

THE
URBAN
WILDLANDS
GROUP



September 1, 2015

Personnel and Animal Welfare Committee
Councilmember Paul Koretz, Chair
Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

**Re: Council File 13-1513 – Number of Cats Owned by Residents (OPPOSE)
September 2, 2015, Item 7. Department of Animal Services reports in response to
Motion (Koretz – O’Farrell) relative to implementing changes to the Los Angeles
Municipal Code to increase the number of cats that a City resident may own**

Dear Chair Koretz and Committee Members:

The Urban Wildlands Group is a Los Angeles-based organization dedicated to the protection of species, habitats, and ecological processes in urban and urbanizing areas. Endangered Habitats League is southern California’s only regional conservation group, dedicated to the protection of our diverse species and ecosystems and to sensitive and sustainable land use for the benefit of all the region’s inhabitants.

We continue to oppose the proposal to increase the number of cats that can be owned per household in the City of Los Angeles. The current item responds to one in a long series of flawed and unworkable proposals that have been discussed as part of two successive motions considered by Council committee(s) beginning in 2010. We, either directly or through our attorney Babak Naficy, have commented on each iteration of the current motion (Council File 13-1513) and the previous motion (Council File 10-0982) and incorporate those comments by reference. Specifically, we have submitted the following letters:

Council File 10-0982

July 18, 2010. Letter from Babak Naficy, http://clkrep.lacity.org/onlinedocs/2010/10-0982_misc_8-30-10.pdf

November 10, 2010, Letter from Babak Naficy, http://clkrep.lacity.org/onlinedocs/2010/10-0982_misc_11-10-10.pdf

August 13, 2012, Letter from Travis Longcore, http://clkrep.lacity.org/onlinedocs/2010/10-0982_misc_8-14-2012a.pdf

Council File 13-1513

November 19, 2013, Email from Babak Naficy, http://clkrep.lacity.org/onlinedocs/2013/13-1513_pc_1_11-19-13.pdf

November 3, 2014, Letter from Babak Naficy, http://clkrep.lacity.org/onlinedocs/2013/13-1513_pc_1_1-16-15.pdf

January 19, 2015, Letter from Travis Longcore, http://clkrep.lacity.org/onlinedocs/2013/13-1513_pc_2_1-19-15.pdf

February 16, 2015, Letter from Travis Longcore and Dan Silver, http://clkrep.lacity.org/onlinedocs/2013/13-1513_pc_3_2-17-15.pdf

April 20, 2015, Letter from Travis Longcore and Dan Silver, http://clkrep.lacity.org/onlinedocs/2013/13-1513_pc_4-20-15.pdf

To summarize, the points that we have made previously include:

1. Any increase in the limit on the number of cats per household in the City of Los Angeles requires review under the California Environmental Quality Act (CEQA) as a discretionary project with the potential to impact the environment;
2. Any increase in the limit on the number of cats per household in the City of Los Angeles would violate the permanent injunction in *Urban Wildlands Group et al. v. City of Los Angeles et al.* (Los Angeles Superior Court Case No. BS115483);
3. The City included an increase in the limit on the number of cats per household in its 2013 proposed “Citywide Cat Program,” for which a draft Initial Study/Mitigated Negative Declaration was circulated (W.O. E1907610), and so moving forward with the cat increase outside this CEQA process constitutes piecemealing; and
4. A scheme in which some households would be required to keep cats indoors while others could allow cats to roam outdoors as a means to mitigate the impacts of additional cats is not feasible, effective, or enforceable.

This letter addresses many of the issues that have been previously raised. Some applicable text from previous letters is repeated here.

Proposal Is Part of Citywide Cat Program with Pending CEQA Analysis

The current proposal is a textbook instance of piecemealing under the California Environmental Quality Act. Piecemealing is defined as dividing a project up into pieces as to avoid environmental review of the totality of the project. We do not have to conjecture about the scope of the full project, because the City has defined its intentions already in the 2013 proposed Citywide Cat Program, a fatally flawed proposal that we opposed and continue to oppose. In

addition to raising the owned cat limit, that program also proposed to legalize feeding and maintenance of stray and feral cats throughout nearly all of the City of Los Angeles.

