



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

David T. Marshall, DVM
State Veterinarian

February 1, 2011

Mr. Robert Richardson
Director, Halifax County Animal Shelter
54 Dog Pound Road
Halifax, NC 27839

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Re: ASSESSMENT OF CIVIL PENALTY
Halifax County Animal Shelter

Dear Mr. Richardson:

This letter encloses an Order issued pursuant to N.C. Gen. Stat. §§ 19A-40. Inspections of the conditions and practices prevalent in your animal shelter indicates that grounds exist for imposition of a civil penalty based upon violation(s) of the requirements set forth under the NC Animal Welfare Act and the rules establishing minimum standards in certified animal shelters promulgated under that law.

The attached Civil Penalty Assessment describes in detail the factual basis for this decision. You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-23, within five (5) days of your receipt of this Order. Please find enclosed information on filing said petition.

APPEAL INFORMATION

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 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Ray Starling
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

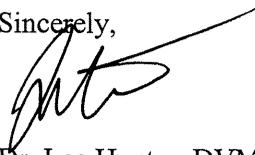
Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against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

A proposed consent agreement has been enclosed. If you wish to resolve this matter in accordance with the terms set forth in the proposed consent agreement, you need simply sign and return it to me in the enclosed, self-addressed envelope. Upon receipt I will sign the original agreement and return a copy to you for your records.

When you have satisfied the terms and conditions set forth in the consent agreement to the Department's satisfaction, I will issue notice to you that this order has been cancelled as to any remaining terms or conditions.

If you have any questions concerning the basis for this order or the terms of the proposed consent agreement, you may call me at the telephone number listed above.

Sincerely,



Dr. Lee Hunter, DVM,
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

Enclosures: 1) Civil Penalty Assessment;
2) Consent Agreement

cc: David McLeod, Assistant Commissioner, NCDA&CS
Dr. David Marshall, State Veterinarian, NCDA&CS
Barry Bloch, Assistant Attorney General, NCDOJ

STATE OF NORTH CAROLINA

COUNTY OF HALIFAX

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

HALIFAX COUNTY ANIMAL
SHELTER

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CIVIL PENALTY ASSESSMENT

PURSUANT TO THE ANIMAL
WELFARE ACT, N.C. GEN.

STAT. §§ 19A-30 and -40, AND 02
N.C.A.C. 52J .0201, .0202, .0204

Acting pursuant to N.C. Gen. Stat. § 19A-40, Dr. Lee Hunter, Director, Animal Welfare Section, NCDA&CS makes the following:

I. FINDINGS OF FACT

1. On November 1, 2010, the Section sent a letter to Halifax County Animal Shelter ("HCAS") requesting an estimate of when the deficiencies found in recent inspections would be corrected.
2. HCAS replied by letter dated November 8, 2010, that it had set a goal of correcting four specific deficiencies within thirty days of issuing that letter. The deficiencies were: a) resting surfaces in dog kennels needing repair or replacement; b) repair of chain link fencing on some dog kennels; c) installing drain covers in some dog kennels; and d) sealing the flooring in some dog kennels.
3. During his inspection on January 5, 2011, Section Inspector Joe Blomquist found, generally, that HCAS had not remedied those deficiencies.
4. Four resting surfaces had not been repaired or replaced.
5. Drain covers had not been installed in the kennel area, creating a potentially unsafe condition.
6. Only four floor sections in enclosures had been resealed in November, 2010.
7. Inspector Blomquist found nothing had been done to repair rusty and or broken portions of chain link fencing around enclosures. These are capable of harming a dog that comes in contact with them.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that you either by act or omission, violated the following provision of the North Carolina General Statutes:

§ 19A-24. Powers of Board of Agriculture.

(a) The Board of Agriculture shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply: ...

- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;

02 NCAC 52J .0201 GENERAL

(a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.

- (i) An adequate drainage system must be provided for the housing facility.

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

02 NCAC 52J .0202 INDOOR FACILITIES

(d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture, and can be readily sanitized.

(e) A suitable method of drainage shall be provided to rapidly eliminate excess water from an indoor housing facility. If closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of sewage. The drainage system shall be constructed to prevent cross-contamination among animals.

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

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

(b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, urn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

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

II. CONCLUSIONS OF LAW

- A. Halifax County Animal Shelter violated N.C. General Statute § 19A-30 and 2 N.C. Administrative Code 52J .0201, .0202, and .0204, and may be assessed a civil penalty of up to \$5,000.00 per violation pursuant to N.C. Gen. Stat. § 19A-40.

- B. The Director of the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture and Consumer Services, pursuant to N.C. Gen.Stat. § 19A-40 has the authority to assess civil penalties in this matter.

III. DECISION

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 violation of N.C. Gen. Stat. § 19A-30 and 2 N.C. Administrative Code 52J .0201, .0202, and .0204.

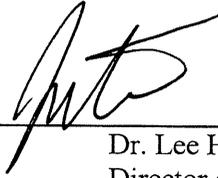
Accordingly, Halifax County Animal Shelter is assessed a civil penalty of: \$1000.00

\$1000.00 for violating N.C. Gen. Stat. § 19A-30 and 2 N.C. Administrative Code 52J .0201, .0202, and .0204.

\$1,000.00 TOTAL AMOUNT ASSESSED

1 Feb 2011

Date



Dr. Lee Hunter
Director of Animal Welfare