

Phyllis M Daugherty
420 N. Bonnie Brae Street
Los Angeles CA 90026-4925
(213) 413-2367
<mailto:animalissu@aol.com>

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Councilmember Jose Huizar, Chair
Councilmember Marqueece Harris-Dawson
Councilmember Mitchell Englander
Councilmember Bob Blumefield
Councilmember Curren D. Price, Jr.
Planning and Land Use Management Committee
City of Los Angeles

Honorable Councilmembers:

RE: **CF 17-0079 OPPOSITION** - Animal Rescue/Adoption Retail Stores in Commercial (C) Zones
without Obtaining a Conditional Use Permit (CUP)

The motion for the Dept. of Planning to prepare an ordinance that provides a definition of animal rescue/adoption facilities, that will allow such facilities in C (Commercial) Zones and that includes performance standards and community protections that must be met through either an administrative or land use regulatory control process is unnecessary because the city already has such a process. It is called a Conditional Use Permit (CUP).

The intrusion of retail/rescue adoption stores/kennels into C (Commercial) zones is no different from a for-profit boarding, training or breeding kennel facility with four or more adult dogs. The amount of noise, effluence and impact on the environment generated by shelter dogs at retail/rescue stores (kennels) is equal to that of dogs boarded for owners at private kennels, and the potential for spread of disease to animals and humans may be even greater than with owned animals, which receive regular veterinary care. All such facilities are required to obtain a CUP to operate in C zones, with the Planning Dept. developing requirements individually to insure public health and safety. The City cannot engage in favoritism and fail to provide equal protection and equal opportunity under the law for non-profit and for-profit businesses.

There is another issue that must be addressed in both, which is that the code requires an adult to be on the premises 24 hours a day if more than 20 animals are maintained overnight. It is likely that most retail/rescue stores will exceed that number.

When the puppy-mill pet shop ban was passed in 2012, the Council was assured this “new business model” for retail/rescue “pet shops” was a successful part of such bans in other cities. That was not true. Other “mill-bred” puppy bans allow shelter animals to be offered in existing pet shops for adoption, primarily by rescue groups during daytime hours and removing them afterwards. But they do not require pet shops to acquire and/or house shelter animals in C zones, where traditional pet shops only maintain puppies and kittens under four months. These young animals do not create the noise (barking), odor, and sanitation issues that result with housing numerous adult animals.

The establishment of retail/rescue stores citywide will impose a major toxic waste hazard in Commercial zoning because the drainage/sewage systems in C-zoned locations are not designed to dispose of large amounts of animal effluence. (In a retail/rescue shop on Ventura Blvd., we observed volunteers washing the waste from the outside kennels across an alley and into an open storm drain in 2015.)

On May 27, 2015, these same issues were presented to Los Angeles Superior Court Judge Joanne O’Donnell, and caused her to issue an Order and Writ of Mandate in regard to ZA-2013-3104-ZAI.

Judge O’Donnell opined that the, “City of Los Angeles Zoning Administrator’s Interpretation which excludes “pet shops” from the definition of “kennels set forth in Section 12.03 of the Los Angeles Municipal Code (No. ZA-2013-

3104-ZAI, issued October 30, 2013) exceeds the Zoning Administrator's authority and is thus an abuse of discretion." (Daugherty vs. City of Los Angeles) (CF11-0754 and CF 11-0754-S1)

Without notice, the ZAI had robbed every business citywide of important protections against having a dog kennel next door, maintaining an unlimited number of adult shelter dogs of any breed or temperament, 24/7. Residents within 500 feet (many of whom may be in residential zones) also lost important quality-of-life, health and safety provisions previously imposed by LAMC Sec. 12.03.

The ordinance which established a new type of animal rescue retail store did not address or consider that the operators (rescues) are not regulated by any local or state laws, are unmonitored and are not restricted to offering "shelter" animals. As long as they have an "agreement" with a shelter or humane society, they may obtain the pets they sell from any source, including breeders and imports from other states and other countries. (Several recent cases of Canine Influenza were reported in the L.A. area and traced to dogs from China imported by rescuers.)

All rigorous State protections that exist in regard to "pet shops" are not applied to retail/rescue stores (which, according to a recent survey, charge an "adoption fee" of up to \$750 per animal.) The new ordinance is devoid of restrictions and requirements to protect the health and safety of the animals and the public. It does not address space requirements, air-circulation systems, County Public Health codes, number of animals, how they will be exercised, distance from homes, allowable decibels of sound from barking, or any of the environmental issues that impact neighbors (commercial or residential.)