The City received many negative responses to the proposed Citywide Cat Program in addition to ours. In response to the draft MND, circulated in late 2013, the City received comments from at least six interested government entities expressing opposition to or significant substantive concerns about the proposed program. These governmental entities include:

California Department of Fish and Wildlife
United State Fish and Wildlife Service
Los Angeles County Department of Public Health
Los Angeles Unified School District
Baldwin Hills Conservancy
Santa Monica Mountains Conservancy

Since receiving the comments, the Department obviously has been grappling with how to address the Citywide Cat Program, as evidenced by statements made by the General Manager during Board meetings in 2014. The comment period for the draft MND ended on November 4, 2013. At the March 25, 2014 meeting of the Board of Animal Services Commissioners, the General Manager gave an update on the status of the CEQA analysis. Her oral report on that day was as follows:

And I will mention just briefly, we've been trying to sort of figure out what to do with the CEQA on the Cat Program. And, it's a very complicated matter. The self-proclaimed experts on both sides have — and of course we know those of us who are right, but — there are experts on both sides of this issue who have kicked so much sand up that there's a concern that we would never prevail in court with this CEQA, even though it's a Mitigated Negative Declaration. So we're sort of puzzling right now on what the next steps are going to be. So there will be more to come on that.

The General Manager and her legal advisors evidently realized that the MND would be vulnerable to legal challenge should it be approved.

At the April 22, 2014 meeting of the Board of Animal Services Commissioners, the General Manager again addressed the question of the CEQA review of the Citywide Cat Program. At that time she acknowledged that the funds that had been raised for preparation of the MND had been spent and that the Department had been seeking advice from the City Attorney and the Mayor's Office. She stated:

That money was specifically raised from grants and matching grant funds from some donors specifically to pay for the CEQA. If we have to do additional reporting we will have to raise additional money. So that took care of that one report. If we have to go to a full blown EIR we'll have to raise additional money.

This is an important statement, because it reinforces the point that the City knew that a full EIR might be required and illustrates that the Department lacked the funding to move the CEQA review forward.

The topic of the Citywide Cat Program came up again at the December 9, 2014 Board meeting, where the General Manager again gave an update in response to public comment:

So here's what's going on. The CEQA report, the person who said that the CEQA report and public comment ended about a year ago was telling the truth. The injunction has been against the City for about five-and-a-half or six years I believe at this point. It is very tedious. And the City Attorney's office is looking at, and some private citizens who are willing to help fund some expert opinion to move things to the next level. It's, all I can say is it's very tedious.

The Department does not go out and round up feral cats. We don't do catch and kill. People ... the injunction requires us to give people trapping permits, that if they have what they consider nuisance cats on private property they can get a permit from the Department, posted on their own property, and trap on their own property and then turn those cats in to us, and that's a requirement of the injunction.

The General Manager is very aware of the injunction and that the CEQA analysis for the Citywide Cat Program was insufficient to allow it to go forward. Within this context, it is obvious that the current attempt to move forward a change in the limit on the number of cats allowed per household is intended to circumvent the CEQA review of the Citywide Cat Program by splitting off this component. As such, it is by definition an attempt to piecemeal the project by approving it in pieces without review. Please let us be clear, we do not support the Citywide Cat Program, but if the cat limit were to be changed, it would have to be reviewed as a package with the set of policy changes that the Citywide Cat Program proposes, or that proposed program be officially terminated and the 2005 TNR policy rescinded.

An additional reason that separate approval of the increase in the number of cats allowed per residence is not acceptable is that it would immediately change the legal baseline for the number of cats in the City for subsequent CEQA analysis of any further elements of the Citywide Cat Program or any other cat program. The proposal is therefore inseparable from the City's overall cat policy and programs.

Number of Cats Allowed at a Residence Is Linked to Regulation of Cats Overall

The 3-cat limit is one of the few tools that the City has to address problems deriving from people feeding feral or stray cats at a property that have unacceptable environmental, public health, or nuisance impacts. It is common practice for cat advocates to maintain feral and stray cats at their residences, and also for so-called "rescue" groups or individuals to "pull" cats from City shelters or move stray or feral cats from a location where they are causing a nuisance (e.g., at a business) to unenclosed "backyard colonies." Raising the cat limit would facilitate these activities (i.e., by increasing the number of cats individuals could pull, based on the additional permissible number of owned cats), thereby violating the current injunction.

The underlying purpose of the cat limit increase, at least from the apparent perspective of the General Manager and feral cat advocates, seems to be to provide a safety valve for cats that are at risk of being euthanized at City shelters. To respond to the political pressure from a small but vocal group of advocates who believe that all euthanasia of domestic animals must be avoided, the current proposal essentially seeks to make residences (houses, condominiums, and

apartments) into overflow shelters so that cats are not euthanized. In the past, responsible humane organizations screened prospective pet owners for the quality of care they could provide before adopting animals to them. The current proposal seeks to simply warehouse animals in the community.

