



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

David T. Marshall, DVM
State Veterinarian

December 28, 2009

Kathy Lewis
Topsail Humane Society
117 Lewis Rd
Hampstead, NC 28444

Certified Mail
Return Receipt Requested

7006 2760 0003 0472 2037

Re: SUSPENSION OF ANIMAL SHELTER CERTIFICATE OF REGISTRATION
Topsail Humane Society
Animal Shelter Certification no. 84

Dear Ms. Lewis:

This letter is an Order issued pursuant to N.C. Gen. Stat. § 19A-30 concerning your operation of an animal shelter under certification of registration from the Animal Welfare Section of the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS) pursuant to N.C. Gen. Stat. § 19A-26. Your animal shelter, Topsail Humane Society, has failed inspections conducted by this Section on:

October 6, 2009 and October 13, 2009

pursuant to the requirements set forth under the NC Animal Welfare Act. The inspection reports you received on those dates constitute written notice to you indicating how you are failing to satisfy the requirements for holding a certificate of registration for the above-named animal shelter as required by N.C. Gen. Stat. § 19A-30. You have been provided with the NC Animal Welfare and Act the rules establishing facility standards there under with your certification application.

To date, your facility has failed inspection demonstrating serious deficiencies in the conditions in which your animals are kept and the care that they receive. These deficiencies are described in detail by the above-referenced inspection reports. For the reasons set forth in your last inspection report, your certification of registration is hereby **SUSPENDED** for failure to comply with the requirements set forth in N.C. Gen. Stat. § 19A-30(3). If you believe that you have corrected the deficiencies noted in those reports, you may apply to this Section for lifting this **SUSPENSION**. Upon receipt of such a request the Section will assign an inspector to determine inspect your facility and recommend whether this suspension should be lifted.

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.

Therefore, you are notified to C E A N D D E S I S T operation of an animal shelter within thirty (30) days of receipt of this letter. If you are found operating an animal shelter after the thirtieth day following your receipt of this letter, the NCDA&CS has the authority to impose a civil penalty of up to five thousand dollars (\$5,000.00) pursuant to:

§ 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.

If you believe that you have substantially cured the reasons for having failed your last inspection and are qualified for certification for registration, please contact this office immediately.

Sincerely,



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

Enclosures

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

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.