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CF 11-0754-S1 (12/3 Agenda) Dog Kennel in Pet Shop -CITY CLERK FILE COPY

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ANIMAL ISSUES MOVEMENT

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December 1, 2013

All Members Los Angeles City Council
City of Los Angeles
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CF 11-0754-S1 (12/3 Agenda) - Council Action on Kennel Definition Should be Delayed; Federal Court Challenge to Ban on Pet Shop Puppy Sales Could Affect Los Angeles

On November 25 a federal lawsuit was filed, charging the City of San Diego and animal activists (some of whom claim to have also “been behind the Los Angeles ordinance”) with Constitutional violations and making false statements regarding San Diego Puppy Store, Inc. in order to pass a citywide ban on the sale of puppies—other than shelter/rescue animals--in pet shops. According to several attorneys, the decision in this case could invalidate all such bans in Southern California, including Los Angeles. (See below: Article on San Diego lawsuit and copy of proposed Ordinance - CF 11-0754-S1.)

On December 3 the L.A. City Council is scheduled to vote on CF 11-0754-S1, an add-on to the Pet Shop Puppy Sale Ban passed last year. This proposed ordinance would change the definition of a pet store to include a dog kennel (housing unlimited adult dogs 24/7). This would bypass/eliminate the Conditional Use Permit (CUP) process and means a dog kennel/pet store could, for example, open next door to an existing environmentally sensitive business such as a bakery, restaurant, medical office or child-care center. This is currently not a problem for a pet store because they house only very young animals, under four months of age.

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This proposed L.A. Municipal Code change does not consider potential negative impact. Dog kennels are traditionally required to be 500 feet from businesses and residences and must comply with County health codes, have proper sewage and air-circulation systems, require overnight supervision for 20 dogs or more and adequate distance so that they do not become a public health/safety hazard. The CUP process protects businesses and residents from noise, odor, sanitation issues and the spread of airborne and contact

diseases to humans and pets.

This ordinance will also endow the General Manager of L.A. Animal Services with the power to make decisions reserved to the County Health Department and Code Enforcement Inspectors and bypass consulting either.

The L.A. City Council should delay any vote on CF 0754-S1 pending the federal court's decision, in order to reduce potential City liability for an imprudent action with no study or empirical data on file, no fiscal impact statement by the City Attorney, City Administrative officer or Chief Legislative Analyst, and waived from consideration by the Planning and Land Use Management Committee.

There is no pressing need to allow decisions on dog kennels to be placed in the hands of the LA Animal Services General Manager, rather than the Planning Department. This measure would allow favoritism and preferential treatment to one special-interest group—animal rescuers. Prohibiting the sale of all commercially bred puppies in pet stores which are strictly regulated by state and local laws merely drives purchasers to get them on the Internet (usually from puppy mills) or from backyard breeders, which are totally unregulated. According to LAAS GM Brenda Barnette's public statements, no existing pet shop owners have requested to sell adult shelter dogs in lieu of purebred puppies.

Please CONTINUE THE VOTE UNTIL THE FEDERAL LAW SUIT ON THIS SAME ORDINANCE IN SAN DIEGO IS DECIDED. It is important to protect animals and also to protect the taxpayers of Los Angeles from liability.

Phyllis M. Daugherty

Phyllis M. Daugherty, Director

Animal Issues Movement

ORDINANCE NO. _

An ordinance amending Section 53.00 of Article 3, Chapter 5 of the Los Angeles Municipal Code (LAMC) to modify the definitions of "Kennel," "Cat Kennel," "Dog Kennel" and "Pet Shop" and Section 53.50 of Article 3, Chapter 5 of the LAMC regarding the issuance of a pet shop permit by the Department of Animal Services (Department).

NOW, THEREFORE, THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. The following definitions in Section 53.00 of the Los Angeles Municipal Code are amended to read as follows:

"Cat Kennel" shall mean any lot, building, structure, enclosure or premises where four or more cats at least four (4) months of age are kept or maintained, with the exception of a pet shop.

"Dog Kennel" shall mean any lot, building, structure, enclosure or premises

where four or more dogs at least four (4) months of age are kept or maintained, with the exception of a pet shop.

"Kennel" shall mean any lot, building, structure, enclosure or premises where four or more dogs at least four (4) months of age are kept or maintained, with the exception of a pet shop.

"Pet Shop" or "Pet Store" shall mean any retail or commercial establishment, store or department of any store, or any place of business open to the public where dogs, cats, rabbits, monkeys, birds, reptiles or any other animals are kept and offered for adoption or sale, for hire, or sold, irrespective of the age of the animals, provided that the facility operates pursuant to a pet shop permit issued by the Department, and is not used for the breeding of dogs, cats or rabbits or the commercial boarding of animals.

