



Animal Defenders International

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Via email

RE: in gratitude and support of Council Member Ryu's Motion to present an ordinance to prohibit the exhibition of wild or exotic animals for entertainment or amusement, including circuses, other wild or exotic animal shows, and rentals for house parties

Dear esteemed Los Angeles City Council Members Ryu, Blumenfeld, Bonin, Harris-Dawson, Huizar, Krekorian, O'Farrell, Buscaino, Cedillo, Englander, Koretz, Martinez, Price, and Wesson; Mayor Garcetti; and City Attorney Feuer:

[Animal Defenders International](#) (ADI)¹ extends its heartfelt gratitude to Los Angeles City Council Member Ryu for his [Motion to present an ordinance to prohibit the exhibition of wild or exotic animals for entertainment or amusement, including circuses, other wild or exotic animal shows, and rentals for house parties](#),² and to Council Members Blumenfeld, Bonin, Harris-Dawson, Huizar, Krekorian, and O'Farrell, for their seconds on the Motion. We write today to offer the following introduction to the extensive data supporting such ordinance as both necessary and prudent. ADI was most honored to meet with various council persons and to participate in the stakeholders' meetings on this issue; we previously submitted information in response to industry claims raised regarding free speech questions, and we include that information again here (in Addendum A) for your convenience. We remain willing and ready to answer any questions or concerns, provide additional data, or assist further to progress the measure, just as we have done throughout the US, Latin America, and Europe. We begin with a brief introduction to ADI, so you may better understand us as a source of information on this topic. We hope this response informs your viewpoint. Please let us know if you have any trouble opening the associated hyperlinks. (Many of the referenced items have also been provided [at this link](#).³)

ADI is a non-profit organization that works around the world to make change for animals; we have worked at all levels of government on the circus animal issue in particular - from initial investigations to crafting legislation and implementing rescue efforts. ADI's award-winning documentary [Lion Ark](#) depicts the triumphant rescue and rehoming of 25 circus lions after our campaigns succeeded in Bolivia's nationwide ban. We are also now celebrating a fantastic conclusion to our *Operation Spirit of Freedom* in the [airlift of more than 30 circus lions to sanctuary in South Africa](#), after we helped Peru and Colombia pass their national measures to ban traveling wild animal acts. (All [108 animals](#) rescued, save Hoover, [a tiger who was rehomed to sanctuary in Florida](#), were returned to their native lands.) We were overwhelmed by the outpouring of support worldwide, as people watched the rescue unfold online over the course of several days. It also stirred the call for action on this issue from nations like the US and the UK (where a national ban has been promised since 2012). That support shouldn't be surprising considering that [>2/3 of Americans say they're "concerned" about the use of animals in circuses](#);⁴ [thirty-four diverse nations have banned such acts; and 67 US jurisdictions](#)⁵ have instituted some form of ban or restriction on wild animal acts. We look forward to working with you on this important issue.

A bit of the data on this issue:

There is substantial and growing evidence that even with the best intentions traveling shows simply cannot provide what these animals need and unfortunately, there is a good deal of evidence that physical abuse and deprivation are all too common.

The confinement demanded by extensive and repeated travel is harmful and inconsistent with the species-specific care and containment prescribed by the *Animal Welfare Act*. The *World Association of Zoos and Aquariums* (WAZA) opposes the "keeping and transporting of animals under inadequate conditions, e.g.... roadside zoos or circuses/entertainment."⁶ One *University of Bristol* study on the welfare of animals in circuses examined peer-reviewed scientific literature on the subject and concluded circus animals are "inevitably impoverished" and stressed.⁷ Another recent [comprehensive university-based report](#) reviewed the latest science and the industry worldwide (consulting 658 experts/organizations globally, including 138 animal trainers/circuses; 206 lawyers/veterinarians with wild animal expertise; 107 NGOs; 144 biologists, researchers, and species experts; 58 zoo and sanctuary staff; and relevant government officials/wildlife experts), to conclude that it's simply not a life "worth living."⁸ In 2015, the *Federation of Veterinarians of Europe* issued their formal recommendation that wild animals cannot tolerate and do not belong in circuses:

[There is little or no educational, conservational, research or economic benefit derived from the use of wild mammals in travelling circuses that might justify their use. In addition to the welfare considerations, the use of wild mammals in circuses can represent serious animal health and public health and safety risks.](#)⁹

At CITES CoP17 (17th Conference of the Parties) in Johannesburg this year, seven African nations passionately pled for an end to the live elephant trade, decrying their use in entertainment as counter to, and declaring it has no place in, the conservation of wild populations. The *American Bar Association* passed [Resolution 105](#),¹⁰ urging local, state, and federal prohibitions against possession and import of wild animals; in so doing, it rejected a proposed circus exemption. The *NYC Bar Committee on Animal Law* also supports and recommends such legislation.¹¹

These acts are not only cruel, they're dangerous.

In 2014, an apparently well-regarded and experienced trainer was [killed by an elephant](#) while working in close physical contact.¹² The trainer reportedly had a 30-year relationship with "his girls" - Opal and Rosie - two elephants in their forties who lived in the circus from the time they were taken from the wild in 1969 and 1970. His many years of experience training circus elephants, his later knowledge as a veterinarian working with elephants at the *Bronx Zoo* and as head elephant trainer at an Oregon safari park, and his reportedly close-knit bond and long-term relationship with Opal and Rosie were not enough to prevent his being crushed to death.

Unfortunately, there are numerous news reports of worker deaths, despite years working and familiarity with the animals:

- **Tiger kills trainer** (<http://www.youtube.com/watch?v=KUuPoBZWuuM>);
- **Tiger kills trainer/circus owner in front of 200 terrified schoolchildren** (http://articles.orlandosentinel.com/1997-05-09/news/9705090201_1_franzen-lucca-circus);
- **Elephant kills trainer** (<http://www.cnn.com/2010/US/04/10/circus.worker.elephant/>);
- **Reportedly 'severely stressed circus camel attacks and kills its caretaker** (<http://mexiconewsdaily.com/news/tulum-man-dead-camel-attack/>).

These attacks occurred in close proximity to other workers and the public, who watched the horror unfold.

Traveling shows' collapsible and temporary facilities raise serious public and worker safety and health concerns, and are not in keeping with the recommendations of the *Association of Zoos & Aquariums* (AZA). Workers and the public are often in close proximity to these wild animals with limited, if any, protections. In 2014, the *US Court of Appeals DC Circuit* upheld a decision that an animal exhibitor employer violated the (general duty clause under the) *Occupational Safety & Health Act* by exposing animal trainers to recognized hazards despite the employer's arguments its trainers were qualified, trained in safety procedures, and familiar with the mammal.¹³ In a similar case examining an employer's general duties, OSHA settled with the *Knoxville Zoo* after the [elephant trampling death](#) of a trainer.¹⁴ OSHA also required the *Knoxville Zoo* to replace its free contact management system with protective containment as part of the settlement agreement. AZA subsequently required its members to do the same; thereafter, a number of those in the circus industry dropped out of the AZA, choosing membership instead in groups such as *Circus Fans Assn. of America* (CFA) and *Elephant Managers Association* (EMA), which promote free and direct contact between animals, workers, and the public. (AZA's *2012 Lion Care Manual* also strongly recommends against free contact with adult lions "under any circumstances.")

Circus workers typically have limited if any species-specific training (save perhaps that related to circus tricks), and local venue operators/workers may have no knowledge of the animals' needs or history. **Parents purchasing tickets for their children to take photos with tigers or to ride on an elephant's back have no way of knowing the animal's history, training, escape risk, stressors, anxiety level, triggers, injury, illness, or aggression.** ADI released [video of one elephant's aggression](#) to another and to her trainers during rehearsal.¹⁵ This elephant was giving rides to children the same week; she also later escaped along with two other elephants, who all still had their ride saddles in place.

It is foolish to expect animals living under severe stress, confinement, and abuse will never lash out or try to escape. Among other incidents last year, two zebras twice escaped from *UniverSoul* circus (in Philadelphia and again in Oakland), costing local dollars and distracting local authorities. Luckily, these escapes had no resulting motorist or other accident, and no human injuries; however, one zebra was injured, and did not receive immediate treatment. Unfortunately, there are numerous videos of rampages that did not end well, including:

- **Janet ~ 17 spectators were injured; a mother and 5 children were still riding Janet when this rampage began.** The police officer reportedly broke down and cried afterwards, for having to shoot such a beautiful animal. Officer Doyle can be seen in various PSAs, and he testified before Congress to end the use of wild animals in circuses, noting that **local law enforcement is not prepared to deal with a rampaging elephant.** (<http://www.discovery.com/tv-shows/discovery-presents/videos/circus-elephant-rampage.htm>)
- **Tyke ~ Hawaii was Tyke's third rampage, after suffering years of abuse, including escapes in Pennsylvania and North Dakota, where she broke her groom's arm. The Hawaii rampage ended with one dead, 13 injured, and Tyke suffering for hours before succumbing to her injuries after being shot at least 87 times.** This incident remains a strong memory for locals even 20 years later, and is the subject of the documentary [Tyke: Elephant Outlaw](#).¹⁶

(<https://archive.org/details/ElephantRampageHawaii1994>)

- Elephant ~ **Note the proximity between these three nervous and agitated elephants, two baby carriages, and an elderly gentleman on a scooter.** (<http://abcnews.go.com/International/watch-spooked-circus-elephant-attack-car-apparent-whack/story?id=32516732>)
- Elephant ~ **Reportedly, 2 died and 24 were injured; the elephant even turned on the man who raised him; that man missed or ignored certain precursors, and was killed.** (<http://www.youtube.com/watch?v=qVaVp12Wl0A>)
- Gandhi ~ **the trainer repeatedly punches and hits a tiger as it attacks her; her voice reveals her fear as another trainer enters to assist, leaving the cage door open, and placing numerous horrified schoolchildren at serious risk.** (<https://www.youtube.com/watch?v=lcNxvd074p4>)
- Smith ~ **A circus placed Smith in a ring with a volunteer, who later noted the trainers assured her Smith was ‘docile,’ despite knowing Smith was agitated following the circus’ standoff, just 2 days earlier, against the authorities’ attempt to confiscate the illegally retained animal. The horrific attack on this schoolteacher was witnessed by all her students; thankfully, she survived and Smith was rescued in ADI’s *Operation Spirit of Freedom*.** (<http://www.american.com/news/actuality/ong-intento-rescatar-leon-que-ataca-profesora-duenos-no-lo-entregaron-n149411>)

Just this week, another lion fought back against his captors, and killed his trainer before panicked schoolchildren and other patrons.¹⁷ These animals did not "go berserk" or "wild" or "rogue." They were and remain wild animals. Domestication cannot be trained into an individual animal; it takes certain genotypes and many generations of breeding an entire population of animals, and even then some species cannot be domesticated.¹⁸ **There is no conclusive evidence that wild animals habituate to travel and there’s no evidence that familiarity equates to security.**¹⁹ According to self-proclaimed "circus historian" LaVahn Hoh:

No one can actually tame a wild beast no matter how gifted they are, or how much time they spend with their animal.²⁰

Federal oversight of traveling animal acts is costly, problematic, and unmanageable.