Lest any doubt remain that the increase in the cat limit is inextricably linked with the City's attempt to become "no kill" and therefore linked to the management of stray and feral cats, the current report from the General Manager twice emphasizes that the 2 additional cats per residence could be foster animals obtained from a shelter. First, the report states, "These additional cats could be kept as pets *or temporary fosters*...." The General Manager later writes that the proposal "would allow the City to adopt out or *place more cats in temporary foster care* to save cats' lives due to space constraints in shelters or rescues."

The proposal therefore conflicts with the permanent injunction in *Urban Wildlands Group et al. v. City of Los Angeles et al.* in that feral cats would be among those adopted out to people under the new program, thereby making it an action in furtherance of the City's TNR program for feral cats, which would not be allowed under the injunction. The limit of 3 cats per household currently constrains the number of feral cats that people can "adopt" from shelters. By increasing the household limit, the proposal alters conditions governed by the injunction and is impermissible unless and until the proper environmental review is done and the injunction were to be modified to allow such action. The recommendation from the General Manager only specifies that the City Attorney would undertake any required CEQA review and does not acknowledge that compliance with the permanent injunction would also be necessary.

Department's Analysis Lacks Analytical Depth

The General Manager's analysis of the proposal consists of mentioning the pet limits in three other jurisdictions (City and County of San Diego and City of Santa Monica) and concludes that an increase in the cat limit would not result in hoarding. The General Manager does not address any of the other potential negative impacts of increasing the number of cats allowed per household, the regulatory structure within which other jurisdictions allow more cats than does the City of Los Angeles, or the many local jurisdictions that have more restrictive limits than the City of Los Angeles already has, let alone would allow under the new proposal.

Potential Impacts in Addition to Risk of Hoarding

Risk of hoarding is the only potential consequence that is analyzed by the report from the Department of Animal Services. To only address the risk of hoarding gives singular importance to the conditions for the cats themselves while ignoring the negative impacts of cats on environmental conditions at numbers far less than in egregious hoarding situations. Given that the requirement that 4- and 5-cat households keep their cats indoors is unenforceable, many other consequences would result from increasing the number of owned cats. These include impacts to wildlife, impacts to public health, impacts on City services such as sanitation, and impacts to water quality.

No Discussion of Overall Regulatory Structure for Cats

The General Manager selectively notes the number of cats allowed per household in two other cities and a county (not Los Angeles County), but does not discuss the regulatory structure for cats in which those limits are set. Some cities (and counties) have higher limits than Los Angeles, but also have regulations that require cat licensing, prohibit people from allowing their cats to roam at large, or require that cats be kept primarily indoors. The impact of the number of cats per residence is influenced by these other factors. For example, The General Manager points to the City of Santa Monica and its lack of limits on owned cats. She conveniently omits that the City of Santa Monica, unlike the City of Los Angeles, has an ordinance that bans owners from allowing animals (including cats) to “run at large in or upon any private property without the property owner’s or occupant’s permission, any unenclosed private property or any public property...” (Santa Monica Municipal Code Section 4.04.150). This ordinance balances out the absence of a limit on owned cats, in that it requires cats to be confined to owners’ properties and provides recourse should they be allowed to run at large. Notwithstanding the putative restriction on additional cats being kept indoors, the City of Los Angeles has no such ordinance or means of third-party complaint and enforcement, and therefore presents an entirely different situation from that in Santa Monica.

Similarly, Laguna Beach, a city to which the General Manager has previously used as an example of a locality that allows more than 3 pet cats, has an ordinance that bans pet owners from allowing their animals to “trespass on the private property of another person without the consent of such person” (City of Laguna Beach Municipal Code Section 6.16.030).

Another important element of a regulatory framework is whether minimum square footage requirements are established for a certain number of pets. Laguna Beach requires a certain residential square footage to allow additional cats beyond a minimum of 1 cat (with a maximum of 6 cats). The City of Los Angeles has no such requirement and the current proposal would allow 5 cats in a small studio apartment without consideration of the advisability of such a situation.

Whether cats are required to be licensed (so that the number per household can be tracked and straying animals can be identified) is also an important part of the regulatory structure. Los Angeles does not require cats to be licensed, which completely undermines the ability to limit households with a specific number of cats to keeping those cats indoors and the ability to cite violators who let cats roam that should have been kept indoors.

