERS AND PET STORES WITHIN NASSAU COUNTY.

FORM APPROVED
[Signature]
MAJORITY COUNSEL

Passed by the Nassau County Legislature on August 4, 2014
Voting: ayes: 12 naves: 7 abstained:

Became a law on August 6, 2014 with the approval of the County Executive.

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

Section 1. Short Title.

This law shall be known as the "Nassau County Pet Dealers and Pet Stores Law" and shall appear in the Miscellaneous Laws of Nassau County as Title 79.

§ 2. Legislative Intent.

This Legislature finds that Pet Dealers and Pet Stores located throughout Nassau County receive dogs and/or cats from breeders or brokers for the primary purpose of selling or trading these animals to individuals and families as pets.

This Legislature further finds that dog and cat breeders that provide these animals to Pet Dealers and Pet Stores vary in their treatment of them and in the manner in which they breed

new litters, and that some operate substandard commercial facilities that expose dogs and cats to inhuman and unsafe living conditions.

This Legislature further finds that Pet Dealers and Pet Stores also vary significantly in their treatment of the dogs and cats that they intend to sell, trade, or give away individuals and families.

This Legislature further finds that it can be difficult for individuals and families who wish to purchase a dog or cat from a Pet Dealer or Pet Store to ascertain how the animal was cared for by that Pet Dealer and by the breeder from which it originated while in their custody.

This Legislature further finds that on March 17, 2014, New York State Agriculture and Markets Law § 407 and New York State General Business Law § 753-d were amended to allow municipalities to enact legislation regulating, among other things, Pet Dealers and the source of animals sold or offered for sale by Pet Dealers, so long as the legislation is no less stringent than the New York State counterpart regulating the same.

This Legislature further finds that individuals and families who wish to purchase dogs and/or cats from a Pet Dealer or Pet Store located within Nassau County would benefit from both New York State and more stringent Nassau County regulation of Pet Dealers, as the enactment of both laws would ensure that their future cat or dog was maintained in a clean, safe, and humane environment prior to purchase.

Therefore, the primary purpose of this local law is to regulate Pet Dealers and Pet Stores located throughout Nassau County.

§ 3. Definitions. As used in this title:

(a) Animal: Cat or dog.

(b) Breeder: Any person who breeds nine or more animals per year.

- (c) Broker: Any person who imports, buys, sells, or trades cats, dogs, kittens, or puppies in wholesale channels. Brokers are not required to take physical possession of the animals to be deemed as such.
- (d) Exercise Enclosure: An area of confinement, including but not limited to a cage, run, kennel, stall, or pen, where animals are provided the opportunity to exercise.
- (e) Person: An individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.
- (f) Pet Dealer: Any person who engages in the sale or offering for sale of more than nine animals per year for profit within Nassau County, except for the following: (1) a breeder who sells or offers to sell directly to consumers fewer than twenty-five animals per year that were born and raised on the breeder's residential premises, and (2) duly incorporated humane societies dedicated to the care of unwanted animals that make such animals available for adoption, whether or not a fee is charged for the adoption.
- (g) Pet Store: A business establishment owned and/or operated by a pet dealer.
- (h) Primary Enclosure: An area of confinement, including but not limited to a cage, run, kennel, stall, or pen, where an animal eats, sleeps, and in most sheltering situations spends the majority of its time.
- (i) USDA: United States Department of Agriculture.

§ 4. General Requirements.

