

## ANIMAL ISSUES MOVEMENT

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April 10, 2018

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| Planning and Land Use Committee<br>City of Los Angeles<br>200 N. Spring Street<br>Los Angeles CA 90012 | Los Angeles City Council<br>City Hall<br>200 N. Spring Street<br>Los Angeles CA 90012 | City Attorney Mike Feuer<br>City Hall East, 8th Floor<br>200 N. Main Street<br>Los Angeles CA 90012 |
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### **OPPOSITION COMMENTS: CASE: CPC-2017-4075-CA, ENV-2017-2076-EAF *Pet Shop Ordinance***

The following comments are in opposition to the "Pet Shop" Ordinance proposed in a report distributed on April 4, 2018, by the L.A. City Planning Department. On December 18, 2017, opposition comments on the subject Case and Council Files **CASE: CPC-2017-4075-CA , ENV-2017-4076-EAF (OPPOSITION: CF 17-1237 Kennel / Delete Definition / Amendment** were submitted to the Planning Department, and are hereby included in their entirety by reference.

The City is aware that many employers, businesses and the important tax-paying middle-class families are leaving Los Angeles due to the erosion of the quality of life. L.A. reportedly has fallen to #61 in a list of favorability/livability among the nation's cities.

Some of the most sacred safeguards of investment are planning and zoning codes, which guarantee that the value of property and intrinsic availability of customers (for businesses) and safety and services (for homeowners and consumers) will remain stable or predictable. The negative impacts and lack of regulation in this ordinance threaten the values of countless properties--business and residential--citywide.

### **THIS REPORT CREATES ONE FAVORED CATEGORY--"NON-PROFIT" OR "FOR-PROFIT" BUSINESSES (PET SHOPS)--EXEMPT FROM PLANNING/ ENVIRONMENTAL REGULATION BY THE CITY OF LOS ANGELES**

Whereas, the purpose for this change in law is purportedly the "noble cause" of saving homeless animals, the definition in the new Sec. 12.03 states that it defines "pet shop" as ANY business selling dogs, cats or any other animal, and is NOT limited to non-profit organizations.

The ordinance proposes standards purported to protect the neighborhoods and environment where these "pet shops" are located. But, in truth, the standards do not apply to many locations in the city; and, of those where they could, the Zoning Administrator may exempt the "pet shop" from ALL of the protections for the community, unless an immediately adjacent neighbor complains.

Not only are the alleged protections for the community in this ordinance almost completely ineffective, also are the protections for the animals in the pet shops. The limit on the number of animals and the requirements for cage space would NOT APPLY in M-1 or less restrictive zones or any "pet shop" where the Zoning Administrator grants the exemption. Neither the development standards nor the operational standards would be enforced in a large percentage of "pet shops."

The ability of the Zoning Administrator to exempt a "pet shop" from all safety and environmental regulations based solely on the absence of objection from the limited adjacent neighbors who have not yet experienced the effects of the applying "pet shop" gives unfettered discrimination to the Zoning Administrator. This lack of guidelines in exercising discretion is essentially abdicating the legislative functions to the executive branch and that cannot be done legally.

The development standards are two things: the maximum number of animals and cage space. The operational standards address three issues: total number, cage space and limits all activities to indoors.

The operational standards are those designed to protect the community, including times when dogs can be walked, entrances to be used, a maximum of three dogs to be walked simultaneously by each volunteer or employee, picking up the solid waste and subjective limits on noise and odor. However, none apply in M-1 or less restrictive zones.

Animal Services is tasked with determining requirements for soundproofing and air filtration--for which they have no training, expertise, equipment or legal authority.

A "review" of dog-walking routes requires no action of approval or even response from Animal Services, so there are no restrictions on where the dogs will be walked, even in the few cases where these standards are imposed.

### **Training/Boarding Facilities**

The nuisance, odor, noise, danger of escape, disease, toxic waste contamination is no different between a shelter/rescued dog and owned dog which is being boarded. In fact, owned animals must be healthy and have up-to-date shots and the danger to the community and other animals is less than stray/neglected/untrained animals from a shelter. Yet, the training/boarding facility will be highly regulated for compliance with local and state laws and federal environmental regulations.

There is no indication these "pet stores" would be required to have any business permit other than from the Department of Animal Services. Yet, a private, for-profit training or boarding facility, maintaining the same number of animals would be subject to rigid requirements and fees to the City.

