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REPORT RE:

**RECOMMENDATION REGARDING IMPLEMENTATION OF
LAMC SECTION 53.73 (PROHIBITING SALE OF COMMERCIALY BRED ANIMALS)
BY AMENDING DEFINITION OF THE TERM "KENNEL" IN THE CITY'S ZONING
CODE TO EXCLUDE "PET SHOPS"**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

At a meeting on September 2, 2015, the Personnel and Animal Welfare (PAW) Committee requested that this Office advise the City Council on how to implement Section 53.73 of the Los Angeles Municipal Code (LAMC), which prohibits the sale of commercially bred animals in pet shops. This law requires that pet shops only sell animals obtained from shelters, which are more likely to be adult animals.

Pet shops that sell four or more adult dogs¹ fall within the definition of "kennel" in the Zoning Code. Pet shops are allowed by right in the C2 Zone, but kennels are only allowed by right in industrial zones. LAMC Sections 12.14A(1)(a)(3) and 12.17.5B(4)(o). To ensure that pet shops that keep four or more dogs for sale are not treated as kennels, the Planning Department issued a Zoning Administrator Interpretation (ZAI) on October 30, 2013, to clarify that the definition of "kennel" in LAMC Section 12.03 does not include pet shops. The ZAI was invalidated, however, in a recent lawsuit – *Daugherty v. City of Los Angeles*, Superior Court Case No.

¹ The definition of "kennel" in LAMC Section 12.03 only refers to dogs, unlike LAMC Section 53.73 which specifically regulates the sale of dogs, cats and rabbits in pet shops.

BS147232. In order to clarify the definition of kennel, the City Council could amend the definition of kennel in the Zoning Code to exclude pet shops.

Legislative Background

In 2013, the City Council adopted LAMC Section 53.73, which made it unlawful to sell animals in pet shops that were not acquired from an animal shelter, a humane society or a non-profit rescue organization. The law became effective June 17, 2013.

At the time LAMC Section 53.73 was enacted, pet shops that kept or maintained four or more adult animals would have met the definition of “kennel” in LAMC Section 53.00 and thus be required to obtain a kennel permit from the Department of Animal Services (Animal Services). Section 53.00 defined a kennel as “any lot, building, structure, enclosure or premises where four or more dogs or cats are kept or maintained for any purpose.”

Similarly, pet shops that kept or maintained four or more adult *dogs* would also have met the definition of “kennel” in the Zoning Code which broadly defines kennels as “any lot or premises where four or more dogs at least four months of age are kept.” LAMC Section 12.03. While pet shops are allowed by-right in C2 or less restrictive commercial zones, kennels are only allowed by-right in areas zoned for industrial uses. LAMC Sections 12.14A(1)(a)(3) and 12.17.5B(4)(o). Therefore, a pet shop that falls within the definition of a kennel would not be allowed to operate by-right in a commercial zone.

To ensure that pet shops keeping or maintaining four or more adult dogs would not be required to obtain a kennel permit from the Animal Services Department, the City Council subsequently amended the definition of “kennel” in LAMC Section 53.00 (Ordinance No. 182816) to exclude pet shops. The definition of “pet shops” and “pet stores” was also amended to allow the keeping of adult animals for sale. Ordinance No. 182816 became effective January 19, 2014.

To resolve the ambiguity in the Zoning Code, however, the City Council did not amend the definition of kennel in LAMC Section 12.03 by way of an ordinance. Instead, the Planning Department issued Zoning Administrator Interpretation No. ZA-2013-3104-ZAI on October 30, 2013, to clarify that the definition of “kennel” in LAMC Section 12.03 does not include pet shops.

Litigation

On February 10, 2014, Petitioner Phyllis Daugherty filed a lawsuit in Los Angeles Superior Court – *Daugherty v. City of Los Angeles*, Superior Court Case No. BS147232 – seeking to invalidate both Ordinance No. 182816 and the ZAI. On May 27, 2015, the Court issued an order that upheld Ordinance No. 182816 but directed the City to rescind

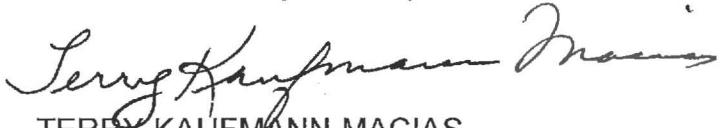
the ZAI interpreting the Zoning Code on the grounds that it exceeded the Zoning Administrator's authority. The Planning Department complied with the Court's order by rescinding the ZAI on May 14, 2015.

Because the ZAI has been invalidated, the City Council can consider amending the Zoning Code to ensure that pet shops that keep four or more adult dogs do not meet the definition of a kennel and may continue to operate by-right in commercial zones. To accomplish this, the City Council can direct the Planning Department, in consultation with the City Attorney's Office, to prepare a draft ordinance amending Section 12.03 of the LAMC to exclude "pet shops" from the definition of "kennel."

If you have any questions regarding this matter, please contact Deputy City Attorney Charles Sewell at (213) 978-8083. He or another member of this Office will be available when you consider this matter to answer any questions you may have.

Very truly yours,

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CDS/mrc