- (a) No animal shall be offered for sale, trade or give-away by a Pet Dealer or Pet Store unless the animal is at least eight (8) weeks old, is in good health and has been weaned from its mother.
- (b) No pet dealer shall obtain animals originating from a breeder who has received and failed to cure the following violations by the deadline set by the USDA: 1) one direct violation from the USDA within the past year, 2) three or more different indirect violations, other than "no access violations" within the past year, or 3) one or more reoccurring indirect violations within the past year.
- (c) No pet dealer shall obtain animals originating from a breeder who has received "no access" violations on the two most recent inspection reports from the USDA.
- (d) Any animal offered for sale, trade or free adoption by a Pet Dealer or Pet Store shall have daily access to appropriate amounts of clean, fresh water and clean, fresh food.
- (e) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall, upon request of the prospective consumer, make available a copy of the most recent inspection reports conducted by the USDA and the animal's state of origin of the breeder and/or broker from which the subject animal came if such breeder or broker is required to be licensed by the USDA. If the animal did not originate from a breeder and/or broker that is legally required to be licensed by the USDA, the Pet Dealer, upon request, shall provide the prospective customer with the name and address of the breeder and/or broker

where the animal originated, as well as the birth date of the animal and certificate of health from a licensed veterinarian. Pet Dealers and Pet Stores shall post the statement "USDA inspection reports and information regarding brokers and breeders are available upon request" on the bottom of signs required pursuant to New York State General Business Law § 753-b and shall be subject to the same standards of readability.

(f) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall retain each invoice they receive from the broker or breeder from whom they obtain their animals for a period of at least two years. A copy of the invoice must be provided to the Office of Consumer Affairs upon the Department's request.

(g) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall make sterilization services available to the consumer for animals sold at an age at which such procedures may be performed safely. Consumers shall be responsible for any costs associated with utilizing such services.

§ 5. Primary Animal Enclosure Requirements for Pet Dealers.

(a) The required floor space for each animal in a primary animal enclosure, exclusive of food and water receptacles, shall be at least the number that results from making the following calculation: (length of the largest animal in inches measured from nose to tail +6)² divided by 144 = required floor space in square feet. For a single animal housed in an enclosure alone, the enclosure's floor space shall be a minimum of 2 square feet, provided the calculation above would result in a smaller space.

- (b) The interior height of the primary enclosure must be at least six inches higher than the head of the tallest animal when it is in a normal standing position.
- (c) Any enclosure made from wire must contain a resting board of sufficient size for the contained animals to lie, stretch, walk and stand without touching other animals and without touching the sides of the containment structure or wire.
- (d) Animal enclosures shall be stacked no more than 2 enclosures high. The top most stacked enclosure must have a solid floor that will not permit food or debris to fall into any lower cage.
- (e) Any primary animal enclosure shall have a tag with the following information about each animal who is housed therein:
 - 1. Breed of the animal, if known;
 - 2. Sex of the animal;
 - 3. Color or other identifying markets;
 - 4. Date of the animal's birth;
 - 5. Date of arrival to the Pet Dealer or Pet Store;
 - 6. The name, state and USDA license number of the breeder; and
 - 7. The name, state and USDA license number of the broker, if applicable.

However, if a microchip has been implanted into an animal and that microchip provides information set forth in §§ 4(e)(1) through 4(e)(7) when scanned by a Pet Dealer or Pet Store, the tag described in this paragraph is not required for the animal with the implanted microchip.

§ 6. Exercise Enclosures

The required space for each animal contained within an exercise enclosure is as follows:

- (a) For exercise enclosures containing one animal, the size must be at least 2.5 times the required measurements for primary enclosures for that animal as set forth in sections 4(a) and 4(b) of this local law, and
- (b) For exercise enclosures containing two or more animals, the size must be at least 1.5 times the required space for each of these animals if maintained separately under the minimum requirements set forth in sections 4(a) and 4(b) of this local law.

§ 7. Exemption.

Pet Dealers and Pet Stores may use animal enclosures that are stacked three enclosures high if they were purchased and installed by the Pet Store or Pet Dealer prior to the effective date of this law, provided that they have solid floors between each level, but this exemption will lapse and terminate five years after this law's effective date. All other requirements associated with animal enclosures shall remain in effect.

§ 8. Euthanasia

No animal shall be euthanized pursuant to New York State Agriculture and Markets Law § 401(5)(d) without a written certification from a veterinarian stating that the animal suffers from a congenital or hereditary condition, disease, or illness that requires euthanasia.

