



NATIONAL ANIMAL INTEREST ALLIANCE

Supporting the people who care for America's animals

May 15, 2013

Letter in opposition to the San Diego pet store ordinance in its current form

Dear San Diego City Officials:

I am writing on behalf of the National Animal Interest Alliance (NAIA), a broad-based national organization founded in 1991, made up of pet owners, dog and cat organizations including kennel and cat clubs and rescue groups, veterinarians and numerous other animal professionals and animal-related businesses. Our mission is to promote the welfare of animals, to strengthen the human-animal bond, and to safeguard the rights of responsible animal owners and professionals through research, public education and sound public policy. We have members in all 50 states, including members living in San Diego.

We are writing to express our concern over your proposed pet store ordinance and to urge you to amend it before bringing it to a vote or to vote it down. Although we support the specific goals of the ordinance – prohibiting the sale of dogs and cats bred in substandard conditions – our firsthand experience with similar ordinances all over the United States tells us that the approach being used in San Diego will not achieve the goals you seek. Instead we believe that its passage would do little more than encourage the growth of an underground economy operating without oversight or taxation, and exacerbate the very real animal welfare problems San Diego is trying to solve. With that in mind, we offer our assistance and expertise.

There are ways of achieving the city's goals without creating the unintended consequences that are inherent in the current draft ordinance. We have listed three suggestions at the end of this letter.

Even though the supporters of this ordinance may be very well-motivated, what they are, in fact, asking you to do is trade a heavily regulated business for their own largely unregulated enterprise. The San Diego proposal doesn't just prohibit traditional pet stores from buying and selling pets from unapproved sources, it legitimizes a new business model; pet stores that operate and market themselves as rescues. What the proposal does not discuss is where and how the new pet stores will get the pets necessary to maintain a stable inventory. This is a significant omission because the mass movement of dogs sold in this channel, which is euphemistically called humane relocation is not regulated like traditional pet store puppy transport and has led to [horrific outcomes](#) in other parts of the country. If the ordinance proposal is passed as it is currently drafted, San Diego could well become a magnet for homeless dogs from distant states and even foreign countries where diseases exist that have been eliminated in the US for decades. More to the point, this ordinance gives the least regulated operators a competitive marketplace advantage over the regulated ones, thereby placing animal welfare, consumer protection and public health and safety at greater risk than under the current ordinance.

Every human activity has some black sheep

Animal shelters and rescues provide an invaluable service for all of us and most of them operate responsibly, with humane care and housing practices and aboveboard placement practices. Many of our

organization's members are engaged in rescue. But like all other businesses and professions – pet stores, breeders, lawyers, doctors, etc. – shelters and rescue organizations have their share of bad actors, too – individuals and groups that operate without regard to the law or proper standards of conduct. The evidence shows that some animal shelters and rescues treat their rescue animals (the ones they sell) in ways that are indistinguishable from the very operations that San Diego is trying to prohibit. This reality underscores the weakness of the current draft proposal and undermines its intent and enforceability if passed in its current form.

Irreconcilable differences exist between traditional pet store requirements for health, safety and care standards and consumer protection warranties as compared to requirements for shelters and rescues

The current San Diego proposal directs citizens to the least accountable source in the pet marketplace. California animal shelters are exempt from the health, safety and disclosure requirements and from the consumer protection laws, which are required of traditional pet stores and breeders under the Lockyer-Polanco-Farr Pet Protection Act and the Polanco-Lockyer Pet Breeder Warranty Act.

This wouldn't be such a big problem if all animal shelters and rescues were as upstanding as some of the ones testifying in favor of the ordinance, but they aren't. Just like pet stores and breeders (the two pet sources that are currently regulated); there are good, adequate and substandard shelters and rescues.

This is not an insignificant problem, but without amendment, the San Diego ordinance inadvertently elevates unregulated operations over ones whose standards are regulated at the state and Federal level, and which must offer a warranty to their purchasers.

Sourcing problems

Unlike shelters that place as many as a thousand or more pets with the public each year, traditional pet stores are required under the federal Animal Welfare Act to keep records of where they obtain their dogs; and the inspection reports of USDA breeders who sell to them are online at USDA for the public to view. It is therefore possible to require traditional pet stores to buy dogs only from breeders with superior inspection reports and to require that such records be made available to enforcement agencies and the public. Requiring stores to buy only from breeders with good USDA reports, makes more sense and is far more equitable than banning all stores, good and bad alike, because some of them operate in unacceptable ways. This is especially true while similarly situated businesses (private animal shelters) are allowed to sell pets from any source, in a totally unregulated manner, despite the fact that some of them also operate in unacceptable ways.