### **Any activity outside the building (entry/leaving/exercise/walking) could be the cause of contamination/disease OR potential escape or attack**

Since there is no requirement for the dogs to be obtained from a shelter, they may be transported into Los Angeles from other states or countries and, though not yet showing symptoms, may be infected with diseases that are not endemic to Southern California; such as, heartworm or the current cases of Canine Influenza. If these (or other infectious diseases) are spread on these regular "walking routes," they can create dangers to animals throughout a community.

### **CEQA IS FLAWED: "NOBLE CAUSE" DOES NOT EXCUSE THE CITY FROM PERFORMING ITS DUTIES**

The Planning Department's CEQA is flawed for numerous reasons and is automatically invalid because the purpose is to have an environmental evaluation of the impact of the proposal which is objective.

The Planning Department has, however, based its conclusions in this report on the "noble purpose" of saving animals life, which is a judgment call -- a moral value, and which they are not endowed to make on behalf of the City of Los Angeles. A CEQA involves performing a study on the potential impacts of the activity ONLY.

In this case, the very first portion of the study acknowledges that the evaluator was aware of the stated purpose of the activity, which should have no bearing and, therefore, should remain unknown or not considered by the evaluator.

The way the report is written gives a tone that lauds the "nobility" of the purported purpose of the activity. It is paying homage to this wonderful idea and creating a way for it to occur. The danger of this approach is that it clouds the judgment of the evaluator. This allows potential negative impacts to be counterbalanced by the idealistic potential benefits of the activity. The evaluator's role is merely to report potential negative impacts, without weighing any of those against the potential benefits.

The CEQA report does not take into consideration--even though it mentions in one place--that the standards really will not apply because many pet shops are exempt from all of them and almost anyone can secure an exemption from all of them.

The only criteria for the exemptions is the agreement of the few immediately adjacent neighbors. No one else in the community has the right to comment (the opportunity a CUP allows for any property owner within 500 feet.) The CEQA states that exceptions (variances) for the standards will be based upon its own environmental study. There is no requirement or even mention anywhere in the ordinance of any environmental study in order to secure the exemption.

The CEQA analysis is flawed because it states that before an individual exemption from the standards would be allowed, an individual assessment will be done. There is no such requirement in the ordinance. To the contrary, the ordinance states that it is guaranteed approval as long as the immediately adjacent neighbors do not object. There exists no option for any other objection or complaint and the lack of regulation emphasizes this. Also, if no adjacent neighbors complain before the approval by Planning, there is no mechanism for later grievance in the ordinance.

Neither the CEQA analysis nor this proposal consider the disposal of tons of solid waste or the water runoff from the "pet shop" (cleaning toxic urine deposited on walls and floors must be done several times a day to avoid infections), which is prohibited from being absorbed into the ground on or off the property by State law, including at an official animal shelter. An animal shelter cannot legally allow waste water runoff to leave the boundaries of the property.

It does not address chemical usage on private property which will be washed across sidewalks, alleys and into storm channels.

The ability of the Zoning Administrator to exempt a "pet shop" from all safety and environmental regulations based solely on the absence of objection from the limited adjacent neighbors who have not yet experienced the effects of the applying "pet shop" gives unfettered discrimination to the Zoning Administrator. This lack of guidelines in exercising discretion is essentially abdicating the legislative functions to the executive branch and that cannot be done legally.

As L.A. City Principal Planner Tom Rothman states in his December 9, 2016, e-mail to Andrew Pennington (cc: Phyllis Nathanson, Yi Lu), "We are working closely with Animal Services and the City Attorney to allow some kennels in C Zones. As you can imagine, allowing unlimited numbers of dogs to be housed permanently in commercial areas has substantial environmental implications." Among those would be the fact that waste water (sewage) cannot directly empty into the storm-water system, but must be treated. That's why kennels are required to tie into a sewer/septic system. No sewage or runoff can leave the property. LAMC Sec. 64.70 refers to "animal waste" in kennels and its discharge as a pollutant into storm drains. State and federal laws have stringent laws governing the disposal of sewage. Will each "kennel/adoption center" in a C zone be pre-equipped to comply with these laws and who will make regular inspections?

## "Non-Profits" Are Merely Tax-Exempt Businesses

Whether it is a for-profit or "non-profit "pet shop," all of these businesses will be engaged in the sale of products (dogs and cats) which may be obtained from animal shelters/humane societies or any other sources. If the proprietor is a non-profit, they have the added privilege of obtaining their 'product' (animals) from a shelter through an agreement at minimal cost or free of charge. However, both sell at a price which is profitable. Non-profit organizations often ask for hundreds of dollars more per animal and do not pay taxes on their profit in California. Also, non-profit organizations regularly solicit for donations, which are also untaxed.