§ 9. Enforcement.

- (a) This law shall be enforced by the Nassau County Office of Consumer Affairs.

(b) The Nassau County Office of Consumer Affairs shall inspect each pet store at least once annually and shall make additional inspections of any pet store should it observe or receive credible evidence of violations.

(c) NCSPCA shall be empowered to conduct inspections on behalf of the Nassau County Office of Consumer Affairs, and shall report to the Nassau County Office of Consumer Affairs any violations identified pursuant to this law.

§ 10. Rules and Regulations

The Commissioner of the Nassau County Office of Consumer Affairs is authorized to promulgate such rules and regulations as deemed necessary to implement the provisions of this local law.

§ 11. Penalties.

Any Pet Dealer or Pet Store that violates any provision of this law shall be assessed a civil fine of up to \$500 for the first violation, up to \$1,000 for the second violation, and up to \$1,500 for every violation thereafter. Each individual violation of the provisions shall be considered a separate and distinct offense, and each day that a violation is committed or is permitted to continue constitutes a separate offense and is punishable as such.

§ 12. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership,

entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 13. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the New York Code of Rules and Regulations (NYCRR) and within the meaning of section 8-0109(2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection.

§ 14. Effective Date.

This law shall take effect immediately.

APPROVED



County Executive

DATE Aug. 6, 2014

**LOCAL LAW NO. OF 2014
COUNTY OF ROCKLAND
STATE OF NEW YORK**

(Introduced by: Hon. Barry S. Kantrowitz)

A local law within the County of Rockland.

Be it enacted by the legislature of the county of Rockland as follows:

Section 1. Name of local law

This law shall be known as the "Protect our Pets Act."

Section 2. Legislative intent.

Pets, especially dogs and cats, are a part of many families throughout Rockland County, and many families choose to purchase their dog or cat at a pet store. However, pet stores vary widely in their care and treatment of the animals they sell, with some treating their animals like extended family while others barely meet State requirements.

Dog and cat breeders that cater to pet stores also vary significantly in their treatment of newborn animals and the way they breed new litters. Some pet breeders operate substandard commercial facilities that expose animals to inhuman and unsafe living conditions to increase profit margins.

It can be difficult for consumers to judge how a pet store cares for the animals it sells or how the animal was treated at their breeder's facility. But the New York State Legislature has recently enacted legislation which, for the first time, empowers local governments to regulate pet dealers.

The County of Rockland should enact a reasonable framework for pet dealers and the operation of pet stores that supplements existing state regulations. Therefore, the purpose of this law is to establish requirements for pet dealers and pet stores operating in the County of Rockland which will serve to protect both consumers and the animals offered for sale.

Section 3. Definitions.

As used in this law, the following terms shall have the meanings indicated:

- A. ANIMAL** - a cat or dog.
- B. ANIMAL WELFARE ACT** - 7 USCS §§ 2131 et seq.
- C. BREEDER** - any person, business or principle of a business who breeds nine (9) or more cats or dogs per year.
- D. BROKER** - any person who imports, buys, sells or trades cats, dogs, kittens or puppies in wholesale channels. Brokers are not required to take physical possession of the animals to be deemed as such.
- E. CAT** - an animal of the genus Felis of the family Felidae.
- F. CONTINUOUS** - three or more instances within a specified period.
- G. DOG** - shall mean an animal of the genus Canis of the family Canidae.
- H. PERSON** - natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.
- I. PET DEALER** - any person who engages in the sale or offering for sale of more than nine (9) animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; except a breeder who sells or offers to sell directly to consumers fewer than 25 animals per year that are born and raised on the breeder's residential premises shall not be considered a pet dealer. Such definition shall further not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee is charged for such adoption.
- J. PET STORE** - a business establishment owned and/or operated by a pet dealer.
- K. USDA** - the United States Department of Agriculture.

Section 4. General Requirements.