In addition to the inherent sourcing problems that we take for granted, but should not, in the shelter and rescue environment, reports from the [LA County Veterinary Public Health – Rabies Control Program](#), the [US Customs and Border Patrol](#) and the [Centers for Disease Control](#) indicate that a high and rising number of dogs in the pet marketplace are being imported into the US for the rescue-shelter enterprise. This well-documented fact undermines the premise of the ordinance that the demand for pet store puppies is a driving cause of overpopulation. According to several government reports and professional agencies, more than 10,000 dogs a year enter the Southern California market place from Mexico alone, and many are imported each year from other countries. Some are imported for US rescue operations from as far away as Asia and the Middle East where rabies is still prevalent. Because pet stores must buy from regulated sources, these imports do not wind up in their stores, but they often wind up in rescues and shelters.

In order to publicly recognize the role of rescues and some shelters in the pet import trade, the National Association of State and Public Health Veterinarians amended the Compendium of Animal Rabies

Prevention and Control to oppose the import of dogs for adoption several years ago. The following citation is excerpted from the [2011 Rabies Compendium](#).

3. **b. Areas with Dog-to-Dog Rabies Transmission.** Canine rabies virus variants have been eliminated in the United States (2). Rabid dogs have been introduced into the continental United States from areas with dog-to-dog rabies transmission (20, 21). This practice poses the risk of introducing canine-transmitted rabies to areas where it does not currently exist. **The movement of dogs for the purposes of adoption or sale from areas with dog-to-dog rabies transmission should be prohibited.**

Please note that the language about adoption was added to this important public health volume in a deliberate way because the authors recognized an emerging problem.

Further, some portion of the dogs in rescues and shelters come from the very sources this ordinance is trying to prohibit; the substandard breeding operations everyone wants to close. Moreover, some rescues serve as overstock outlets for substandard breeding operations, providing the very puppies to the public that responsible pet stores avoid. Thus, by reducing the availability of regulated outlets for the sale of healthy dogs and in favor of shelters and rescues as the main source of obtaining dogs, the municipality will be directly endangering the very consumers it wants to protect.

The bottom line is this: The San Diego pet store ordinance proposal if passed in its current form will lead to many more problems than it solves.

Here are three suggestions for improving this ordinance.

- Replace the ban with a requirement that any store selling pets in San Diego must buy only from breeders licensed by the United States Department of Agriculture (USDA) who have no direct violations in their USDA inspection report. A direct violation is one that is deemed to have a direct impact on the health and well-being of the animals in their care. Such things as lack of proper veterinary care or unsanitary conditions are considered direct violations. Paper work errors, or a cobweb in the corner, while recorded, are not considered direct violations. Because the USDA website reports this material in its inspection reports of all breeders, the city would actually be able to enforce this requirement by requiring stores to maintain records of the source of their animals, including the USDA license number. Replacing the ban with this requirement would also avoid restraint of trade challenges.
- For enforcement purposes, the ordinance needs to clearly define what it considers to be a legitimate shelter or rescue organization. Because shelters are totally unregulated in California and are not required to provide any customer service or warranty, the current draft imprudently promotes substandard shelters over pet stores operating with the highest standards and excellent sourcing practices. It is important for the City Council to understand that all it takes to become a not for profit rescue or shelter is the proper IRS filing papers. Many businesses that promote themselves as shelters and rescues today have less in common with traditional humane societies and rescues than they do with the substandard breeders that San Diego rightfully opposes. More to the point, many modern shelters and rescues are simply unregulated pet stores marketing themselves in ways that cause lawmakers and the public to confuse them with traditional animal shelters. [Please reread the article about the situation at the Simi Valley Rescue](#). Note that some news people refer to them as a store, an animal shelter or by the name they've given themselves, a rescue. For the sake of this ordinance, it's important that council

members decide what they mean when they talk about rescues and shelters. In the sheltering world, shelters that maintain their historic image while importing pets from outside their service areas are called retail shelters, and the primary difference between retail shelters and the traditional pet store is that the rescue is unregulated and provides no warranty.

- Another way to assure that similarly situated activities are treated equitably and in ways that improve rather than weaken animal wellbeing and consumer protection, would be to raise care and sourcing requirements for both pet stores and shelters and apply the same health and care requirements to both shelters, rescues and pet stores.

I apologize for writing you somewhat late in the process and sending you so much information, but this is very important and your current proposal will cause more problems than exist today. Please amend or vote this proposal down. Please email or call me if I can be of further assistance

Sincerely,

A handwritten signature in blue ink that reads "Patti Strand". The signature is written in a cursive, flowing style.

Patti Strand, Chairman

<http://abclocal.go.com/kabc/story?id=8938897>

<http://www.naiaonline.org/uploads/WhitePapers/BorderPuppiesPubHlth.pdf>

<http://www.naiaonline.org/uploads/WhitePapers/smuggledPuppiesAConcernToCalifornia.pdf>

<http://www.cdc.gov/mmwr/pdf/rr/rr6006.pdf>

<http://www.nytimes.com/2008/10/03/nyregion/03rabies.html>

http://usatoday30.usatoday.com/news/nation/2007-10-21-dog-imports_N.htm