Nominal licensing fees and minimal, inconsistent monetary penalties don’t cover oversight costs; they are largely borne by taxpayers. Moreover, federal oversight occurs, if at all, via the *Animal Welfare Act* (AWA) (which presumes to deal with the humane treatment of animals) and the *Occupational Safety and Health Act* (which aims to address worker safety). As the agencies are quick to say, **neither has public safety as their mandate.** Oversight is complicated by the limited number of inspectors and the events’ transitory nature. In 2009 for example, APHIS/USDA had just 97 inspectors who performed over 4300 inspections of more than 2700 exhibitors. The federal *Office of Inspector General* (OIG) **reports numerous APHIS inspector deficiencies, including limited to no follow-up to noncompliance citations and failure to consult animal experts to determine if enclosures or barriers are sufficient to protect the public.**²¹ ADI recently submitted comments to the USDA supporting a petition to ban public contact with big cats, bears, and nonhuman primates, where we outline, among other items, stunning issues in oversight.²² For example, the public is largely unaware that **the USDA-APHIS license renewal process for animal exhibitors does not evaluate or demand current compliance.**

As it stands, OSHA isn’t working to protect workers here either. OSHA inspections generally rely upon self-reporting alone and often by the time a complaint or inspection request is made, the circus has moved on to another jurisdiction. It is not uncommon for the agencies to report their hands are tied once the circus leaves town. Regional, state, and local agencies don’t typically have the benefit of cross-jurisdictional communications or authority; not knowing the history of a particular circus or its animals leaves little context to frame a one-time likely expected look-see. **Typically, local authorities lacking familiarity or facilities to deal**

with exotic species rely upon federal licensing or otherwise defer upstream to federal agencies that nevertheless maintain public safety is not their mandate. Local animal control officers usually don't have the knowledge, facilities, or funding to evaluate, confiscate, or otherwise deal with exotic animals. Ultimately, when things go awry, and they do go awry, it's your local police who will discover they've been left to deal with the outfall.

One Philadelphia *UniverSoul Circus* event last year featured three elephants who were barred from performing by the city of Dallas, citing concerns regarding positive tuberculosis (TB) tests, a disease which is transmissible to humans. While these same elephants were performing in Philadelphia, [UniverSoul Circus took action against Dallas over its decision to bar them, and the judge sided with the city health officials](#).²³ **Despite increasing concern regarding the issue of tuberculosis in captive elephants, USDA subsequently announced it would no longer require annual tuberculosis testing**,²⁴ leaving workers and the public in the dark about whether the elephants they come in contact with are TB positive.

As it stands, the agencies are overworked, yet under-producing; regulated parties are frustrated; and taxpayers are spent, while animals and the public remain unprotected. A ban on wild animal acts altogether is cleaner, less costly, and more easily enforced than the current, costly, admittedly problematic and ineffective regulatory oversight. All too often, reported violations often devolve into expensive "battles of the experts" over the question or level of harm, even where illegal acts may be documented. These battles are costly for both the taxpayers and the industry, much moreso than simple, objective determinations as to whether a prohibited animal may be present.

Banning the use of wild animals does not have to mean the end of the circus. There are more than 20 human-performance circuses in the US, including some who were once animal exhibitors. Articles in *Forbes Magazine*²⁵ and *The Wall Street Journal*²⁶ quote major players in US circuses describing diversification away from "traditional" acts and **identifying the primary economic driver in today's circus as being the celebrity clown - not the animals**, admitting that Ringling's celebrity clowns earn upwards of \$600K/year!

To boost the bottom line, circuses are turning to a new marketing tool: the celebrity clown. Under pressure from animal-rights groups and **higher costs of maintaining large beasts**, and facing competition from live-action shows based on cartoon characters, the \$1.8 billion industry is trying to transform these once-nameless sideline acts into major brands. **Multimillion-dollar ad campaigns are focused on clowns** like Mr. Nock and "Grandma," of New York's Big Apple Circus.

In five years Mr. Nock's [Ringling celebrity clown] pay package has doubled, to \$600,000, while his staff has grown to include a personal assistant and a driver for his 78-foot custom RV.

...

Focusing on a few clowns is part of the industry's overall efforts to cut costs.

Clowns are cheaper than exotic animals, even accounting for the star clowns' high salaries and perks. For example, a newborn elephant can cost about \$100,000 to buy, plus annual costs of \$11,000 to feed, \$7,500 to care for, \$7,500 to insure and \$20,000 to transport. (Ringling has 22 performing elephants among its three troupes.) By contrast, annual salaries for clown-alley clowns generally run from \$15,000 to \$40,000. For most circuses, roughly 20% of the overall budget goes to insurance -- and rates for exotic animals have more than doubled in the past five years ... **Carson & Barnes Circus of Oklahoma says it cut its menagerie in half over the past 10 years, and saved at least \$500,000.**

...

Ringling cut its show because, it says, kids' attention spans are shorter. The days of the three-rings are numbered, too: Though three-ring circuses were common until the 1980s, roughly 90% of today's circuses can support only one ring, according to circus historian Timothy Teppe.

[The Power Clown](#), *The Wall Street Journal* (2005)(emphasis added).

Almost 100 years ago, *Ringling Brothers & Barnum & Baily Circus* reportedly announced an end to “all wild animal acts,” though it appears displays may have continued. (The ban apparently lasted 4 years, until the start of the Great Depression.) At the time, Charles Ringling was quoted as saying:

There has been enough criticism by the public of wild animal acts, ... to warrant us in withdrawing them. The quite common impression is prevalent that tigers, lions, and such animals are taught by very rough methods and that it is cruel to force them through their stunts.

Wild Animal Acts Dropped at Circus, The NY Times (1925)

(Included as Addendum B, redacted to remove offensive language).

Mabel Start (the “world’s most famous woman animal trainer”), describing her transition to equestrian events, reportedly also had positive comments about the move:

There is no doubt that the elimination of the more dangerous acts was for the best.

Wild Animal Acts Dropped at Circus, The NY Times (1925)

(Included as Addendum B, redacted to remove offensive language).

Think of the generations of suffering since that time. More recently, James Hamid (of *Hamid Circus*, the oldest single-family operated US circus) was quoted saying:

"Circuses must keep up with the modern audience. ... As we look into the future, we see all circuses moving to non-animal productions. Over the last 20 years ... changing public sentiment, performing animal acts have begun to be a thing of the past. So it's up to creative minds to conceive new and entertaining all-human performances ..."²⁷

Perhaps the most familiar human-performance circus to you may be *Cirque du Soleil*, which had its first show in 1990, and has now grown to a >\$800 million enterprise, appearing 8 times in the list of top ranking international tours. *Lions Club International* has turned away from such acts, as has the *WAWA Shrine Circus*.²⁸ Unlike the noted decline in animal circus attendance, these human-performance shows are proliferating worldwide. **Human-performance circuses are popular; they require labor, create jobs, and can bring dollars to your city without exposing citizens to chronically stressed and abused animals.**

* * *

ADI's response to various industry claims and challenges:

- Re: the claim that the proposed ordinance is “*unconstitutional*” or otherwise illegal as contrary to First Amendment free speech rights and/or the Commerce Clause, because it may regulate certain content or some entities, but not others.

This claim is absolutely incorrect, contrary to longstanding constitutional jurisprudence. **There is extensive caselaw supporting the City's authority and duty to legislate under its police powers in the interest of its citizens' public health, safety, welfare, and morals.** Such regulations may apply differently to different entities or persons, and will withstand constitutional challenge so long as they bear some reasonable relation to the government purpose, and are not wholly arbitrary. The government is afforded wide latitude here, and regulation will not be invalidated unless there is *invidious discrimination*. See Addendum A for a small selection of the well-settled law on this point. Further supporting the legal basis for such laws, note that the *American Bar Association* looked at this issue and passed its *Resolution 105*, urging local, state, and federal prohibitions against possession and import of wild animals.²⁹ In so doing, it flatly rejected a proposed circus animal exemption. The *NYC Bar Committee on Animal Law* also recommends a ban on the use of wild and exotic animals in traveling performances, describing such acts are inhumane and dangerous to the animals, workers, and the general public.³⁰ The NYC Bar recommendation cites several reports supporting that animals subjected to the traveling performance business model suffer “extreme physical coercion and abuse”; are “detrimental to animal physical and psychological health

and welfare”; and that “law enforcement cannot properly monitor violations of animal-related laws due in part to the transitory nature of traveling circuses.”³¹

- Re: the claim that USDA (APHIS) does address public safety because it has certain regulatory provisions related to barriers and distances from animals

At prior hearings on this issue elsewhere, FEI representatives suggested that USDA does in fact address public safety, generally referencing various provisions related to barriers and distances (from animals). The suggestion is incorrect. As USDA itself makes clear, public safety is not within their mandate or purview under the AWA; that is, the AWA does not provide USDA the authority or mandate to address public safety. The statute, which hasn’t seen any real update since 1985, defines its purpose and purview as follows:

§2131. Congressional statement of policy. The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

- (1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are afforded humane care and treatment;
- (2) to assure the humane treatment of animals during transportation in commerce; and
- (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this chapter, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers, or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

...

§2146. ... The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale subject to section 2142 of this title, has violated or is violating **any provision of this chapter or any regulation or standard issued thereunder** ... The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply **with any provision of this chapter or any regulation or standard issued thereunder** if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor ...

(c) Procedures

For the efficient administration and enforcement of this chapter and the regulations and standards promulgated under this chapter, the provisions (including penalties) ... vested with jurisdiction **specifically to enforce, and to prevent and restrain violations of this chapter**, and shall have jurisdiction in all other kinds of cases **arising under this chapter** ...

7 U.S.C. §§2131, 2146 (emphasis added)

To the extent provisions may exist in the regulations related to distances and barriers, these regard and seek to address safety issues *for the animals*, not in regard to human safety. (For comparison, evaluation by LA’s Health Department might proceed under its authority to evaluate human health issues, while its Animal Control department might evaluate such exhibits from the animals’ perspective.) Public safety is left to state and local governments, under their police power. (As an aside, the AWA also makes clear that farm animals are not included within its definition of animal, and so are not covered under the Act.)

- Re: the notion wild animal circus acts (and captive breeding for that purpose) serve conservation of wild populations

ADI has previously noted (above) several studies refuting the notion captive animal entertainment (and captive breeding for that purpose) has any positive contribution toward conservation of wild populations; many actually show a negative effect, including one [comprehensive 2016 report through the University of Bristol](#), which reviewed the latest science and industry worldwide (consulting 658 experts/organizations globally, including 138 animal trainers/circuses; 206 lawyers/veterinarians with wild animal expertise; 107 NGO representatives; 144 biologists, researchers, and species experts; 58 zoo and sanctuary staff; and relevant government officials/wildlife experts), to conclude that it’s simply not a life “worth living.”³²

[T]he education and conservation role of travelling circuses and mobile zoos is likely to be marginal, and any potential educational and conservation benefits are likely to be outweighed by the negative impression generated by using wild animals for entertainment.

