

**TRANSMITTAL**

To:

**THE COUNCIL**

Date: **JUL 24 2009**

From:

**THE MAYOR**

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.



**ANTONIO R. VILLARAIGOSA**  
Mayor

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**ANTONIO R. VILLARAIGOSA**  
MAYOR

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KATHLEEN J. DAVIS  
INTERIM GENERAL MANAGER

LINDA J. BARTH  
ASST. GENERAL MANAGER

July 15, 2009

Honorable Antonio R. Villaraigosa  
Mayor, City of Los Angeles  
Room 300 City Hall

Re: Motion of the Board of Animal Services Commissioners regarding amending the Los Angeles Municipal Code to allow modifications to orders subsequent to completion of all procedures in Dangerous Dogs cases

Dear Mayor Villaraigosa:

At its meeting of July 13, 2009, the Board of Animal Services Commissioners (Board) approved a motion (4-0) recommending that the City Council direct the City Attorney to draft an ordinance and submit it to the Mayor and City Council, for approval, amending the Los Angeles Municipal Code (LAMC) Section 53.34.4, "Dangerous Animal – Procedures," to provide the Board with the discretion to modify General Manager orders to euthanize dogs for good cause upon completion of the appeal process, and to make Los Angeles Department of Animal Services (LAAS) Case No. 05331NC (regarding "Stu") subject to this amendment on a retroactive basis.

Under LAMC 53.34.4, when a dog is declared dangerous by the General Manager as result of an administrative hearing process, the dog must be euthanized. Decisions by the General Manager can be appealed by a dog owner (LAMC 53.18.5), and those cases are then heard by the Board. Under Section 53.34.4.d(3), the General Manager must issue an order to euthanize the dog within two (2) days of the expiration of an appeal deadline or within five (5) days of the issuance of a denial of an appeal by the Board. The LAMC does not provide a specific timeframe for implementation of an order of euthanasia in such circumstances, but the practice of the Department, in consultation with the Office of the City Attorney, has been to defer euthanasia if the owner of a dog subject to such an order files for a Writ of Mandate with the Superior Court.

In rare instances, the outcome of these cases comes into question because of belated revelations or availability of legitimate evidence that is technically inadmissible under the procedures mandated for these quasi-judicial proceedings. The case involving the

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July 15, 2009

Honorable Antonio R. Villaraigosa

Page 2


dog Stu is one such instance (and the only one to come to the Board's attention since 2005).

The Board has determined that the dangerous animal procedures should be amended to permit limited flexibility for the Board to revisit a case and modify an order provided good cause (such as compelling new evidence, conclusive determination of procedural or factual errors, etc.) can be sufficiently documented and an appropriate finding made within a reasonable time period following the conclusion of the hearing and/or appeal process. As the only known case subject to these concerns in recent years and a case that remains current due to court appeals and public controversy, the Board felt that the "Stu" case should be covered by this proposed new procedure.

In the coming months the Board intends to review the entire barking dog and dangerous animal Codes and offer recommendations to improve those procedures. Among the issues for review by the Board will be whether the Board is the proper and appropriate body best suited to act in the quasi-judicial role of an appeal panel, or whether alternative procedures should be considered by the Mayor and Council.

Thank you for your consideration. If you have questions or require additional information, please have your staff contact Ms. Linda Barth, Assistant General Manager for Administration at (213) 482-9558.

Very truly yours,

  
KATHLEEN J. DAVIS  
Interim General Manager

Cc: Board of Animal Services Commissioners  
Linda Barth  
Ross Pool  
Valerie Flores  
Dov Lesel  
Laurie Rittenberg  
Jim Bickhart