These living commodities are 'sold,' not "adopted." There is no legal "adoption" of animals--as there is for a child.

The profit made from such sales (often the more desirable young puppies/kittens are sold for up to \$1,500 -- see attached Facebook ad by "True & Faithful Pet Rescue Mission, Inc.," which shows a 10-month old "golden doodle"--mix of Golden Retriever/Poodle)--which was "saved" from a shelter in Alabama and transported to a NY rescue.

CEO Edwin Sayres was earning nearly **\$600,000** in compensation annually when he left in 2013, and Humane Society of the U.S. CEO Wayne Pacelle was called "the **\$4 Million Man**" in a recent interview.

(See article attached: "[Animal Rescue Pet Shops May Be Near Homes Under L.A.'s Flawed Plan.](#)")

Sincerely,

*Phyllis M. Daugherty*

Phyllis M. Daugherty, Director

## \$1,500 "adoption" fee for rescue dog from county shelter



**True & Faithful Pet Rescue Mission** posted 4 photos.

Nov 8 at 7:51pm · Instagram · 🌐

Huge thank you to Doggie Divine for taking such amazing care of Daphne! This 10 month golden doodle will be headed to #newyork in under 2 weeks! This sweet soul was saved from a shelter in #alabama! Want to know more?! Please send Jillian a email!! 💖  
Rescue@foundmyanimal.com  
#truefaithfulpetrescuemission #fmaadvocate



TRUE & FAITHFUL PET RESCUE MISSION,INC  
347 605-8878  
Brooklyn, NY 11206  
Rescue@foundmyanimal.com

### ABOUT DAPHNE

Daphne is a 10 month old labradoodle. She is from a Southern municipal shelter partner. Not much is known about her background, but we know she is a very sweet and wonderful girl! She gets along great with other dogs and is ready to come to NYC and find her forever home! She will be arriving in New York on or about 11/18. You can email Jillian rescue@foundmyanimal.com

ALL interested applicants must fill out an application and be an approved adopter before meet and greets will be scheduled. Daphne's adoption fee is \$1500.00. This is non-negotiable so please don't ask. We are a 501c3 and all adoption fees go directly back into the care of our dogs.



**DNA Florida**

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# Animal-Rescue 'Pet Shops' May Soon Open Near Homes Under Flawed LA Plan

PHYLLIS M. DAUGHERTY

09 APRIL 2018



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ANIMAL WATCH-LA Animal Services and Mayor Eric Garcetti announced on January 25, that L.A had reached its "no-kill" goal for dogs in 2017 and is close to a similar declaration for cats. Barnette has explained publicly that pet cats are being adopted and the only problem left for LA. shelters is Pit Bulls and feral cats.

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So why would the Planning Department issue a Report on removing zoning requirements for "pet stores" and allowing them in commercial and residential-adjacent zones -- in other words, close to your home? This eliminates environmental and human/pet safety protections, creates discriminatory elimination of the need for

Conditional Use Permits for one favored class only -- "animal rescue retail pet shops." It also removes any provision for complaint/remedy available to adjacent residents and business owners in the City.

At the December 9 unadvertised public hearing by the Planning Department, Councilman Bob Blumenfield's Planning Deputy testified that his boss wants this "sooner rather than later."

This matter (CF 11-0754-S2, CF 17-0079) will be before the Planning Committee of the City Council in City Hall on Thursday, April 12, with sponsor Bob Blumenfield as one of its members.

## **BACKGROUND**

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. Judge Joanne O'Donnell agreed that the LA Zoning Administrator had exceeded her authority.

Under the Planning Department report, that is exactly what is being proposed. A "Pet Shop" could obtain a Zoning Administrator's decision and not go through the CUP process. The only difference is that this time the changes are being done through legislation. If it passes, there will be no opportunity or method by which neighbors can complain to Planning about the hazards or negative impacts on their communities, and there will be no required public hearing prior to approval to "Retail Rescue Pet Shops," which can house up to 40 animals right across the street or possibly adjacent to your home.

## **BOB BLUMENFIELD TO THE RESCUE OF AGWC ROCKIN' RESCUE**

A *Daily News* Article on January 1, 2017, "*This Woodland Hills Animal Rescue Could be Shut Down; Here's What's Being Done to Save it*," discusses that the large animal rescue center (housing around 80 animals) in Councilman Bob Blumenfield's district was facing possible closure due to code violations in Blumenfield's district. The Ady Gil World Conservation (AGWC) Rockin' Rescue, had allegedly been operating without required City approvals for about three years, and his request to operate in a commercial zone and have limited parking at its two-story, 11,000-square-foot building on Ventura Boulevard at Oakdale Avenue had been denied by a Zoning Administrator.