Therefore, the only way to meet the performance standards and community protections required in the motion is to have the retail/rescue stores (which are dog kennels) utilize the current land-use regulatory control process and obtain a CUP, with notification to surrounding businesses and home owners.

The following links show media reports on recent problems with retail/rescue stores:

Some So-Called Nonprofit Pet Rescues May Not Really Be Charities (David Goldstein Investigates)
<http://losangeles.cbslocal.com/2017/04/28/non-profit-pet-rescues-not-charities/>

Cease and Desist Order Forces Closure of WeHo Pet Rescue **Saving Spot** (David Goldstein Investigates)
<http://losangeles.cbslocal.com/2017/08/17/order-forces-weho-pet-rescue-close/>

60 dogs seized from Studio City nonprofit animal shelter | abc7.com
<http://abc7.com/pets/60-dogs-seized-from-studio-city-nonprofit-animal-shelter/1329219/>

May 8, 2016 - **Lucky Puppy Rescue** and Retail in the 11700 block of Ventura Blvd accused of hoarding... The owner, Rachel Kennedy, now faces charges of running illegal kennels and neglect.

Sincerely,

Phyllis M. Daugherty

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(Attach.)



Judge O'Donnell: LA Zoning Administrator Exceeded Authority

PHYLLIS M DAUGHERTY

18 JUNE 2015

ARCHIVE



ANIMAL WATCH-On October 30, 2013, LA's Chief Zoning Administrator Linn Wyatt issued a Zoning Administrator's Interpretation (ZAI) exempting "pet shops" from the requirements for "kennels," if they offer four or more adult shelter or rescued dogs for sale. This contradicts LAMC Section 12.03 of the Zoning Code which defines a kennel as, "Any lot or premises on which four (4) or more dogs, at least four (4) months of age, are kept."

The ZAI was requested by LA Animal Services GM Brenda Barnette, according to the Planning Department.

A Writ of Mandate petition (BS147232) was filed in Los Angeles Superior Court on February 10, 2014, contending that the Zoning Administrator had exceeded her authority in granting special privileges to favored operators that would exclude them from the requirements of the zoning code.

The ZAI was the stepchild of the ordinance (CF11-0754), introduced by Councilman Paul Koretz, which banned the sale of commercially bred dogs, cats and rabbits in pet stores. It was passed by the Council with much "feel-good" media publicity on October 31, 2012.

In the justification for that ban to stop "puppy mills" (none of which are in Los Angeles) the Council also required pet shops "to obtain their animals from public and private shelters or rescue groups."

The Council was assured this “new business model” for pet shops was a successful part of such bans in other cities. That was not true. Other “mill-bred” puppy bans allow shelter animals to be offered in existing pet shops, primarily by rescue groups, but do not require pet shops to acquire them.

Historically, pet shops are in commercial (C-2) zones and only offer puppies under four months of age. They are automatically regulated as kennels by the LAMC zoning code if they maintain more than three dogs over that age (adults.) Similar kennel codes in other jurisdictions are not changed in conjunction with “mill-bred” puppy bans.

Without notice, the ZAI robbed every business citywide of important protections against having a dog kennel next door, maintaining an unlimited number of adult shelter dogs of any breed or temperament, 24/7. Residents within 500 feet also lost important quality-of-life, health and safety provisions previously imposed by LAMC Sec. 12.03.

However, any private boarding or training facility housing adult dogs in Los Angeles still needed to follow the Zoning Code and obtain a Conditional Use Permit to maintain four or more dogs on any property not in an M-1 industrial zone. This is to avoid nuisance and public/animal health hazards, including barking, waste disposal, drainage and the spread of disease/parasites.

The ZAI left all decisions as to excessive noise and number of animals up to the GM of Animal Services. It contained no qualifications for “pet shop” owners and was devoid of restrictions and requirements to protect the health and safety of the animals and the public.

Attorney Harold Holmes argued that the amount of noise, effluence and impact on the environment generated by shelter dogs at pet shop is equal to that of dogs boarded for owners at private kennels, and that the City was engaging in favoritism and failing to provide equal protection under the law.

