



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

June 8, 2015

United Animal Coalition
Davidson County Animal Shelter
Attn: Marsha Williams
490 Glendale Road
Lexington, North Carolina 27292

UPS Tracking Number Signature Required

12 218 617 42 5821 0793

NOTICE OF CIVIL PENALTY

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0202 (b) & .0207 (a), (b)**

Dear Ms. Williams:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that United Animal Coalition DBA as Davidson County Animal Shelter is assessed a civil penalty of \$1,000.00, 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 in the NCOAH 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, present your offer to me. I may be contacted by telephone at (919) 715-7111. 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 919/733-0926. 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 dark ink, appearing to read 'Patricia Norris', with a stylized, flowing script.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Assessment Document

cc: R. Douglas Meckes, DVM, North Carolina State Veterinarian
Mr. Barry Bloch, Assistant Attorney General, N.C. Department of Justice
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
UNITED ANIMAL COALITION
DBA DAVIDSON COUNTY
ANIMAL SHELTER

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) Title 2 N.C. Administrative Code 52J
) .0202 (b) & .0207 (a), (b)

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 United Animal Coalition DBA Davidson County Animal Shelter ("UAC/DCAS" or the "shelter") is an animal shelter registered pursuant to N.C. Gen. Stat. §19A-26.
2. On April 20, 2015 the Lexington Fire Department ("LFD") was dispatched to the shelter because of a call from the shelter of a foul odor and staff feeling ill from the fumes.
3. The LFD used a gas monitor to check the air within the building. They noted a strong odor of animals and urine. No carbon monoxide was found. LFD instructed the shelter staff to open the windows, ventilate the building and let in a supply of fresh air.
4. The LFD Squad-1 assessed the 2 staff members who were feeling ill and then Davidson County EMS took over the care of the patients.
5. On May 19, 2015 AWS Inspector Shore inspected the shelter and found a strong ammonia smell within the front lobby. That strong smell was present throughout the facility.
6. AWS Inspector Shore noted sanitation to be lacking and sanitation procedures to be improper.
7. AWS Inspector Shore noted the ventilation of the indoor facility as being not acceptable.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that UAC/DCAS, either by act or omission, violated the following provisions of the N.C. Administrative Codes:

- a) North Carolina Administrative Code 52J .0202 (b)
 - b) North Carolina Administrative Code 52J .0207 (a), (b)
- (See Appendix for text of cited General Statutes and Administrative Codes)

CORRECTIVE ACTIONS REQUIRED

UAC/DCAS shall develop written policies and procedures that detail sanitation and shelter management procedures that address the sanitation, odor and ventilation concerns. These policies and procedures must be in compliance with the N. C. Animal Welfare Act and the N. C. Administrative Code. These policies and procedures are to be provided to the AWS for review and approval within 7 days of receipt of this letter.

§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.)

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 violations listed above.

Accordingly, UAC/DCAS is assessed a civil penalty of: \$1,000.00 for violating 2 North Carolina Administrative Codes 02 NCAC 52J .0202 (b) and .0207 (a), (b).

\$1,000.00 TOTAL AMOUNT ASSESSED

6/8/2015
Date


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

Appendix

N.C. Administrative Codes 52J .0202 and .0207

02 NCAC 52J .0202 INDOOR FACILITIES

(b) Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts. Air flow shall be adequate to minimize odors and moisture condensation.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

(1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.

(2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.

(3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:

(A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or

(B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or

(C) cleaning all soiled surfaces with live steam.

(4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.

(5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.

(6) Any area accessible to multiple animals shall be kept clean and sanitary.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005; April 1, 1985.