In a typical LA Council manic knee-jerk reaction, Blumenfield, (who, according to media reports, was advocating for keeping this facility open in his district), announced to the *Daily News* that he "planned to submit a motion to the City Council that would allow animal rescues to operate in commercial zones with 'appropriate protections' for issues such as noise."

The matter was scheduled to be heard by the South Valley planning commission and Blumenfield promised, "my hope is that they will see I'm doing legislation more globally on this issue and will at least put off closing this down to see what will happen" with it.

The *News* reporter commented that she was shown one Pit Bull Terrier who had been at the facility for about three years.

Owner Ady Gil told the *Daily News* she was prepared to go the California Supreme Court to keep his facility open. "I'm not running a strip club," he said, "I'm not doing it for profit. I'm doing it to save animals, and people love the idea."

And, it appears Gil could afford to do that and actually needed no special attention from Blumenfield. According to GuideStar.org, Ady Gil World Conservation in Woodland Hills reported its latest gross receipts at \$1,411,455 and its assets at \$1,045,979.

But GuideStar.org is not the only indicator of Ady Gil's net worth, of which he is obviously proud. On Aug 20, 2009 -- well before the "Me Too" movement -- on a 20/20 broadcast, "New Dating Web Sites Bring Sugar Daddies, Babies Together at Last," award-winning reporter John Stossel interviewed Gil about his choice of involvement with a site that brings together wealthy men and willing young women:

Ady Gil, a 50-year-old entrepreneur, claims he's worth between \$10 million and \$50 million. He owns two large production companies in Los Angeles. He believes the arrangement site is a great way to meet women.

You can make a deal with the girl. You don't have to worry about whether it's going to be 'yes' or 'no,'" he said. "You don't have to take them to dinner and hope that maybe something will happen. The cards are on the table."

Stossel added, "Men pay \$45 for membership on the Web site, but some, like Gil, pay an extra \$1,000 to have the site verify his wealth and put his profile in a prominent spot."

### **IS OBTAINING A CUP TOO EXPENSIVE FOR ANIMAL RESCUES?**

Many small and large businesses apply for Conditional Use Permits in Los Angeles for incompatible business uses. However, there is not an identifiable list on the Planning Dept. site or in code sections that shows any categorically exempted group. That will change soon, if Blumenfield's proposal is passed. Are "animal rescues" so impoverished that they cannot afford the legal means?

Here are the latest Guidestar.org income/asset reports on several animal organizations prominent in Los Angeles. You may easily check any others on the site:

Found Animals Foundation, Inc. Los Angeles, CA

GROSS RECEIPTS - \$12,783,344

ASSETS - \$9,254,091

Best Friends Animal Society

GROSS RECEIPTS - \$102,931,545

ASSETS - \$100,285,253

Stray Cat Alliance Los Angeles, CA -- feral cat, trap/neuter, return, homeless cats, free roaming cats, ... Stray Cat Alliance that provides the public with low-cost and free resources for spay/neuter and medical care for community cats.

GROSS RECEIPTS - \$1,445,727

ASSETS - \$214,504

Lucky Puppy Rescue-Retail RACHEL KENNEDY and Sandra Vasquez convicted and sentenced for animal abuse and neglect in 2017. The charges resulted from the May 6, 2016 raid of Lucky Puppy, alleged to be the first upscale Rescue-Retail shop in a highly visible commercial location under a 2012 ordinance related to Councilman Paul Koretz' LA "puppy-mill" pet shop ban.

LAAS officers found 68 dogs and three cats being maintained inside Kennedy's residence in Studio City under conditions that "were deplorable," according to the media release.

Both Kennedy and Vasquez were convicted and sentenced for animal abuse and neglect. According to GuideStar.org, Lucky Puppy Animal Rescue, North Hollywood, CA, started in 2011, and the 2015 record showed latest:

GROSS RECEIPTS - \$598,088

ASSETS - \$56,990

### **BUILD THEM AND THEY WILL COME**

The homeless-animal situation is akin to the homeless-people problem in LA. Nature abhors a vacuum, and any empty spaces provided in a shelter will be quickly filled. The problem must be resolved from the source, not the symptom.