Los Angeles Superior Court Judge Joanne O’Donnell issued an Order on May 27, 2015, that the, “City of Los Angeles Zoning Administrator’s Interpretation which excludes “pet shops” from the definition of “kennels set forth in Section 12.03 of the Los Angeles Municipal Code (No. ZA-2013-3104-ZAI, issued October 30, 2013) exceeds the Zoning Administrator’s authority and is thus an abuse of discretion.” The judge also ordered that a Writ of Mandate issue. (Daugherty vs City of Los Angeles)

Who Really Orchestrated The ZAI? A California Public Records Act request to then-Mayor’s Villaraigosa’s office produced e-mails to and from legislative deputy Jim Bickhart which show he personally wrote the template wording and lobbied for changes to the LAMC that would remove “pet shops” with adult animals from zoning code sections enforced by the Department of Building and Safety.

He argued at the October 2, 2013, Personnel and Animal Welfare Committee (PAW), for adding a section to the pending “puppy mill” ordinance that would remove zoning impediments to non-profits opening shelter-dog pet shops by exempting this “new business model” from the Conditional Use Permit (CUP) requirement. He contended this was essential for Paul Koretz’ “puppy mill” ban to have its desired effect.

Bickhart’s proposal still faced the troublesome issue of the Charter-required Planning Department notification to the public of any zoning change. E-mails and documents obtained from the Planning Department reveal the involvement of Dov Lesel, Assistant City Attorney for Animal Services, to, instead, develop a ZAI adapting Bickhart’s proposal.

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The Mayor's Office initiated supplemental file (CF11-0754-S1) on 10/3/2013 to accomplish this goal.

That same day Jim Bickhart discussed in an e-mail to Richard Llewellyn, then-Chief of Staff to Councilmember Paul Koretz (now legal counsel to Mayor Garcetti) what he had verbally presented at the PAW meeting:

"...[W]ith the assent and backing of a key player in the local humane community (Aimee Gilbreath, ED of the Found Animals Foundation), I suggested that there's a fixable problem in the LAMC that, left unfixed, could prevent a key aspect of Paul's pet shop...ordinance from falling flat on its face."

Llewellyn wrote that this seemed like a land-use matter and inquired about environmental analysis, approval by the Planning Dept., Neighborhood Councils, HOA's, etc. Bickhart responded that he had not yet consulted with anyone except supporters of the "mill-bred" puppy ban ordinance.

He assured Llewellyn, *"As you will see, I think I've got a pretty simple solution that only needs a bit of review and wordsmithing from the City Attorney."*

That same day, Bickhart wrote to Found Animals Foundation:

"I think it is a stretch (and a self-fulfilling disaster) to consider what I proposed a land-use amendment...Years of experience tells me that if they'd just go ahead with the kind of solution we're proposing, there's a 99% likelihood it would go through Council unnoticed and that would be the end of that."

Was it an oversight that the March 26, 2013, report by former-City Attorney Trutanich advising that, "Amendments to the Planning Code must be referred to the Planning Department pursuant to the City Charter," were omitted in the October 23, 2013, report by new City Attorney Michael Feuer? The initials "DL" appear as author of both, and Dov Lesel approved two widely differing versions of a Draft Ordinance as to form and legality.

On November 16, 2013, CF11-0754-S1 ((Definition of Kennel and Pet Shop / Los Angeles Municipal Code / Amendments) was approved by Koretz' PAW Committee without public vetting because it did not indicate in the title that zoning was affected. There was no Planning Director or Planning Commission review filed, and the City Council's Planning and Land Use Management Committee (PLUM), chaired by Jose Huizar, waived public hearing.

No Council Questions-*Guidestar* reveals the billions of dollars donated annually to humane organizations, whose high-profile legislative activities now contain reminders of how many votes can be affected by their endorsement. This explains why more than altruism can motivate the desire of politicians to promote, without question, the latest laws popular with animal lovers.

Mayor Garcetti signed CF11-0754-S1 on December 6, 2013. The cover sheet was marked "approved" by the Planning Commission and Director of Planning, and the City Attorney.

Jim Bickhart left City Hall at the end of Mayor Villaraigosa's term, but was recently hired (as Speedway Policy Associates) under a personal service contract to Councilmember Bob Blumenfield and currently under a contract with Paul Koretz.

As LA Watchdog Jack Humphreville wrote on June 14, in Worst Case! City Hall Leadership Pulls Off Sleazy Backroom Deal in K-Town, the Mayor's Office and Council once more demonstrated that we cannot trust City Hall.

(Phyllis Daugherty is an animal activist in Los Angeles and a contributor to CityWatch)