The Welfare of Wild Animals in Travelling Circuses,
2016 Harris Report for the Welsh Government³³

At least two studies have called into question the educational claims of captive animal entertainment.³⁴ **At CITES CoP17 (the 17th Conference of the Parties) in Johannesburg this year, seven African nations passionately pled for an end to the live elephant trade, decrying their use in entertainment as counter to, and declaring it has no place in, conservation of wild populations.**

I have worked to conserve and protect wildlife for many years, and it is of grave concern that efforts to safeguard these same species in the wild are being undermined by those who continue to use them for cheap tricks, despite the opposition.³⁵

Stanley Johnson

Conservation Ambassador for the *United Nations Environment Programme*

The welfare needs of non-domesticated, wild animals cannot be met within the environment of a travelling circus; especially in terms of accommodation and the ability to express normal behaviour.

A licensing scheme will not address these issues.³⁶

Harvey Locke, President of the *British Veterinary Association*

I am not a proponent of animals like tigers jumping through hoops in circuses

...

Are zoos perfect? Absolutely not ... And for zoos to come out and say... 'We're saving these animals, we're saving these animals for reintroduction into the wild.' Bull** ... The thought of us introducing tigers back into the wild is almost ludicrous.**³⁷

Ron McGill, Wildlife Ambassador, *Zoo Miami*

Accredited zoos should not tarnish their reputation by exchanging animals with circuses or similar entities.

...

The use of threatened or endangered species purely for entertainment should be an anathema to serious conservationists.³⁸

Dr. Michael Hutchins

former AZA Director and *William Conway Chair of Conservation & Science*

[I]t is our considered opinion that elephants should not be used in circuses . . . the totally unnatural existence for captive elephants in a circus is a travesty and to allow this practice to continue is unjustified and unethical.

Amboseli Elephant Research Project, cited in Schwalm (2007)

Captive-origin lions have no role in species restoration.³⁹

[C]ircus discourse conceptualizes nature and culture in ways that are ideologically significant and detrimental to the promotion of a conservation mindset.⁴⁰

- At prior hearings on this issue elsewhere, Ringling representatives have referenced federal law to claim there is *no distinction between a sanctuary, zoo, or circus*, that the law treats zoos, sanctuaries, and circuses the same, and that it's *unconstitutional to regulate some, but not others*

That assertion is incorrect. (See discussion above and Addendum A for extensive caselaw supporting the constitutionality of local government regulation, even where one may impact certain entities, but not others.) Moreover, there are different regulatory standards and requirements for permanent facilities (such as zoos and

sanctuaries) and traveling animal performances, the most obvious being the minimum acceptable space requirements; the level of commercial trade and breeding; and the amount of direct contact between wild animals, workers, and the public. Traveling animal acts are permitted to maintain wild animals for extended periods in significantly less space than that required of permanent facilities. Facilities for traveling acts are temporary and collapsible, and are not required to meet (and logistically cannot meet both the traveling business model and) the structural requirements demanded of permanent facilities. Oversight of permanent facilities is simpler because the regulated entity does not move across jurisdictional boundaries; frequent transjurisdictional movement is one reason USDA oversight is lacking and, in the case of OSHA, it precludes any real oversight under the current structure. Permanent facilities are also beholden to their hometown – visitors that come time and again to facilities can and have demanded such facilities to progress with evolving public perception of what is or may be appropriate for the animals and for the patrons. This is seen most obviously in the evolution of zoos and sanctuaries over the last century, while traveling animal circuses fiercely cling to their claims of “tradition,” defiantly claiming they’ve done business the same way for 150+ years. Frankly, it’s not a compelling argument to maintain the status quo that long when we’ve learned so much about animals (and a lot of things) in the last 150+ years.

Standards are also quite different under the various industry accreditations – [AZA](#), (or [WAZA \(World Association of Zoos and Aquariums\)](#) or [BIAZA \(the British and Irish Association of Zoos and Aquariums\)](#) or [GFAS \(Global Federation of Animal Sanctuaries\)](#)), versus traditional circus organizations such as CFA (*Circus Fans of America*) or EMA (*Elephant Managers Association*).⁴¹ Associations like WAZA, AZA, or GFAS pressure unaccredited entities to improve their standards regardless of whether they actually join as members. Such standards may also become a basis for regulatory provisions, as with the [US Fish and Wildlife Services](#)’ use of what are essentially GFAS standards in its requirements to qualify for the sanctuary exemption under the *Captive Wildlife Safety Act*.⁴² In one particular case examining an employer’s general duties (to provide a safe workplace) following the elephant trampling death of a trainer, OSHA settled with the *Knoxville Zoo*, requiring it to replace its free contact elephant management system with the safer and more humane protective containment system.⁴³ The AZA subsequently proposed the same requirement for its members; afterwards, a number of circuses left the AZA for other organizations who continue to allow and promote direct public and worker contact with large mammals and predators. (The 2012 *AZA Lion Care Manual* also strongly recommends against free contact with adult lions “*under any circumstances.*”)

At hearings on this issue elsewhere, representatives from the *Zoological Association of America (ZAA)*⁴⁴ and the *Alliance of Marine Mammal Parks & Aquariums (AMMPA)* have requested exemptions, stating their requirements meet or exceed those of AZA and GFAS. Entities affiliated with ZAA, AMMPA, CFA, and EMA, which promote direct and free contact between wild animals, workers, and the general public, directly conflict with the very purpose of the proposed ordinance and therefore should not be exempted. Given concerns raised by certain entities in the past regarding ambassador animals for bona fide education or conservation based programs (not entertainment), we can offer suggested exemption language used in drafts elsewhere in the US for bona fide educational outreach.

ZAA’s mission statement describes itself as a “trade organization” to “[p]rotect and defend the right to own exotic and domestic animals” and to “[d]efend our accredited facilities against false allegations, those with political agendas, and mischaracterizations.”⁴⁵ Its by-laws include its objectives to “[p]rotect and defend the right to own animals” and to “[d]efend the owners of animals against the false allegations and mischaracterizations of ‘animal rights’ activists.”⁴⁶ ZAA “Educational facilities” are defined to include supplying animals to “television programs such as those seen on the Letterman or Leno shows and production companies that produce animal shows for television or movies.”⁴⁷

AMMPA members include *Six Flags* (who lost their AZA membership after the change in elephant handling policy to protected contact – described above), *Sea World*, *Miami Seaquarium* (most known for housing Lolita for decades in her tiny enclosure), and *The Mirage Dolphins* (where dolphins endure extreme sun exposure), among other members promoting direct public contact with animals. And while they admirably note on their webpage condemnation of the violence at Taiji, their members include those promoting dolphin swim programs and dolphin entertainment, which is fueled by providers such as those in Taiji. AMMPA also had strong words regarding *Sea World*’s decision to end orca breeding, taking an animals as entertainment perspective that does not appear to reflect evolving scientific understanding:

For more than two-and-a-half years, SeaWorld has been savagely attacked with misinformation and lies promulgated in the deceitful film *Blackfish*, and by its animal rights supporters through coordinated social media attacks, protests, petitions and other tactics. No company, no matter how great, could withstand such a withering, prolonged and well-funded assault without sustaining damage to its reputation and bottom line.

However, when such pressure campaigns succeed, they can have very serious and unfortunate consequences.

...

The organizations behind the assault on SeaWorld, calling on it to end its public display of killer whales, are not just opposed to killer whales in human care. They are part of an animal rights movement that does not believe there should be any animals at all in human care for any reason—not in zoos and aquariums, not as service animals, not in sports, movies or the circus, and not even as pets. For this reason, it is unlikely their pressure campaigns will end after this decision. Instead, they will step up their assaults on other species of animals on public display in zoos, aquariums, and marine parks.⁴⁸

- Re: the claims that the ordinance is “unnecessary” because “there is no abuse”; that wild animals are “not forced to perform” but instead “love performing” with trainers who “form unique bonds with the animals”; that only “positive reinforcement” is used and “we treat ‘em like family”

Firstly, among other standards and data supporting that species’ relationships with their own kind are best, the 2011 *AZA Elephant Standards* make clear that:

Interaction between elephant care staff and elephants is not a sufficient substitute for species-appropriate elephant-to-elephant interactions.

Secondly, while it’s not clear what immediate progress can be made between the two sides in this constant back and forth on the question of whether or not abuse is prevalent in this industry, the overwhelming evidence via undercover investigations, agency citations, lawsuits, and first-hand accounts, is that brutality is par for the course. To choose to believe otherwise is to deliberately ignore information that yes, thanks to the internet among other sources, has become widely available, allowing more people to understand that such incidents are not singular. Regardless of how one may feel about the internet, like any information source, it can be verified or undercut. Whatever your position on this point, it’s clear that a growing percentage of the public have accepted there is more than enough evidence, and are choosing to turn away from the violence. If we’ve learned nothing else from the plummeting stock prices of business choosing to ignore this point, it should be that information is today more widely attainable, discernible, and circulating. ADI stands by its undercover investigations, which have revealed horrific industry-wide brutality⁴⁹ across North and South America, and Europe, and which have supported legislative and judicial action against cruelty.

Getting an elephant to do what it’s told really requires the elephant to be dominated. ... it’s a near certainty that it’s been trained using punishment, using pain, using very traditional methods that have been with us for a long time, but are not at all elephant friendly. They’re basically cruel.

Peter Stroud, former curator of elephants, *Melbourne Zoo*

Existing welfare laws and association standards (including those of the AVMA and AZA) have not stemmed the violence, and oversight is lacking. For example, one expert witness testifying in the UK Mary Chipperfield trial insisted that the only way to train camels, who are notoriously difficult, is *to beat them*. (By the way, camels - which are identified as “exotic animals” under existing federal regulations⁵⁰ - have killed three Americans in the last two years.)⁵¹

At prior public hearings on this issue elsewhere, Ringling’s featured big cat trainer - Mr. Alex Lacey - stated that he treats his wild cats *like family* and only trains via positive reinforcement. Lacey also spoke at length of his family’s generations of experience in this industry. Mr. Lacey’s father - Martin Lacey - owns the *Great British Circus* in the UK, which earned a reputation for cruelty, violence, and deception following a number of incidents

exposed by ADI.⁵² [ADI undercover footage released in 2013](#), showed tigers being lashed with whips and hit with sticks by Martin Lacey and his daughter, Natasha Lacey, during training.⁵³ In 2009, [ADI footage captured elephants with the Great British Circus viciously abused, punched, and hit with brooms and sticks](#).⁵⁴ In 1993, ADI investigated *Gerry Cottle's Circus*, which was eventually taken over by Martin Lacey, and obtained video of a [llama being beaten and a severely disturbed chained elephant](#).⁵⁵ Years later, Mr. Cottle “decided to move on” and tour with human performances only, stating:

I now support the ban... Times have changed and this issue has to be decided one way or the other. I believe a ban will, in the end, improve the image of circuses in Britain.⁵⁶