Also, like the homeless-persons' problem, homeless animals are always a successful cause for soliciting donated money. The Planning Department is making LA Animal Services responsible for animals being imported from other states/countries -- 400 dogs were recently imported from Puerto Rico and two recent reports of highly contagious Canine Influenza were attributed to dogs imported from Korea for adoption in Los Angeles by "rescues." (This has also increased the costs of additional vaccines in all LA animal shelters.)

### **PLANNING DEPARTMENT REPORT IS FAULTY**

Brenda Barnette and Mayor Garcetti have already stated that Los Angeles has resolved the purported "overcrowding" problem in regard to city shelters, by achieving "No kill" for dogs. The planned "retail rescues" are not "pet shops," as defined in any other area of the country. "Pet shops offer puppies and kittens under four months of age." These are large/huge retail animal stores -- many of the animals they offer may not be taken from local shelters (which is not required -- the only requirement is that they have an "agreement" with a local shelter or humane society.)

These stores will compete with small local rescuers, who are the ones most likely to take animals from City shelters. It will have the opposite effect of declaring that "the shelter environment is awful" and adopters need to go to the "retail rescue pet shops" to avoid the experience. This illusion can cause even more pet owners to feel they can just "try out" a pet and return it without any negative consequence, because it will be "saved" by one of these elaborate "rescue pet shops."

The summary is also inaccurate in that it states, "Protections for businesses and residences located near these establishments have been incorporated into the ordinance; such as, regulations on noise, odor, the number of pets, dog walking and hours of operation."

In fact, the Planning Department and the City of Los Angeles are merely abdicating their responsibility to the residents and business owners of this city to maintain the limitations of "kennels" and require any large quasi-shelter operation to remain in the suitable and traditional commercial and residential zoning.

This plan places the responsibility for noise and odor regulation on the Department of Animal Services, which has no legal authority nor expertise in developing or enforcing any such standards. Animal Control officers have very limited powers that relate only to the conditions of the animals themselves and any humans who are injured or threatened by an animal.

It requires the Department of Animal Services to approve "walking routes" on which a volunteer or employee of the "retail-rescue pet shop" may walk up to three animals at a time (including such breeds as Pit Bulls, Rottweilers, Mastiffs) through adjacent residential or business communities, where they will urinate and defecate on private property, sidewalks and streets.

Even if fecal matter is removed, it will leave traces of potential harmful and very contagious bacteria on a continual basis in areas where adults, children and pets will walk or play. The hours such animals may be outside the facility and engaged in community exposure are from 7:00 a.m. to 9:00 p.m.

Which brings us to the inhumane keeping of large dogs (in particular) inside cages where they can barely move. There is no guarantee that the limitation of animals will be kept and that, as in the case of Lucky Puppy Rescue, additional animals will not be hoarded in homes.

### **CEQA IS FLAWED: "NOBLE CAUSE" DOES NOT EXCUSE THE CITY FROM PERFORMING ITS DUTIES**

The Planning Department's CEQA is flawed for numerous reasons and is automatically invalid because the purpose is to have an environmental evaluation of the impact of the proposal which is objective.

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The way the report is written gives a tone that lauds the "nobility" of the purported purpose of the activity. It is paying homage to this wonderful idea and creating a way for it to occur. The danger of this approach is that it clouds the judgment of the evaluator. This allows potential negative impacts to be idealistically counterbalanced by the potential benefits and liabilities of the activity. The evaluator's role is merely to report negative impacts, without weighing any of those against the potential benefits.

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This proposal does not consider the disposal of tons of solid waste or the water runoff from the shelter (cleaning toxic urine deposited on walls and floors must be done several times a day to avoid infections), which is prohibited from being absorbed into the ground on or off the property, including at an official animal shelter. An animal shelter cannot have a waste water runoff leave the boundaries of the property.

It does not address chemical usage on private property which will be washed across sidewalks, alleys and into storm channels.

There is no indication these "pet stores" would be required to have any business permit other than from the Department of Animals Services, nor would they pay taxes. Yet, a private, for-profit training or boarding facility, maintaining the same number of animals would be subject to rigid requirements and costs to the City.

An attorney opined, "Unfettered discrimination is essentially abdicating the legislative functions to the executive branch and that cannot be done legally."

### **ANGELENOS NEED TO TAKE ACTION**

If you live, work, travel, or own a business in LA, you could be seriously affected by this proposed change by the Planning Department. You should read this report carefully and you write your opinion to be placed in the files. Address it to your Councilman. Most importantly, e-mail a copy to [sharon.dickinson@lacity.org](mailto:sharon.dickinson@lacity.org) and ask for it to be added to the Clerk's file in CF 11-0754-S2 and CF 17-0079.