



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

October 12, 2015

Pettsboro
Attn: Antoinette Thomas, Owner
117 Elf Way
Pittsboro, North Carolina 27312

UPS Tracking Number Signature Required
1Z 210 617 42 5816 1748

NOTICE OF CIVIL PENALTY

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTION .0201 (j) and .0204 (e)**

Facility: Pettsboro

Dear Ms. Thomas:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Pettsboro is assessed a civil penalty of \$1,250.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Ms. Tina Hlabse, General Counsel, NCDA&CS
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
PETTSBORO

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) 02 N.C.A.C 52J .0201 (j) and .0204 (e)
)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section (“AWS”), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter Pettsboro (the “kennel”) is a boarding kennel licensed pursuant to N.C. Gen. Stat. §19A-26.
2. On September 10, 2015, AWS Animal Health Technician Elizabeth Garner (“Inspector Garner”) visited the kennel as part of a complaint investigation. The records referenced in the body of this document are records gathered by Inspector Garner during this investigation.
3. Records indicate that on August 6, 2015 a dog named “Bruno” owned by Lauren Hunt died while boarding at your facility.
4. Statements from Antoinette Thomas, owner of the kennel, and from Ms. Hunt agree that Bruno was boarded in Ms. Thomas’s bedroom during the evening of August 5, 2015. At some point during the evening, Ms. Thomas opened the door to the bedroom to allow Bruno access to another room in the living quarters in which there were several dogs present. No supervision of these animals was provided at this time.
5. Early in the morning on August 6, 2015, Ms. Thomas found Bruno in the “front room.” Bruno was breathing but unresponsive. Kennel staff attempted to take Bruno to a local emergency veterinary clinic but the dog died in route.
6. During the site visit on September 10, 2015 Inspector Garner was shown the rooms in which Bruno was boarded on the evening of August 5, 2015 and was found the morning of August 6, 2015. Prior to this visit, the kennel had never indicated to Inspector Garner that animals were boarded in these living areas.
7. On July 27, 2015, Inspector Garner conducted the annual inspection for this facility. At this time, Ms. Thomas did not inform the inspector that she was using part of her residence as a “senior room” to board “nervous, sickly or older dogs.” Ms. Thomas indicated during the investigation interview on September 10, 2015 that the use of this “senior room” was standard practice.
8. On the July 27, 2015, Inspector Garner noted a violation of NCAC .0204 (e) due to “6-9 dogs

at play without supervision.” Ms. Thomas was made aware of this violation during the inspection and signed the inspection report noting this violation.

9. On September 29, 2015, Inspector Garner returned to the kennel for a follow-up inspection. Again the inspector noted the kennel to be violating NCAC .0204 (e) by allowing 11 dogs in one room without supervision.

As a result of this investigation, AWS, alleges that the kennel, either by act or omission, violated the North Carolina Administrative Code 52J .0201 (j) and .0204 (e)

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Pettsboro is assessed a civil penalty of:

- a) \$500.00 for 1 violation of North Carolina Administrative Code 52J .0201 (j)
- b) \$750.00 for 3 violations of North Carolina Administrative Code 52J .0204 (e)

\$1,250.00 TOTAL AMOUNT ASSESSED

10/12/2015
Date



Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

N.C. General Statutes 19A-40 and N. C. Administrative Codes 52J .0201 (j)

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6: 1998-215,s.3.)

02 NCAC 52J .0201 GENERAL

(j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

(f) In addition to Paragraph (b) of this Rule, each feline older than six months housed in any primary enclosure shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet. Not more than 12 cats shall be housed in the same primary enclosure.

(g) In all cat enclosures, a receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.