Sec. 2. Subsection (e) of Section 53.50 of the Los Angeles Municipal Code is amended to read as follows:

(e) **Rules and Regulations.** The General Manager is hereby authorized and empowered to adopt such rules and regulations reasonably necessary to carry out the purpose of this Article, and to ensure the maintenance of approved and humane conditions at any place for which a permit is granted hereunder. Before granting a permit for a pet shop, the General Manager shall consider the pet shop's location, size, operations and other significant features including but not limited to the number and type of animals present and that the dogs, cats or rabbits have been or will be obtained from an animal shelter, humane society or rescue group. The General Manager shall impose reasonable restrictions as part of the pet shop permit to ensure that the pet shop will not unreasonably subject adjacent businesses or the surrounding neighborhood to unwarranted noise and odor, and will protect the public health, welfare and safety. A copy of such rules and regulations shall be furnished to each applicant upon the filing of a permit application.

http://clkrep.lacity.org/online/docs/2011/11-0754-S1_RPT_ATTY_10-23-13.pdf

San Diego Pet Shop Sues City and Animal Activists Over Ban on Puppy Sales

By [Phyllis M Daugherty](#), Wed, November 27, 2013

A formal complaint has been filed in federal court on November 25 by the owners of San Diego Puppy, Inc., a retail pet shop located in the city of San Diego, Calif. The suit attacks the citywide ban on the sale of dogs, cats, and rabbits at pet stores, which was passed on July 10, 2013.

The lawsuit was filed by David and Veronica Salinas, the owners of the pet store, against the City of San Diego, the San Diego Humane Society, the San Diego Animal Defense Team, the Animal Protection and Rescue League, and the league's lawyer, Bryan Pease, for their "unified effort" in passing the [Companion Animal Protection Ordinance](#), which prevents commercial pet sales in pet shops in the city.

The ordinance was aimed at closing "puppy mills" (none of which is in the city of San Diego) and claims that commercial breeders, often located in the Midwest, have been found to ignore health requirements and humane standards.

However, the Salinas' complaint contends that there are already laws in place to protect against neglect and mistreatment by breeders. Adding to that, Salinas states in the document that all dogs sold at San Diego Puppy, Inc., come with a certificate of health.

According to the [San Diego Puppy complaint](#), the business was irreparably harmed by the ordinance. It is the only retail "pet store in the city that is/was selling purebred and other high-quality puppies that are not purported to be from a rescue or shelter retail facility." It also rejects the claim made by proponents of the bill that San Diego Puppy buys, and later sells, dogs from auctions or imports them from other countries, according to the *Reader*. To the contrary, they claim to deal directly with licensed breeders who are subject to governmental regulations, the complaint states.

Attorneys for Veronica and David Salinas say the ordinance was the result of a unified assault by "activist organizations, coupled with the pre-existing antipathy on the part of certain City councilmembers."

Among the activist organizations listed is the San Diego Humane Society, which, according to the complaint, raises more than one hundred million dollars under the "guise of helping homeless pets," then uses that money to push for legislation such as the [Companion Animal Protection Ordinance](#), the *Reader* states.

The complaint also contends that the Companion Animal Protection Society (CAPS) targeted two members of the San Diego City Council, Lorie Zapf and Marti Emerald, knowing that these Councilmembers had "antipathy" toward animals, and their antipathy caused them to pursue adopting an ordinance.

Salinas' complaint says that Councilwoman Emerald is quoted in the news, stating erroneously and inappropriately that "unsuspecting consumers here in San Diego and in other places also pay the price" of purchasing offspring of unhealthy, inbred dogs from substandard breeding facilities, dubbed "puppy mills" by activists.

The suit contends Councilwoman Emerald also stated without any basis in fact as applied to San Diego Puppy that, "[c]onsumers are coming in, they're paying top dollar for these animals. Then they get the dogs home and they get sick, and the vet bills start rolling in." The complaint points out that, "She cited no authority, facts or statistics for her incorrect assertions."

Victoria and David Salinas state that, by filing the lawsuit, they hope to rescind the ordinance and at the same time keep longtime animal-rights activists such as Attorney Bryan Pease from "annoying, harassing, trespassing, threatening or otherwise violating the peaceful operation of the business owned by Plaintiff David Salinas, and from threatening, harassing or annoying any employee or officer of such businesses."

<http://www.opposingviews.com/i/society/animal-rights/san-diego-pet-shop-sues-city-and-animal-activists-over-ban-puppy-sales>