Selective and Limited Choice of Comparisons

The General Manager appears to have cherry-picked a few examples of other jurisdictions with different rules for cat numbers. Such an approach does a disservice to the City Council in ascertaining whether the proposal is in the mainstream for surrounding cities. For example, Long Beach allows 4 total pets (cats or dogs, all of which must be licensed) compared with 6 in Los Angeles (3 dogs and 3 cats, with no license requirement for cats). Burbank allows only 3 total pets (cats or dogs, all of which must be registered). The County of Los Angeles allows 5 cats but specifies that they all be “primarily” indoors, meaning that all cats are subject to the

same regulations and allowing the Department of Animal Care and Control a means to address nuisance situations arising from cats allowed outdoors.

Furthermore, it is not sufficient that the General Manager identify that other jurisdictions have a particular limit on cats. She should provide actual evidence in the form of complaint numbers or verifiable data that illustrates how such limits work well for the community. This would, as we have discussed above, include a description of the full regulatory structure governing cat ownership, since these other elements (e.g., requirement to pick up cat waste, requirement to maintain on property, requirement to keep all cats primarily indoors) are equally important to protecting public health and the environment.

No Enforcement Mechanism Is Identified

Like previous proposals, the current offering from the Department of Animal Services involves an unenforceable scheme in which 3 cats are allowed to roam outside, but if additional cats are obtained, all cats must be kept inside. Although this is put forward as mitigation for the increase in number of cats, it is not a credible approach. The City would be exchanging one unenforced regulation (the 3-cat limit) with another (the restriction on households with 4 or 5 cats keeping all cats inside).

This scheme would create a confusing mix of regulations that could be easily avoided by anyone maintaining cats. Because the City is not also requiring cat licensing, which would establish the number of cats at a residence, any person accused of not keeping his or her 4 to 5 cats indoors could simply claim that only 3 cats were owned and the remainder were non-owned strays.

The rationale provided by the General Manager in a previous iteration of this proposal for not establishing a rule that would keep all cats indoors is that it would “impact resources and procedure,” yet the proposed rule to require all cats to be kept indoors if a fourth cat is adopted by a 3-cat household presents even more problematic enforcement issues. How could an Animal Control Officer determine if a household has 3 or fewer cats or more than 3 cats? The roughly 50 ACOs in a city of millions of people are not going to be able to drive down the street and say, “Hmm, Mrs. Jones doesn’t have a gray cat,” remember that Mrs. Jones used to have 3 cats and conclude that the new, gray cat, and the other 3 cats, should now be kept indoors. The difficulty of enforcement of such a rule leaves the impression that the General Manager does not want the Department to be able to enforce any rules regarding the number of cats at a residence, and indeed Ms. Barnette has expressed publicly that she opposes pet limits altogether.

Proposal Must Be Reviewed by Planning and Land Use Management Committee

The current proposal, along with any cat program that changes acceptable land uses within the City, should be reviewed by the Department of City Planning and the Planning and Land Use Management Committee because it changes the acceptable uses of property in residential zones. Currently, keeping more than 3 dogs and/or 3 cats at a property is not permissible at all in residential zones. The proposed change essentially would allow a cat kennel (more than 3 cats at a property) to be located in residential zones. Since the definition of “kennel” is relied upon by the planning and zoning code in three different sections (LAMC 12.17.5, 12.18, 12.23), this

proposed change should be considered by the Department of City Planning and the Planning and Land Use Management Committee.

City Provides No New Tools to Reduce Number of Unowned Cats

As is clear from the General Manager's report, one key objective of the current proposal is to place cats that have entered the shelter system out into homes as temporary fosters. This is not a long-term solution. Rather than address the source of those cats, the current proposal simply seeks a place for some limited number of cats to be pushed out into temporary accommodations, with no plan for what to do when those limited spots are filled. The City should instead be focusing on ways to reduce the number of unowned cats in the first place.

We have previously highlighted a series of steps that could be taken to reduce the number of unowned and unwanted cats over the long term: 1) require that all cats be licensed; 2) adopt a prohibition on cats running at large; 3) enforce the spay/neuter ordinance and provide low-cost spay/neuter for owned cats; 4) continue to accept unowned stray and feral cats at shelters and euthanize them if suitable homes are not available; and 5) enforce the existing ordinance that bans feeding of non-domesticated mammalian predators, which the feeding of unowned cats outdoors does by providing that food to raccoons, skunks, and coyotes. We strongly encourage the Personnel and Animal Welfare Committee to consider these initiatives instead of the current proposal from the General Manager.

Please contact Dr. Longcore at longcore@urbanwildlands.org or (310) 247-9719 if you have any questions regarding this letter.

Sincerely,



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Dan Silver, M.D.
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[Corrected and updated for clarity September 7, 2015]