



COMMONWEALTH of VIRGINIA

Sandra J. Adams
Commissioner

Department of Agriculture and Consumer Services
Division of Animal and Food Industry Services
Office of Animal Care and Emergency Response
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January 9, 2015

Certified Mail

Ms. Ingrid Newkirk
President, People for the Ethical Treatment of Animals
501 Front Street
Norfolk, VA 23510

Notice of Violation and Penalty Assessment
Case Number: 1401

Dear Ms. Newkirk:

This letter is a Notice of Violation and Penalty Assessment for violations of Chapter 65 of Title 3.2 of the Code of Virginia, otherwise known as the Comprehensive Animal Care Laws, in regards to the maintenance of an animal shelter facility by the People for the Ethical Treatment of Animals (PETA).

The Board of Agriculture and Consumer Services has authorized the Office of Animal Care and Emergency Response to assess civil penalties pursuant to §3.2-6548.A and §3.2-6546.C of the Code of Virginia for such violations.

Violations:

Per §3.2-6548.A and §3.2-6546.C of the Code of Virginia, every animal shelter must ensure that animals are held for the appropriate holding period. On December 11, 2014 this office found PETA in violation of this statute. This violation specifically entails the failure of PETA to ensure that a dog in its custody was held for the statutorily mandated holding period. This failure is considered a critical finding as it caused the death of an animal confined in the facility.

Penalty Assessment:

PETA is assessed a civil penalty of \$500.00 for the above violations. The process by which this civil penalty was calculated is outlined in the Civil Penalty Assessment Report (Attachment A) as per the Virginia Animal Pound and Shelter Civil Penalty Assessment Decision Matrix (Attachment B).

Factual Basis for Civil Penalty Assessment:

On December 11, 2014 this office performed an inspection of the PETA Animal Shelter to investigate allegations that an animal named "Maya" was euthanized prior to the expiration of the holding period (Attachment C). The canine in question was taken into custody on October 18, 2014 and a valid animal custody record signed on the same day designated the reason for custody as "owner surrender." An owner surrender statement did describe a dog with the same physical characteristics (female tan Chihuahua). However, this statement was signed September 18, 2014, one month before "Maya" was taken into custody. Owner surrender should always be signed the day of intake. In addition, neither the individual signing the owner surrender nor "Maya's" rightful owner were present at the time of custody to physically identify the animal. In order to meet the requirements of §3.2-6548.A and §3.2-6546.F, that no other person has a right of property to the animal, an owner should directly identify the animal before the exchange of custody. As this requirement was not met, "Maya" was subject to the mandated holding period of a minimum of five days. However, "Maya" was not held in custody for the mandated holding period, and was euthanized on October 18, 2014, the day of intake.

PETA representatives stated that an existing protocol requires verification of ownership and admitted to this office that a protocol violation occurred. Conference with PETA representatives revealed that corrective actions were taken immediately after the violation was discovered, and done independently of this office's investigation. This office appreciates PETA's preemptive decision to amend internal policies in an effort to prevent recurrence, and recognizes that this is the first known violation by this organization. However, the severity of this lapse in judgment, and the resulting death of an owned animal, warrant the maximum allowable civil penalty.

Resolution Procedure:

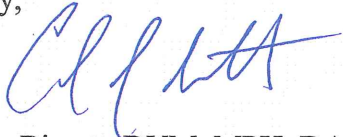
These civil penalties may be resolved by signing the enclosed Consent Resolution and remitting the penalty of \$500.00 within 30 days of receipt of this Notice. Payment of this penalty may be made by either check (certified or cashier's) or money order made payable to the Treasurer of Virginia. Please reference "VDACS OACER 1401" on the

payment. Payment of the civil penalty affirms your intention not to request a conference or contest the penalty.

Should you not wish to enter into the enclosed Consent Resolution, I invite you to attend an informal fact finding conference pursuant to § 2.2-4019 of the Code of Virginia to discuss dispensation of this civil penalty assessment by consent resolution, or to appeal the factual basis of this assessment. You may be represented by counsel at the informal fact finding conference if you so choose. At the informal fact finding conference, you and your counsel will have the opportunity to provide testimony and all documentary evidence that you feel is needed to support your position in this matter. Please confirm in writing to my office your intent to attend an informal fact finding conference within 30 days of receipt of this Notice.

Please contact my office if you have questions regarding this Notice of Violation and Penalty Assessment.

Sincerely,



Carolynn Bissett, DVM, MPH, DACVPM
Acting Program Manager
pp. Richard L. Wilkes, DVM
State Veterinarian & Director
Division of Animal and Food Industry Services

Enc: Consent Resolution 1401
Appendix A, Civil Penalty Assessment Report
Appendix B, Virginia Animal Pound and Shelter Civil Penalty Assessment
Decision Matrix
Appendix C, Inspection Reports and related records

CC: Richard L. Wilkes, DVM
Sandra J. Adams, Commissioner, Virginia Department of Agriculture and
Consumer Services
Charles Green, Deputy Commissioner, Virginia Department of Agriculture and
Consumer Services
Jim Flaherty, Office of the Attorney General