In 1997, ADI investigated *Circus Harlequin*, run by Martin Lacey with Alex Lacey presenting the lion and tiger act. **Alex Lacey's beastman was filmed losing his temper and lashing out at and hitting tigers in a beast wagon. In another sequence, the same beastman lost his temper with a lioness named Narla and hit her in the mouth with a metal bar. Alex Lacey was also filmed jabbing a big cat hard with a stick. During this investigation, ADI also found that *Great British Circus*, including [Alex Lacey, concealed a seriously injured lioness from inspectors](#).**⁵⁷ Footage of this investigation is included in [ADP's Ugliest Show on Earth video at this link](#) – warning, the footage is very disturbing – and is included in [ADP's 2011 Report to the UK Parliament](#).⁵⁸ In 2006, ADI presented information to the UK Parliament on husbandry and the length of time animals were kept in transporters in the *Great British Circus*, including [lions and tigers confined in transporters 27 hours for a journey time of 3 hours 27minutes](#).⁵⁹ ADI also found that tigers remained in their beast wagon throughout the winter, even while at the permanent/winter quarters. [The *Great British Circus* represented to the UK Parliament that they did not chain their elephants, yet ADI's round-the-clock video evidence showed that they are chained every day, for up to 11 hours](#).⁶⁰ Government circus inspection reports released in response to ADI's (Freedom of Information) request revealed **big cats at the *Great British Circus* lived the whole year in cages on the back of transporters; tigers gave birth while on tour; and enclosures used to house the big cats were smaller than those deemed acceptable in zoos. These reports also revealed one elephant was “chronically and obviously lame,” with the inspector noting that she “should not be expected to do anything other than gentle daily exercise” until her condition was diagnosed. The report also identified that she had a chronic abscess that “should be seen by a veterinary surgeon to reassess the condition as soon as possible.” However, the circus disregarded the inspector's advice and the elephant continued to perform, resulting in the inspector later commenting, “we cannot rely on any verbal agreements in future. We may need to serve you with a notice to ensure that the welfare of this animal is protected.”**⁶¹ Mr. Lacey performed earlier this year with Ringling in Philadelphia and demonstrated that, despite years of training and a whip in each hand, workers are at risk by powerful predators who nevertheless perform in close proximity to the public. This video shows [Mr. Lacey taking a lion swipe](#) to his hand during the performance.⁶²

The limited space available in a traveling circus is unsuitable to big cats ... patrolling their large territories in the wild is an essential behavioral drive, thwarted by the limited confines of circus accommodation.

Simon Adams, BSc BVMS MRCVS
Zoo & Wildlife Veterinarian

During transport, animals suffer increased heart rate, raised hormone levels, lowered immunity to disease, weight loss, aggression, and stereotypic behaviors.

TG. Iossa, CD Soulsbury, & S. Harris

Are wild animals suited to a traveling circus life? ⁶³

- Re: the claim that this is “unnecessary” because the industry is “strictly regulated” by USDA and there are no public or worker health or safety issues

Federal oversight of traveling animal acts is costly, problematic, and unmanageable. Nominal licensing fees and minimal, inconsistent monetary penalties don't cover oversight costs; they are largely borne by the American taxpayer.⁶⁴ Oversight is difficult with the limited number of inspectors and the events' transitory nature. In 2009, APHIS/USDA had just 97 inspectors who performed over 4300 inspections of more than 2700 exhibitors.⁶⁵

You do not have to inspect every circus or traveling exhibitor that exhibits in your territory.

USDA APHIS Animal Care Resource Guide
Exhibitor Inspection Guide, 2004, 17.10.1.

APHIS' Office of Inspector General ("OIG") reports note numerous inspector deficiencies including **limited to no follow-up to noncompliance citations and failure to consult animal experts to determine if enclosures or barriers are sufficient to protect the public**. OSHA inspections **generally rely upon self-reporting alone** and often by the time a complaint or inspection request is made, the circus has moved on to another jurisdiction. It is not uncommon for the agencies to report their hands are tied once the circus leaves town. The 2010 OIG report identified that for 15% of reviewed traveling exhibitors, "**Animal Care inspectors could not perform timely reinspections to ensure that serious noncompliant items that were identified in previous inspections had been resolved.**"⁶⁶ OIG also identified that:

APHIS needs to strengthen the inspection process
Safety conditions questioned at 48% of licensed exhibitors observed
Periodic supervision lacking
Failure to identify safety-related deficiencies during inspections
Failure to document conditions & require corrective action
Lack of consistency in safety determinations
Without clear & consistent standards, can't adequately ensure the safety of the animals or the public
Inspectors did not regularly consult with agency animal expert to determine if an enclosure or barrier was sufficient
Inspectors not always aware of incidents - exhibitor reporting not required
Lacked a process to ensure inspectors were aware of details of incidents at exhibitors' facilities nationwide
Inspectors could not locate traveling exhibitors to conduct critical re-inspections
APHIS Office of Inspector General (2010) (see also its 2014 Report)

Regional, state, and local agencies don't typically have the benefit of cross-jurisdictional communications or authority; not knowing the history of a particular circus or its animals leaves little context to frame a one-time likely expected look-see. **All too often local authorities lacking familiarity or facilities to deal with exotic species defer upstream to federal agencies that nevertheless maintain public safety is not their mandate**. Local animal control officers typically don't have the knowledge, facilities, or the funding to evaluate, confiscate, or otherwise deal with exotic animals. If things do go awry, it's the local police who are surprised to discover that they are the ones left to deal with the outfall.

I have never seen a situation as frightening - or one I was less capable of controlling - than that day the elephant ran wild. The greatest shock to me as a police officer was when I discovered that the owner and trainer ... had absolutely no control over her He had no plan for such an emergency and his only strategy was to keep yelling at me to shoot her.
I have discovered that, once an elephant goes out of control, nothing can be done. It is not a predictable or preventable accident. The only thing that can be done - and even this is a danger to the public - is to get a battery of police officers in with heavy weapons and gun the elephant down.
Police officer Blayne Doyle, testifying before Congress
that local law enforcement is incapable of handling an elephant rampage⁶⁷

When laid end to end, the records revealed a pattern of injury, illness and fatal accidents - and the repeated failure of federal regulators to intervene, even when their own investigators urged action.

These four-ton, highly intelligent creatures spent much of their lives locked in chains, confined in trains and under constant fear of the bullhook. They were poked, hit, whipped and electrically shocked.

USDA records revealed that agency officials had opened and closed a dozen investigations in as many years. They declined to take action even as complaints about mistreatment mounted, four young elephants succumbed to accidents or illness, and a deadly strain of tuberculosis spread.

A recently retired USDA lawyer conceded during an interview in his home 'It's a tough life.'

Deborah Nelson, *Tracking Animal Mistreatment*

Investigative Reporters and Editors Journal, University of Maryland⁶⁸

Tyke is an elephant who rampaged in Hawaii and killed trainer Allan Campbell.⁶⁹ Tyke's previous trainer, speaking on camera in the documentary *Tyke: Elephant Outlaw*, claimed he warned Tyke's owners, Mr. Campbell, and other trainers that Tyke was dangerous, after she first escaped in Pennsylvania. A few months later, Tyke reportedly broke her groom's arm in North Dakota. The trainer reporting in the documentary noted he then refused to work with Tyke, and that he told Tyke's owners she should not perform for the public, but should be retired to a sanctuary "where she can just be an elephant." He also claimed to have warned the owners and Mr. Campbell not to take Tyke to Hawaii (or anywhere else to perform anymore). **Ignoring that advice, Mr. Campbell presented Tyke before a public audience, risking their safety and resulting in the tragic event causing his own death; his groom's injury; stampeding, panicked circus-patrons; and a chase through city streets by local authorities who, after 87 gunshots, finally took Tyke down before horrified local citizens (though Tyke reportedly suffered for hours before dying).** Afterwards, the circus publicly claimed there had been no prior indications of any issues. Neither the Pennsylvania escape, nor the groomer attack in North Dakota was reported. As is typically the case, local Hawaii officials noted they relied upon the USDA license to clear Tyke for her performance that evening (though OSHA would be responsible for worker injuries, and neither USDA or OSHA have public safety in their purview). They did not have the benefit, and under our current regulatory structure, neither would the City of Los Angeles, of knowing Tyke's history or particular stressors.

To read this lengthy list is to realize how common these attacks are, and how using (and in most instances, abusing) animals in circus and zoo performances is arcane and unethical.

Emil Holbrook, *When Circus Animals Kill*, Risk Management Monitor (2009) ⁷⁰

Handler deaths average one per year ... the most dangerous profession in the country. ... When an elephant attacks, the difference between a close call or minor injury and death is pure luck ... the elephant in the circus is ...wild.

It is not a domestic animal.

Dr. Joel Parrott, Executive Director Oakland Zoo, testifying before the US House, Judiciary Subcommittee meeting⁷¹

There are public health risks as well.

No US federal laws address pathogen transmission risk at venues where the public has contact with animals

...

Direct contact with dangerous animals (nonhuman primates, certain carnivores) should be completely prohibited.

Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, National Association of Public Health Veterinarians (2013)

Certain domestic, exotic, or wild animals should be prohibited from exhibition settings where a reasonable possibility of animal contact exists, especially nonhuman primates and certain carnivores

Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, National Association of Public Health Veterinarians (2013)

- Re: the claim that the USDA no longer requires annual TB testing in elephants because *it is no longer a health risk* or because *prior testing was an overreaction* to the risk of transmission

Tuberculosis has killed more people worldwide than the plague. Reportedly, some 60 of 446 exhibiting elephants in the US are TB positive. Two Ringling workers were barred from an event last year in Indiana over TB concerns.⁷² A Philadelphia circus event last year featured three elephants who were previously barred from performing by the city of Dallas, citing concerns regarding tuberculosis tests. While these same elephants were performing in Philadelphia, [UniverSoul Circus took action against Dallas over its decision to bar them, and the judge sided with the city health officials](#). The *US Animal Health Association* recommended USDA implement its 2010 Guidelines, which added potential travel restrictions to annual TB testing requirements. Despite admitted longtime reliance upon Association recommendations for this contagious disease, and an industry that moves the contagion across state lines, the USDA abruptly deferred oversight of this serious public health issue to the “few states” that have adopted the Guidelines.⁷³ In the face of increasing concern regarding the issue of tuberculosis in captive elephants, the [USDA announced it would no longer require annual tuberculosis testing](#).

To adequately address the concerns of TB in the general elephant population, all captive elephants must be tested annually

by culture and with the ElephantTB STAT-PAK® Assay (a blood test).

Guidelines for the Control of Tuberculosis in Elephants 2012

US Animal Health Association⁷⁴

- Re: the claim this issue is a “*radical*” notion by “*a small minority*” of “*special interest groups*” “*pushing an agenda*” who know nothing about animals

Arguments relying upon insults or stereotyping do not answer or inspire meritorious debate; more often, one’s reliance upon such tactics merely reflects a defeatist abandonment of substantive argument. In response, I would simply note that public opinion is changing, as reflected in the viewpoint of now [more than 2/3 of Americans](#),⁷⁵ that the use of wild animals in traveling performances is concerning. **Thirty-four diverse nations have banned the use of wild animals in traveling shows, and 67 local US jurisdictions also have some form of ban or restriction on traveling wild animal acts.**

Austria
Belgium
Bolivia
Bosnia-Herzegovina
Bulgaria
Colombia
Costa Rica
Croatia
Cyprus
Czech Republic
Denmark
Ecuador

El Salvador
Estonia
Finland
Greece
Hungary
India
Iran
Israel
Latvia
Malta
Mexico

Norway
Panama
Paraguay
Peru
Poland
Portugal
Singapore
Slovenia
Sweden
Taiwan
The Netherlands

**Our moral compass doesn't point us in that direction anymore ...
These animals weren't meant to be in that world
and were put into that service.
We just don't agree with it.
So we are distancing ourselves from that
and going forward with a new model.**
[Stuart Larson, WA WA Shrine Circus Event Chairman](#)⁷⁶

* * *

Thanks once again for your time and consideration of this important issue. We hope this informs your viewpoint, and we remain available and committed to assist in any way to support this necessary and humane action.

