

Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

David T. Marshall, DVM  
State Veterinarian

October 15, 2012

Ms. Marilyn Kille  
219 Old Fayetteville Road  
Chapel Hill, NC 27513

Re: Complain vs. Robert A. Marotto & Orange County Animal Services

Dear Ms. Kille:

This Section has completed its review of your complaint, the documentation you and your attorney provided and the documentation received from Orange County Animal Services ("OCAS"). Your complaint alleged that, while in the custody of OCAS, the Labrador mix, "Lissa" was not housed in accordance with 02 NCAC 52J .0209(6):

**02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION**

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (6) Animals in long term care which are intended for adoption or sale must be provided the following:
  - (a) Daily access to both human and same species social interaction.
  - (b) Daily access to space other than the primary enclosure.
  - (c) A species and size-appropriate toy, unless it poses a health threat.

Thus our review of the documentation sought information that a) would indicate whether this animal was in long-term care and intended for sale or adoption; and b) if it was in long-term care and intended for sale or adoption, whether it was provided with the required social interaction, space and toy.

First, the documentation indicates that the animal was not held by OCAS and intended for sale or adoption. We base this conclusion on OCAS's decision to designate the animal as a potentially dangerous dog and, subsequently, as a dangerous dog. Please note that this Section is neither authorized nor obligated to inquire as to the merits of OCAS' decision to apply those designations to the animal. Where OCAS has apparent authority to designate an animal as dangerous or potentially dangerous under G.S. Chapter 67, this Section lacks the authority to determine whether the agency has made that designation in accordance with the law.

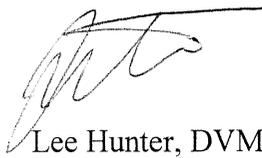
We note first that a letter postmarked February 22, 2012, from Deborah Letteney, on behalf of Moore Labs Rescue, states that "Lissa" was not an animal it fostered to you. The documentation from OCAS indicates that "Lissa" was never designated as available for sale or adoption from the date she was brought in until you consented the dog's transfer to Wake County Society for Prevention of Cruelty to Animals, on May 25, 2012.

From these facts we concluded that "Lissa" was in the status of "legal" hold, vice being available for members of the public to adopt.

For the above state reasons we conclude that 02 NCAC 52J .0209 (6) does not apply in this instance. As a result we cannot find that there has been a violation of the Animal Welfare Act nor of the NC Administrative Code.

As this resolves your complaint to this office we are closing this investigation. However, should you have any questions or wish us to consider any additional information, please contact me through our website, by e-mail or by US Mail.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Hunter', with a long horizontal flourish extending to the right.

Lee Hunter, DVM, MPH,  
Director, Animal Welfare Section

cc: Mr. Howard Isley, Assistant Commissioner, NCDA & CS  
Mr. Joe Blomquist, Outreach Coordinator, NCDA & CS  
Ms. Elizabeth Garner, Animal Health Technician, NCDA & CS  
Mr. Barry Bloch, Assistant Attorney General Office, NCDOJ  
Mr. Bob Marotto, Orange County Animal Services