- A.** No animal shall be offered for sale, trade or give-away by a pet dealer or pet store unless the animal is at least 8 weeks old, is in good health and has been weaned from its mother.

- B. No pet dealer shall obtain animals from a breeder who has received: 1) a direct violation from the USDA within the past 2 years, 2) continuous "no access" violations from the USDA during the past 2 years, or 3) 3 or more indirect Non-Compliance Issues violating sections 2.40 and 2.131 of the Animal Welfare Act on the most recent USDA report.
- C. Any animal offered for sale, trade or give-away by a pet dealer or pet store shall have daily access to appropriate amounts of clean, fresh water and clean, fresh food no less than twice per day.
- D. Any pet dealer or pet store offering animals for sale, trade or give-away shall, upon request of the prospective consumer, make available a copy of the most recent inspection reports conducted by the USDA and the state of origin of the animal's breeder and/or broker from which the subject animal came.
- E. Any pet dealer or pet store offering animals for sale, trade or give-away shall retain each invoice they receive from the broker or breeder from whom they obtain their animals for a period of at least 2 years. A copy of the invoice must be provided to the Rockland County Office of Consumer Protection upon the Department's request.
- F. Any pet dealer or pet store offering animals for sale, trade or give-away shall make sterilization services available to the consumer for animals sold at an age at which such procedures may be performed safely. Consumers shall be responsible for any costs associated with utilizing such services.

Section 5. Primary Animal Enclosures Requirements for Pet Dealers.

- A. Any primary animal enclosure used to house an animal offered for sale, trade, or give-away shall house a maximum of four animals.
- B. The required floor space for each animal in an enclosure shall be the number that results from making the following calculation: (length of the largest animal in inches measured from nose to tail + 6)² divided by 144 = required floor space in square feet. For a single animal housed in an enclosure alone, the enclosure's floor space shall be a minimum of 2 square feet, provided the calculation above would result in a smaller space.
- C. The interior height of the primary enclosure must be at least six inches higher than the head of the tallest animal when it is in a normal standing position.
- D. Any enclosure made from wire must contain a resting board of sufficient size for the contained animals to lie, stretch, walk and stand without touching other animals and without touching the containment structure or wire.

- E. Animal enclosures shall be stacked no more than 2 enclosures high. The top most stacked enclosure must have a solid floor that will not permit food or debris to fall into any lower cage.
- F. Any primary animal enclosure shall have a tag with the following information about each animal who is housed therein:
 - 1. Breed of the animal, if known;
 - 2. Sex of the animal;
 - 3. Color or other identifying markers;
 - 4. Date of the animal's birth;
 - 5. The name and USDA license number of the breeder; and
 - 6. The name and USDA license number of the broker, if applicable.

Section 6. Exemption.

Pet dealers and pet stores may use animal enclosures that are stacked three enclosures high if they were purchased and installed by the pet store or pet dealer prior to the effective date of this law, provided that they have solid floors between each level, but this exemption will lapse and terminate five years after this law's effective date. All other requirements associated with animal enclosures shall remain in effect.

Section 7. Enforcement.

- A. This law shall be enforced by the Office of Consumer Protection.
- B. The Director of the Office of Consumer Protection shall designate someone who shall inspect each pet store operating in the County of Rockland at least once annually and who shall make additional inspections of any pet store should it observe or receive credible evidence of violations.

Section 8. Rules and Regulations.

The Director of the Office of Consumer Protection is hereby authorized, empowered and directed to promulgate such rules and regulations as he or she deems necessary to implement the provisions of this law.

Section 9. Penalties.

- A. Any pet dealer or pet store which violates any provision of this law shall be assessed a civil fine of \$500 per violation. Each individual violation of the provisions shall be considered a separate and distinct offense.

B. A civil penalty shall only be assessed by the Director of the Rockland County Office of Consumer Protection following a hearing and opportunity for an alleged violator to be heard.

Section 10. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 11. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 12. Effective Date.

This law shall take effect 120 days following its filing in the Office of the Secretary of State.

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