Sincerely,



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ADDENDUM A

Caselaw supporting the proposed ordinance as constitutional, within the City's authority and duty under their police powers to legislate in the interest of its citizens' health, safety, welfare, and morals.

The claim that regulations such as the proposed ordinance (to prohibit the exhibition of wild or exotic animals for entertainment or amusement, including circuses, other wild or exotic animal shows, and rentals for house parties) violate the Constitution or are otherwise outside the City's authority is absolutely incorrect, as is demonstrated by a very long line of constitutional jurisprudence.

The right to free speech is carried down to state and local governments via due process under equal protection (14th Amendment), i.e. the *Incorporation Doctrine*. (See [Gitlow v. People of New York](#);⁷⁷ see also [West Coast Hotel v. Parrish](#)⁷⁸ & others below.) Thus, the analysis here is a *substantive due process* analysis, and because this does not involve a suspect (e.g. race) or quasi-suspect (e.g. gender) class, it is determined under a *rational basis* standard. Historically, under a rational basis standard, the regulation will stand; the only time the government loses on this is if there's *rank prejudice* or the regulation is found to be wholly arbitrary. Further, local government is afforded wide latitude in their regulatory determinations, including those that may regulate some, but not others. (As you know, because police powers are passed down to local governments through the states, references in these federal cases to a "State" also apply to local governments barring some state preemption.) See also [Constitution of California, § 11, Art. XI](#) (municipal police powers) and [Dobbins v. Los Angeles](#) (1904) (*By the constitution of the State of California it is provided, art. XII, sec. 11, that any county, city, town or township may make and enforce within its limits all such local, police, sanitary or other regulations as are not in conflict with the general laws*)

- **Free Speech (1st Amendment) goes to the states via Due Process under the 14th Amendment.** [Gitlow v. People of New York](#) (1925)⁷⁹ (*freedom of speech and of the press — which are protected by the First Amendment from abridgment by Congress — are among the fundamental personal rights and "liberties" protected by the due process clause of the Fourteenth Amendment from impairment by the States. ... It is a fundamental principle, long established, that the freedom of speech⁸⁰ and of the press which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language ... freedom is an inestimable privilege in a free government; without such limitation, it might become the scourge of the republic. That a State in the exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime, or disturb the public peace, is not open to question. ... Freedom of speech ... does not protect disturbances to the public peace ... Every presumption is to be indulged in favor of the validity of the statute. ... the State is primarily the judge of regulations required in the interest of public safety and welfare;" and that its police" statutes may only be declared unconstitutional where they are arbitrary or unreasonable attempts to exercise authority vested in the State in the public interest.*)
- **Regulation must bear some fair & substantial relation to the government purpose; however, government is afforded wide discretion.** [Royster Guano v. Virginia](#) (1920)⁸¹ (*It is unnecessary to say that the "equal protection of the laws" required by the Fourteenth Amendment does not prevent the States from resorting to classification for the purposes of legislation. Numerous and familiar decisions of this court establish that they have a wide range of discretion in that regard. But the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.*)
- **Constitutionality is presumed; regulation will be held constitutional if rationally related to a legitimate government purpose.** [New Orleans v. Duke](#) (1976)⁸² (*Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest. States are accorded wide latitude in the regulation of their local economies under their police powers, and rational distinctions may be made with substantially less than mathematical exactitude ... In short, the judiciary may not sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines ... in the local economic sphere, it is only the invidious discrimination, the wholly arbitrary act, which cannot stand consistently with the Fourteenth Amendment.*)

- **Government doesn't even have to state its reason, so long as it "might be thought" to be rationally related.** [Williamson v. Lee Optical](#) (1955)⁸³ (*the law need not be in every respect logically consistent with its aims to be constitutional. It is enough that there is an evil at hand for correction, and that it might be thought that the particular legislative measure was a rational way to correct it. The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought. ... "For protection against abuses by legislatures the people must resort to the polls, not to the courts); see also [Railroad Retirement Board v. Fritz](#) (1980)⁸⁴ (this Court has never insisted that a legislative body articulate its reasons for enacting a statute).*

 - **Lee Optical also upholds the ordinance regulating some, but not others** (in that case, opticians vs. sellers of ready-to-wear glasses). (*Evils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. ... Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. ... The legislature may select one phase of one field and apply a remedy there, neglecting the others. ... The prohibition of the Equal Protection Clause goes no further than the invidious discrimination.*) See also [Minnesota v. Clover Leaf Creamery](#)⁸⁵ (below, regarding plastic & paper milk jug containers); [Nebbia v. New York](#)⁸⁶ (setting minimum milk price for one type of merchant but not others); and [West Coast Hotel v. Parrish](#) (1937)⁸⁷ (*legislature 'is free to recognize degrees of harm and it may confine its restrictions to those classes of cases where the need is deemed to be dearest.'* If 'the law presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances to which it might have been applied.' There is no 'doctrine requirement' that the legislation should be couched in all embracing terms.)
- **Essentially, the regulation will stand if the government has a good reason, a not-so-great reason, no reason, or even the wrong reason, so long as it's "at least debatable."** [Minnesota v. Clover Leaf Creamery](#) (1981)⁸⁸ (*states are not required to convince the courts of the correctness of their legislative judgments. Rather, "those challenging the legislative judgment must convince the court that the legislative facts on which the classification is apparently based could not reasonably be conceived to be true by the governmental decisionmaker."* ... Although parties challenging legislation under the Equal Protection Clause may introduce evidence supporting their claim that it is irrational ... they cannot prevail so long as "it is evident from all the considerations presented to [the legislature], and those of which we may take judicial notice, that the question is at least debatable." Where there was evidence before the legislature reasonably supporting the classification, litigants may not procure invalidation of the legislation merely by tendering evidence in court that the legislature was mistaken. ... This Court has made clear that a legislature need not "strike at all evils at the same time or in the same way," ... and that a legislature "may implement [its] program step by step, ... adopting regulations that only partially ameliorate a perceived evil and deferring complete elimination of the evil to future regulations. ... The Equal Protection Clause does not deny the State of Minnesota the authority to ban one type of milk container conceded to cause environmental problems, merely because another type, already established in the market, is permitted to continue in use. Whether in fact the Act will promote more environmentally desirable milk packaging is not the question: the Equal Protection Clause is satisfied by our conclusion that the Minnesota Legislature could rationally have decided that its ban on plastic nonreturnable milk jugs might foster greater use of environmentally desirable alternatives. ... The Minnesota Supreme Court may be correct that the Act is not a sensible means of conserving energy. But we reiterate that "it is up to legislatures, not courts, to decide on the wisdom and utility of legislation." ... Since in view of the evidence before the legislature, the question clearly is "at least debatable," ... the Minnesota Supreme Court erred in substituting its judgment for that of the legislature. ... it is not the function of the courts to substitute their evaluation of legislative facts for that of the legislature.)
- **General rules that apply evenhandedly to all persons within the jurisdiction "unquestionably comply" with the Equal Protection Clause of the 14th Amendment.** [NYC Transit Authority v. Beazer](#) (1979)⁸⁹ (*General rules that apply evenhandedly to all persons within the jurisdiction unquestionably comply with this principle. Only when a governmental unit adopts a rule that has a special impact on less than all the persons subject to its jurisdiction does the question whether this principle is violated arise. ... the exclusionary line challenged by respondents "is not one which is directed 'against' any individual or category of persons, but rather it represents a policy choice . . . made by that branch of Government vested with the power to make such choices." ... Because it does not circumscribe a class of persons characterized by some unpopular trait or affiliation, it does not create or reflect any special likelihood of bias on the part of the ruling majority. Under these circumstances, it is of no constitutional significance that the degree of rationality is not as great with respect to certain ill-defined subparts of the classification as it is with respect to the classification as a whole. ... No matter how unwise it may be for TA to refuse employment to individual car cleaners, track repairmen, or busdrivers simply because they are receiving*

methadone treatment, the Constitution does not authorize a federal court to interfere in that policy decision; see also FN39 "[L]egislative classifications are valid unless they bear no rational relationship to the State's objectives. ... State legislation `does not violate the Equal Protection Clause merely because the classifications [it makes] are imperfect.' ... Even if the classification involved here is to some extent both under-inclusive and overinclusive, and hence the line drawn by Congress imperfect, it is nevertheless the rule that in a case like this `perfection is by no means required'"; FN40 Since Barbier v. Connolly, ... the Court's equal protection cases have recognized a distinction between "invidious discrimination," ... classifications drawn "with an evil eye and an unequal hand" or motivated by "a feeling of antipathy" against, a specific group of residents ... and those special rules that "are often necessary for general benefits [such as] supplying water, preventing fires, lighting districts, cleaning streets, opening parks, and many other objects." ... Quite plainly, TA's Rule 11(b) was motivated by TA's interest in operating a safe and efficient transportation system rather than by any special animus against a specific group of persons; and FN41 the decision of the legislature must be accepted unless we can say that it is very wide of any reasonable mark.)

- **A regulation may even be unwise, mathematically imprecise, or inartfully drawn, but that will not provide grounds to strike it down under Equal Protection.** [Railroad Retirement Board v. Fritz](#) (1980)⁹⁰ (for a classification to be valid under the Equal Protection Clause of the Fourteenth ... it "must rest upon some ground of difference having a fair and substantial relation to the object of the legislation. ... In more recent years, however, the Court, in cases involving social and economic benefits, has consistently refused to invalidate on equal protection grounds legislation which it simply deemed unwise or unartfully drawn. ... "In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because, in practice, it results in some inequality.'" ... "The problems of government are practical ones, and may justify, if they do not require, rough accommodations -- illogical, it may be, and unscientific." ... [The rational basis standard] is true to the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their views of what constitutes wise economic or social policy." ... "[I]t is not within our authority to determine whether the Congressional judgment expressed in that Section is sound or equitable, or whether it comports well or ill with ... purposes of the Act. ... The answer to such inquiries must come from Congress, not the courts. Our concern here, as often, is with power, not with wisdom." ... The only remaining question is whether Congress achieved its purpose in a patently arbitrary or irrational way. ... Where, as here, there are plausible reasons for Congress' action, our inquiry is at an end. It is, of course, "constitutionally irrelevant whether this reasoning in fact underlay the legislative decision ... this Court has never insisted that a legislative body articulate its reasons for enacting a statute. This is particularly true where the legislature must necessarily engage in a process of line-drawing)
- **Regulations must be lawful in both their writing and application; however, courts take the "utmost caution" with regards to invalidation, and the police power is a "continuing" right, such that a "business lawful today may ... become a menace."** [Dobbins v. Los Angeles](#) (1904)⁹¹ (every intendment is to be made in favor of the lawfulness of the exercise of municipal power, making regulations to promote the public health and safety, and that it is not the province of courts, except in clear cases, to interfere with the exercise of the power reposed by law in municipal corporations for the protection of local rights and the health and welfare of the people in the community. ... "The question in each case is whether the legislature has adopted the statute in exercise of a reasonable discretion, or whether its action be a mere excuse for an unjust discrimination, or the oppression or spoliation of a particular class. ... The State has undoubtedly the power, by appropriate legislation, to protect the public morals, the public health and the public safety, but if, by their necessary operation, its regulations looking to either of those ends amount to a denial to persons within its jurisdiction of the equal protection of the laws, they must be deemed unconstitutional and void. ... the power of the courts to declare such regulation invalid will be exercised with the utmost caution, and only where it is clear that the ordinance or law declared void passes the limits of the police powers, and infringes upon rights guaranteed by the constitution. ... the right to exercise the police power is a continuing one, and a business lawful today may in the future, because of the changed situation, the growth of population or other causes, become a menace to the public health and welfare, and be required to yield to the public good. ... where the exercise of legislative or municipal power is clearly within constitutional limits, the courts will not inquire into the motives which may have actuated the legislative body in passing the law or ordinance in question. ... although an ordinance might be lawful upon its face and apparently fair in its terms, yet if it was enforced in such a manner as to work a discrimination against a part of the community for no lawful reason, such exercise of power would be invalidated by the courts.); see also

 - All rights in contracts and property are held subject to such regulations as may be made from time to time by the State for the protection of public health, comfort and safety. Cooley Const. Lim. 6th ed. 707; Mugler v. Kansas, 123 U.S. 669; Corporation of Knoxville v. Bird, 12 B.J. Lea, 121; City of Salem v. Maynes, 123 Mass. 372;

- Barbier v. Connolly, 113 U.S. 27; City of New Orleans v. Stafford, 21 Am. Rep. 563; 2 Story Const. Lim. § 1954; Jamieson v. Ind. Natural G. Oil Co., 28 N.E. 76;
- *A municipality cannot in any manner barter away, part with or abridge its right to exercise the police powers delegated to it by the State.* Cooley Const. Lim. 6th ed. 341; Russell on Police Powers, 88; Davenport v. Richmond, 81 Va. 636; Newson v. Galveston, 13 S.W. 368; Fertilizing Co. v. Hyde Park, 97 U.S. 659;
 - *The ordinance complained of is not violative of the commerce clause of the Constitution of the United States.* Sherlock v. Alling, Admr., 93 U.S. 99; United States v. E.C. Knight, 156 U.S. 1; Railroad Co. v. Husen, 95 U.S. 465;
 - *The motives of a legislative body in enacting a law cannot be inquired into by the courts.* Fletcher v. Peck, 6 Cranch, 87; Dodge v. Wolsey, 18 How. 371; United States v. Des Moines R.R. Co., 142 U.S. 545; Hing v. Crowley, 113 U.S. 703.
- **Regulations made under the police power for a public purpose stand where they operate likewise upon all similarly situated persons and property.** *Barbier v. Connolly* (1885)⁹² *(The provision is purely a police regulation within the competency of any municipality possessed of the ordinary powers belonging to such bodies. And it would be an extraordinary usurpation of the authority of a municipality, if a federal tribunal should undertake to supervise such regulations. ... of the necessity of such regulations the municipal bodies are the exclusive judges ... There is no invidious discrimination against any one within the prescribed limits by such regulations. ... All persons engaged in the same business within it are treated alike; are subject to the same restrictions and are entitled to the same privileges under similar conditions. ... equal protection and security should be given to all under like circumstances ... Special burdens are often necessary for general benefits — for supplying water, preventing fires, lighting districts, cleaning streets, opening parks, and many other objects. Regulations for these purposes may press with more or less weight upon one than upon another, but they are designed, not to impose unequal or unnecessary restrictions upon any one, but to promote, with as little individual inconvenience as possible, the general good. Though, in many respects, necessarily special in their character, they do not furnish just ground of complaint if they operate alike upon all persons and property under the same circumstances and conditions. ... legislation which, in carrying out a public purpose, is limited in its application, if within the sphere of its operation it affects alike all persons similarly situated ... this is a matter for the determination of the municipality in the execution of its police powers, and not a violation of any substantial right of the individual.)*
 - **So long as the ordinance is not arbitrary, it will stand, including regulations that favor one economic faction over another.** *West Coast Hotel v. Parrish* (1937)⁹³ *(The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation the Constitution does not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, morals and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process. This essential limitation of liberty in general governs freedom of contract in particular. ... that freedom of contract is a qualified and not an absolute right. There is no absolute freedom to do as one wills or to contract as one chooses. ... The guaranty of liberty does not ... deny to government the power to provide restrictive safeguards. Liberty implies the absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community. ... if such laws "have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied"; that "with the wisdom of the policy adopted, with the adequacy or practicability of the law enacted to forward it, the courts are both incompetent and unauthorized to deal"; that "times without number we have said that the legislature is primarily the judge of the necessity of such an enactment, that every possible presumption is in favor of its validity, and that though the court may hold views inconsistent with the wisdom of the law, it may not be annulled unless palpably in excess of legislative power. ... The legislature "is free to recognize degrees of harm and it may confine its restrictions to those classes of cases where the need is deemed to be dearest.)*
 - **Regulation may be constitutional even where it distinguishes between two classes of merchants.** Since *Nebbia v. New York* (1934),⁹⁴ the Court has not struck down an economic statute in terms of due process & many legal scholars say it likely never will. *(Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest ... it is not only the right, but the*

bounden and solemn duty of a state, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation, which it may deem to be conducive to these ends ... But what are the police powers of a State? They are nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions. And whether a State passes a quarantine law, or a law to punish offences, or to establish courts of justice, or requiring certain instruments to be recorded, or to regulate commerce within its own limits, in every case it exercises the same powers; that is to say, the power of sovereignty, the power to govern men and things within the limits of its dominion. It is by virtue of this power that it legislates; and its authority to make regulations of commerce is as absolute as its power to pass health laws, except in so far as it has been restricted by the constitution of the United States. ... Thus has this court from the early days affirmed that the power to promote the general welfare is inherent in government. ... No exercise of the private right can be imagined which will not in some respect, however slight, affect the public; no exercise of the legislative prerogative to regulate the conduct of the citizen which will not to some extent abridge his liberty or affect his property. But subject only to constitutional restraint the private right must yield to the public need. ... the Fourteenth, as respects state action, do not prohibit governmental regulation for the public welfare. They merely condition the exertion of the admitted power, by securing that the end shall be accomplished by methods consistent with due process. And the guaranty of due process, as has often been held, demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained. It results that a regulation valid for one sort of business, or in given circumstances, may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of each regulation depends upon the relevant facts. ... The court has repeatedly sustained curtailment of enjoyment of private property, in the public interest. The owner's rights may be subordinated to the needs of other private owners whose pursuits are vital to the paramount interests of the community. The state may control the use of property in various ways ... The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases. Certain kinds of business may be prohibited; and the right to conduct a business, or to pursue a calling, may be conditioned. ... statutes prescribing the terms upon which those conducting certain businesses may contract, or imposing terms if they do enter into agreements, are within the state's competency ... it is said that when one devotes his property to a use, "in which the public has an interest," he in effect "grants to the public an interest in that use" and must submit to be controlled for the common good. ... merely another way of saying that if one embarks in a business which public interest demands shall be regulated, he must know regulation will ensue. ... It is clear that there is no closed class or category of businesses affected with a public interest, and the function of courts in the application of the Fifth and Fourteenth Amendments is to determine in each case whether circumstances vindicate the challenged regulation as a reasonable exertion of governmental authority or condemn it as arbitrary or discriminatory. ... So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy, or, when it is declared by the legislature, to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court functus officio. ... With the wisdom of the policy adopted, with the adequacy or practicability of the law enacted to forward it, the courts are both incompetent and unauthorized to deal. ... Times without number we have said that the legislature is primarily the judge of the necessity of such an enactment, that every possible presumption is in favor of its validity, and that though the court may hold views inconsistent with the wisdom of the law, it may not be annulled unless palpably in excess of legislative power ... The Constitution does not secure to anyone liberty to conduct his business in such fashion as to inflict injury upon the public at large, or upon any substantial group of the people.)

¹ http://www.ad-international.org/adi_home/

² See

https://d3n8a8pro7vhmx.cloudfront.net/davidryucc/pages/379/attachments/original/1480539226/Exotic_Animals_Ban_Motion.pdf?1480539226 (last accessed 12/1/16).

³ <https://www.dropbox.com/sh/66nbi1pn35b7rmy/AABqllzbBV1SsITd5NtJ4Zt9a?dl=0> (last accessed 12/1/16).

⁴ See 2015 Gallup Poll at <http://www.gallup.com/poll/183275/say-animals-rights-people.aspx> (last accessed 12/1/16).

⁵ See <http://www.stopcircussuffering.com/circus-bans/> (last accessed 12/1/16).

⁶ WAZA Code of Ethics, 2003.

⁷ See Stephen Harris, Graziella Iossa & Carl D. Soulsbury, *A review of the welfare of wild animals in circuses* School of Biological Sciences, University of Bristol (2006); see also subsequent 2009 study affirming earlier findings and Andy Coghlan, *Circus Captivity is beastly for wild animals*, *New Scientist* (May 2009).

⁸ See Harris, *The Welfare of Wild Animals in Travelling Circuses*, Report to the Welsh Government, University of Bristol (2016), link available at http://www.ad-international.org/animals_in_entertainment/go.php?id=4186&ssi=10 (last accessed 12/1/16).

⁹ See <http://www.slideshare.net/lmedina1963/federation-of-veterinarians-of-europe-position-on-the-use-of-animals-in-travelling-circuses> (last accessed 12/1/16).

¹⁰ See ABA's Resolution 105, available at http://www.americanbar.org/news/reporter_resources/midyear-meeting-2015/house-of-delegates-resolutions/105.html (last accessed 12/1/16).

¹¹ See NYC Bar, Committee on Animal Law report <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf> (federal); <http://www2.nycbar.org/pdf/report/uploads/20072638-RestrictionsofWildAnimalsinCircuses.pdf> (state), and http://www.nycbar.org/pdf/report/LIPTA_NYC_Animals_Entertainment.pdf (prior ordinance proposed for NYC, similar to currently proposed measure NYC Int.1233-2016). Also available at <https://www.dropbox.com/sh/66nbi1pn35b7rmy/AABqllzbBV1SsITd5NtJ4Zt9a?dl=0> (last accessed 12/1/16).

¹² See <http://www.torontosun.com/2014/09/10/founder-of-maine-elephant-refuge-trampled-to-death-by-elephant/>; <http://www.cbsnews.com/news/maine-elephant-sanctuary-founder-trampled-to-death/>; <http://www.centralmaine.com/2014/09/09/founder-of-hope-elephants-found-dead-in-coral/> (last accessed 12/2/16).

¹³ See *SeaWorld of Florida, LLC v. Perez, Secretary, US Dep't of Labor*, USCA Case number 12-1375 (2014).

¹⁴ See <http://www.safetynewsalert.com/zoo-pays-fine-admits-no-fault-in-elephant-handlers-death/> (last accessed 12/1/16).

¹⁵ See ADI's *Out of Control* video at <https://vimeo.com/98627950> (last accessed 12/1/16).

¹⁶ See <http://tykeeelphantoutlaw.com> (last accessed 12/1/16).

¹⁷ See <https://www.thesun.co.uk/news/2305425/animal-tamer-fatally-savaged-lion-egyptian-circus/> (last accessed 12/1/16).

¹⁸ See E. Ratiff, *Taming the Wild*, National Geographic (March 2011) at <http://ngm.nationalgeographic.com/2011/03/taming-wild-animals/ratliff-text/1> and N. Wolchover, *Why Can't All Animals Be Domesticated?* *livescience* (2012) at.

¹⁹ See TG. Iossa, CD Soulsbury, & S. Harris, *Are wild animals suited to a traveling circus life?* School of Biological Sciences, University of Bristol, UK (2009), citing Langley & Hunter (2001).

²⁰ Rebhorn, *Preview: Circus historian LaVahn Hoh discusses the thrill and darkness of life under the big top*, c-ville at http://www.c-ville.com/preview_circus_historian_lavahn_hoh_discusses_the_thrill_and_darkness_of_life_under_the_big_top/#.WECxtDuU7dl (last accessed 12/1/16).

²¹ See USDA APHIS Audit Reports, Office of Inspector General (2010 and 2014).

²² Available at this link <https://www.dropbox.com/sh/66nbi1pn35b7rmy/AABqllzbBV1SsITd5NtJ4Zt9a?dl=0> (last accessed 12/1/16).

²³ See *UniverSoul Circus v. Dallas*, Cause No. DC-15-09369 (2015), available at https://www.scribd.com/document/275230369/UniverSoul-Circus-v-Dallas?_ga=1.68614225.1398604802.1462988228 (last accessed 12/1/16).

²⁴ See <http://content.govdelivery.com/accounts/USDAAPHIS/bulletins/11fcea8> (last accessed 12/1/16).

²⁵ *The Richest People in America 2014*, Forbes, quoting Kenneth Feld of FEI (Ringling).

²⁶ *The Power Clown*, Wall Street Journal (2005), available at <http://www.wsj.com/articles/SB112380371510711446> (last accessed 12/1/16).

²⁷ See Blankenship, *Topeka's Arab Shrine Circus returns for the 75th straight year*, Topeka-Capital Journal available at <http://cjonline.com/life/arts-entertainment/2015-02-19/topekas-arab-shrine-circus-returns-75th-straight-year> (last accessed 12/1/16).

²⁸ See Benjoe, *Saskatchewan's Wawa Shriners circus dump exotic animals in favour of equestrian-type show*, Regian Leader-Post (2016), available at <http://leaderpost.com/news/local-news/a-circus-without-lions-and-tigers-and-bears-oh-my> (last accessed 12/1/16).

²⁹ See http://www.americanbar.org/news/reporter_resources/midyear-meeting-2015/house-of-delegates-resolutions/105.html (last accessed 10/21/16).

³⁰ See NYC Bar, Committee on Animal Law report <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf> (federal); <http://www2.nycbar.org/pdf/report/uploads/20072638-RestrictionsofWildAnimalsinCircuses.pdf> (state), and http://www.nycbar.org/pdf/report/LIPTA_NYC_Animals_Entertainment.pdf (prior local bill; as we understand it, the NYC Bar is now updating this report for Int.1233-2016, which will include some recommendations to strengthen the language. Based upon our informal conversations with NYC Bar representatives at the hearing, this is language we also recommended previously and, assuming their written report reflects our conversation, we support their suggestions. We include notations in that regard herein as well.) (last accessed 10/21/16).

- ³¹ NYC Bar, Committee on Animal Law report, p.2 at <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf> (last accessed 10/21/16).
- ³² 2016 University of Bristol Harris Report to the Welsh Government, link available at http://www.ad-international.org/animals_in_entertainment/go.php?id=4186&ssi=10 (last accessed 10/21/16).
- ³³ 2016 University of Bristol Harris Report to the Welsh Government, link available at http://www.ad-international.org/animals_in_entertainment/go.php?id=4186&ssi=10 (last accessed 10/21/16).
- ³⁴ See *Review of Zoos' Conservation and Education Contribution* (2010 study conducted by the Agricultural Development Advisory Service (ADAS) working in close collaboration with the British and Irish Association of Zoos and Aquariums (BIAZA)), available at <http://archive.defra.gov.uk/wildlife-pets/zoos/documents/review-zoos-conservation.pdf> and Jensen, Eric, *Evaluating Children's Conservation Biology Learning at the Zoo*, Conservation Biology, Aug 01, 2014; Vol. 28, No. 4, p. 1004-1011.
- ³⁵ See <http://www.stopcircussuffering.com/news/europe/wildlife-experts-speak-circus-suffering-britain/> for quote provided to ADI during the UK campaign.
- ³⁶ As quoted by Louise Gray, *Government Accused of a u-turn on ban in wild animals in circuses*, UK Telegraph (2011) at <http://www.telegraph.co.uk/news/earth/earthnews/8512631/Government-accused-of-u-turn-on-ban-on-wild-animals-in-circuses.html> (last accessed 5/25/16).
- ³⁷ Sandler, Miami New Times (2015), at <http://www.miaminewtimes.com/news/zoo-miamis-ron-magill-has-earned-his-place-in-the-spotlight-7766015> (last accessed 5/25/16).
- ³⁸ Schaul, *Elephants in Captivity: A Perspective from Former AZA Director/William Conway Chair of Conservation and Science*, National Geographic (2013), available at [this link](#) (last accessed 5/25/16).
- ³⁹ L. Hunter, P. White, P. Henschel, L.F.C. Burton, A. Loveridge, G. Balme, C. Breitenmoser and URS Breitenmoser, *Walking with lions: why there is no role for captive-origin lions Panthera leo in species restoration* (2013), available at https://www.researchgate.net/publication/259430151_Walking_with_lions_Why_there_is_no_role_for_captive-origin_lions_Panthera_leo_in_species_restoration (last accessed 10/21/16).
- ⁴⁰ Jessica Bell, University of Michigan, *There Is No Wild.* Conservation and Circus Discourse SOCIETY & ANIMALS 23 (2015) 462-483
- ⁴¹ See <https://www.aza.org/becoming-accredited/>, <http://www.waza.org/en/site/home>, <http://www.biaza.org.uk/biaza-membership/>, and <http://www.sanctuaryfederation.org/gfas/for-sanctuaries/> (last accessed 5/26/16).
- ⁴² See USFWS CWSA Fact Sheet describing “sanctuary” for purposes of the exemption, at <https://www.dropbox.com/s/l99u3k6bba1gw2y/USFWS%20CWSA%20fact%20sheet%20includes%20definition%20of%20sanctuary.pdf?dl=0> (last accessed 5/25/16).
- ⁴³ See Hosier, *Zoo pays fine, admits no fault in handler death*, OSHA Safety News Alert (2012) at <http://www.safetynewsalert.com/zoo-pays-fine-admits-no-fault-in-elephant-handlers-death/> (last accessed 5/6/16).
- ⁴⁴ ZAA website at <http://www.zaa.org> (last accessed 10/21/16).
- ⁴⁵ See <http://www.zaa.org/about-zaa/mission> (emphasis added) (last accessed 10/21/16).
- ⁴⁶ Available at <http://www.zaa.org/pdf/ZAA%20Bylaws%202009%20final1.pdf> (last accessed 10/21/16).
- ⁴⁷ Available at <http://www.zaa.org/pdf/ZAA%20Bylaws%202009%20final1.pdf> (last accessed 10/21/16).
- ⁴⁸ Available at http://www.ammpa.org/doc_SeaWorldOrcaProgram.html (last accessed 10/21/16).
- ⁴⁹ For example, see ADI’s investigations of *Have Trunk Will Travel* and *Hall’s Bears* at http://www.ad-international.org/animals_in_entertainment/go.php?id=3098 and http://www.ad-international.org/animals_in_entertainment/go.php?id=3288&ssi=10 respectively (last accessed 12/2/16).
- ⁵⁰ See §9 C.F.R. 1.1.
- ⁵¹ See <https://www.dropbox.com/sh/v8cl3yu9ox2g917/AADgbR0RmJLU5luoVTBPtRlca?dl=0>.
- ⁵² See also https://youtu.be/C-9WSTBY_TU?list=PLBB7CC8DDE817329C, <http://www.stopcircussuffering.com/news/europe/great-british-circus/>, http://www.ad-international.org/media_centre/go.php?id=3309&si=12, http://www.ad-international.org/animals_in_entertainment/go.php?id=2780, http://www.ad-international.org/animals_in_entertainment/go.php?id=2779&ssi=10, and http://www.ad-international.org/animals_in_entertainment/go.php?id=3310 (last accessed 10/21/16).
- ⁵³ https://www.youtube.com/watch?v=C-9WSTBY_TU&feature=youtu.be&list=PLBB7CC8DDE817329C (last accessed 10/21/16).
- ⁵⁴ See http://www.ad-international.org/media_centre/go.php?id=1623&si=12; https://www.ad-international.org/media/GBC_Elephant_Report_F_2010.pdf; https://www.ad-international.org/admin/downloads/adi_parlbrief_circus_regulation_oct_2011f.pdf; and https://www.youtube.com/watch?v=C-9WSTBY_TU&feature=youtu.be&list=PLBB7CC8DDE817329C (last accessed 5/26/16).
- ⁵⁵ Included in ADI’s *Circus Madness* video at <https://www.youtube.com/watch?v=Fgk4B9KJnpY> (starting around 12:50) (last accessed 5/26/16).

- ⁵⁶ See <http://www.stopcircussuffering.com/news/europe/circus-master-gerry-cottle-now-supports-ban/> (last accessed 5/26/16).
- ⁵⁷ See excerpt from ADI's 2011 Report to the UK Parliament, at <https://www.dropbox.com/s/gry6d0la9luz88i/Great%20British%20Circus%202006%20.pdf?dl=0> (last accessed 5/26/16).
- ⁵⁸ See ADI's video footage *Ugliest Show on Earth* at https://www.youtube.com/watch?v=hYgDa3nSp9I&oref=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DhYgDa3nSp9I&has_verified=1 and ADI's 2011 Report to the UK Parliament, at <https://www.dropbox.com/s/gry6d0la9luz88i/Great%20British%20Circus%202006%20.pdf?dl=0> (last accessed 10/21/16).
- ⁵⁹ See [https://www.ad-international.org/admin/downloads/circuses_science_awb_lords_\(low_res\).pdf](https://www.ad-international.org/admin/downloads/circuses_science_awb_lords_(low_res).pdf) (last accessed 5/26/16).
- ⁶⁰ See excerpt from ADI's 2011 Report to the UK Parliament, at <https://www.dropbox.com/s/xtroo6tbr61rf7s/ADI%202011%20Report%20to%20UK%20Parliament%20-%20Great%20British%20Circus.pdf?dl=0> (last accessed 5/26/16).
- ⁶¹ See http://www.ad-international.org/animals_in_entertainment/go.php?id=2859&ssi=10 with links to the referenced inspection reports; see also http://www.ad-international.org/animals_in_entertainment/go.php?id=3007&ssi=10, http://www.ad-international.org/animals_in_entertainment/go.php?id=2674, and https://www.ad-international.org/admin/downloads/adi_parlbriief_circus_regulation_oct_2011f.pdf.
- ⁶² See <http://www.sanctuaryfederation.org/gfas/for-sanctuaries/> (last accessed 5/26/16).
- ⁶³ TG. Iossa, CD Soulsbury, & S. Harris, *Are wild animals suited to a traveling circus life?* School of Biological Sciences, University of Bristol, UK (2009), citing Langley & Hunter (2001).
- ⁶⁴ See ADI's economic briefing at <http://www.federalcircusbill.org/briefings/restricting-the-use-of-wild-animals-in-circuses-the-economics-2/> (last accessed 5/4/16).
- ⁶⁵ See USDA APHIS Audit Report, Office of Inspector General, 2010.
- ⁶⁶ NYC Bar, Committee on Animal Law report, p.5 at <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf>, citing Audit Report by the USDA Office of the Inspector General, *Controls Over APHIS Licensing of Animal Exhibitors*, p. 2 (June 2010), at <https://www.usda.gov/oig/webdocs/33601-10-CH.pdf> (last accessed 5/3/16).
- ⁶⁷ See also <http://www.discovery.com/tv-shows/discovery-presents/videos/circus-elephant-rampage.htm> for video of Janet's rampage, which began while a mother and kids were still riding her.
- ⁶⁸ See Deborah Nelson, *Tracking Animal Mistreatment*, Investigative Reporters and Editors Journal, University of Maryland (Spring, 2013) at http://http-server.carleton.ca/~dmckie/Nelson_IRE.pdf (last accessed 5/26/16).
- ⁶⁹ See Tyke's rampage in Honolulu, Hawaii at <https://archive.org/details/ElephantRampageHawaii1994> (*this was Tyke's third rampage, including an escape in Altoona, Pennsylvania, after suffering years of abuse; it ended with one dead, 13 injured, and Tyke being shot at least 87 times. The police officer who killed Tyke later became an advocate for ending the use of wild animals in circuses. This incident remains a strong memory for locals even 20 years later, and is the subject of the documentary Tyke: Elephant Outlaw*) (last accessed 5/6/16).
- ⁷⁰ Emil Holbrook, *When Circus Animals Kill*, Risk Management Monitor (2009) at <http://www.riskmanagementmonitor.com/when-circus-animals-kill/>.
- ⁷¹ See transcript at http://commdocs.house.gov/committees/judiciary/hju65825.000/hju65825_0f.htm; see also <https://www.youtube.com/watch?v=ee5fOs9UX7s> (elephant attacks trainer)
- ⁷² Reported by Rudavasky, *Health Officials Screen Circus for TB* (2015) at <http://www.indystar.com/story/news/2015/12/04/health-officials-screen-circus-tb/76777086/> (last accessed 10/21/16).
- ⁷³ See https://www.aphis.usda.gov/aphis/newsroom/news/!ut/p/z0/fYxNDoMgGERP4xo0tXtt2qbGaJOMibIhn0gqFQGB_nj7Eg7Q3bzMzEMEdYgoeIsHeKEVYMA92dO63R3S8obr8-16xMW9rcpLgzPc5KhC5P8gGMRzXUmBCNPK869HHZhJOBpReSrFYMFuCXZAFf84q_USwXmY-aTlyC0FpfRlMb6Eh4vtsNERPI85w2keQ4oTzDzlkpsJgtsPIGgp2IbMTPof58fwLg!!/ (last accessed 10/21/16).
- ⁷⁴ US Animal Health Association, *Guidelines for the Control of Tuberculosis in Elephants 2012*, available at <http://www.usaha.org/Portals/6/Committees/tuberculosis/TB%20Guidelines%202012%20Draft%20revision%2020April2012.pdf> (last accessed 10/21/16).
- ⁷⁵ See 2015 Gallup poll at <https://www.dropbox.com/s/nra31n7wot0uo6b/2015%20Gallup%20poll.pdf?dl=0> (last accessed 5/26/16).
- ⁷⁶ See Benjoe, *Saskatchewan's Wawa Shriners circus dump exotic animals in favour of equestrian-type show* (2016) at <http://leaderpost.com/news/local-news/a-circus-without-lions-and-tigers-and-bears-oh-my> (last accessed 5/26/16).
- ⁷⁷ Available at <https://casetext.com/case/gitlow-v-people-of-the-state-of-new-york> (last accessed 5/26/16).

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- ⁷⁸ Available at <https://casetext.com/case/west-coast-hotel-co-v-parrish> (last accessed 5/26/16).
- ⁷⁹ Available at <https://casetext.com/case/gitlow-v-people-of-the-state-of-new-york> (last accessed 5/26/16).
- ⁸⁰ Throughout these caselaw citations, *underlined italicized* text is emphasis added by me, not occurring in the original case text.
- ⁸¹ Available at <https://supreme.justia.com/cases/federal/us/253/412/case.html> (last accessed 5/26/16).
- ⁸² Available at <https://supreme.justia.com/cases/federal/us/427/297/case.html> (last accessed 5/26/16).
- ⁸³ Available at <https://supreme.justia.com/cases/federal/us/348/483/case.html> (last accessed 5/26/16).
- ⁸⁴ Available at <https://supreme.justia.com/cases/federal/us/449/166/case.html> (last accessed 5/26/16).
- ⁸⁵ Available at <https://www.law.cornell.edu/supremecourt/text/449/456> (last accessed 5/26/16).
- ⁸⁶ Available at <https://casetext.com/case/nebbia-v-new-york> (last accessed 5/26/16).
- ⁸⁷ Available at <https://casetext.com/case/west-coast-hotel-co-v-parrish> (last accessed 5/26/16).
- ⁸⁸ Available at <https://www.law.cornell.edu/supremecourt/text/449/456> (last accessed 5/26/16).
- ⁸⁹ Available at <https://casetext.com/case/new-york-transit-authority-v-beazer> (last accessed 5/26/16).
- ⁹⁰ Available at <https://supreme.justia.com/cases/federal/us/449/166/case.html> (last accessed 5/26/16).
- ⁹¹ Available at <https://casetext.com/case/dobbins-v-los-angeles> (last accessed 5/26/16).
- ⁹² Available at <https://casetext.com/case/barbier-v-connelly> (last accessed 5/26/16).
- ⁹³ Available at <https://casetext.com/case/west-coast-hotel-co-v-parrish> (last accessed 5/26/16).
- ⁹⁴ Available at <https://casetext.com/case/nebbia-v-new-york> (last accessed 5/26/16).

WILD ANIMAL ACTS DROPPED AT CIRCUS

Parents Fear for Children and
— Public Suspects Cruelty,
Management Explains.

GETS PRAISE FOR THE STEP

Jungle Beasts Will Be Seen, but
Snarling Tigers and Lions Will
Never Again Reach the Arena.

No more will a daring trainer put his head into the lion's mouth or dainty Mabel Stark crack the lash over her fourteen snarling tigers and "Nigger," the black jaguar, for yesterday the Ringling Brothers & Barnum & Bailey Circus announced that all wild animal acts had been dropped from the program.

Jungle beasts aplenty will be in the menagerie, of course, but they will not be taken out to be put through their paces in the arena at Madison Square Garden or under the canvas when the circus takes to the road. Public distaste for the dangerous acts and parents' fear of their children's reaction to the mingling of humans and ferocious animals prompted the Ringling Brothers' decision. Even the larger species of bears are under the ban.

"There has been enough criticism by the public of wild animal acts," said Jack Ringling, "to warrant us in withdrawing them. The quite common impression is prevalent that tigers, lions and such animals are taught by very rough methods and that it is cruel to force them through their stunts.

"Another reason that guided us was that many parents object to bringing young children to a show in which men or women enter cages with ferocious beasts. Then there was the delay to be considered. The delay in hauling the animals into and out of the circus tents and of transferring them from their shifting dens into the arena and back is very objectionable and not without danger.

"The public seems to prefer acts in which animals seem to take an interested and playful part. Acts in which dogs, seals, horses and elephants take part are especially popular. We shall have plenty of this type of act."

Charles Ringling said that since the decision to drop the acts had been announced to persons who had written in complaints, he and his brother had received many letters from individuals and from humane societies approving the step.

Mabel Stark, the world's most famous woman animal trainer, is still with the circus. She now appears in an equestrian act. Virtually all of the fourteen Bengal tigers with which she used to

wrestle, while the circus patrons shivered apprehensively, have been transferred to the menagerie. Keepers said yesterday that the animals, deprived of the plaudits of the spectators, spent most of their time roaring, in what the keepers thought was an effort to retain their stardom.

"I find the horses more difficult to manage than the tigers," said Miss Stark, a trifle wistfully for one who has been clawed as often as she, "but there is no doubt that the elimination of the more dangerous acts was for the best."

NEW AIR COMPASS SHOWN.

Improved Device Facilitates Flying
in Fog or at Night.

The first public demonstration of the super pioneer earth inductor compass invented by Morris M. Titterington, chief engineer of the Pioneer Instrument Company of 754 Lexington Avenue, Brooklyn, was given yesterday afternoon at the company's plant. Among those present were W. C. Gilmore, Vice President and chief engineer of the Curtiss Aeroplane and Motor Corporation of Garden City, L. I.; C. S. Jones of the Curtiss Aeroplane Company, a veteran aviator; Earl Osborn, associate editor of Aviation Magazine; Leslie Gillette, aeronautical editor of Automotive Industries Magazine, and Captain H. A. Bruno, a pioneer aviator.

It is said for the compass that it makes it possible for air pilots to fly in fog or at night, as the compass will keep a plane straight on its course and prevent it from falling into spins, and that it is an improvement over the compasses used by the "round the world" fliers and that used by Lieutenant Maughan in his coast-to-coast dawn-to-dusk trip.

The new compass is being used on army planes and one has been installed on the airship Shenandoah. Yesterday J. Maurer, assistant chief engineer in charge of power plants and instruments of the Navy Department, in Washington, D. C., placed an order for a complete set of instruments to be used on the flying boats that are to take part in the proposed transpacific flight from California to the Hawaiian Islands.

PAID \$15; GOT NO HUSBAND.

Elsie Goldstein Also Loses Plea to
Get Her Money Back.

Although Elsie Goldstein is only 20 years old and is very pretty, she paid the manager of an east side matrimonial bureau \$15 as a retainer for finding a husband for her. Yesterday Elsie summoned the manager, Mrs. Anna Fingerhut of 145 Norfolk Street, to the Essex Market Court. She said Mrs. Fingerhut had failed to produce the husband.

Mrs. Fingerhut told Magistrate Charles W. Oberwager that she had sent several eligible young men to Elsie but when they proposed marriage to her she refused them. Elsie had paid her \$15 as the initial payment of her fee of \$50, she said.

"What does she want for \$50?" Mrs. Fingerhut asked.

The Magistrate said he thought Mrs. Fingerhut had earned her fee and dismissed the case. He told Elsie that she would have to apply to the civil courts if she wanted to recover her \$15.