

Mansfield Tanick & Cohen P.A.

Attorneys at Law

November 17, 2009

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Re: Animal Humane Society - Cat Concerns

Dear Sarah:

Thanks for your letter of November 4, 2009, responding to my letter to Janelle Dixon, CEO of the Animal Human Society (AHS) of September 29, 2009, regarding the above matter.

I agree with you that it is unfair to make anyone engage in unnecessary "suffering." Unfortunately, that is how I felt after I read your letter.

As I understand from your letter, the position of AHS is that it can, and does, destroy feral cats, without compliance with the five-day holding period requirement.

The clients I represent, and I, respectfully disagree with that view. The Minnesota statute requiring a five-day holding, Minn. Stat. § 35.71, subd. 3, refers only to "animals." It makes no exception for animals that the Humane Society may believe to be untamed, unsocial, or "feral." In fact, it does not refer to "domesticated," or any similar variation.

The dictionary definition of "domesticate," a term which you use in your letter, is as follows: "to adapt an animal or plant species to life and intimate association with and to the advantage of humans."

My clients, who have substantial experience in these matters, recognize that the process of domestication begins with the species and, generally,

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following thousands of years of selected breeding, ends with the creation of an entirely new species. All members of the species *felis catus* are domestic cats and all domestic cats are members of the species. Thus, the phrase “feral” cats has no real place in consideration of the application of the statute, which does not include that term and, even if it did, would not dictate killing them.

The claims by the AHS that its staff is capable of determining which felines are truly “feral,” which cats may be “stray,” which cats may be something in between, or which felines may or may not have guardians looking for them is questionable. My clients are working with nationally-recognized experts, veterinarians, and animal behaviorists who are well aware that making such a determination in the matter in days, or less, in a shelter setting is not realistic.

Moreover, Minnesota law does not require that owners are caretakers of free-roaming felines, providing a degree of socialization and training for the cats. It is, in fact, common practice for Minnesotans (and others) to keep domesticated cats that are not necessarily socialized to people at all. Others keep felines that are socialized only to a few individual humans. Nationally-renowned experts are aware that very tame and social cats can behave like unsocial felines, on occasion, when confronted with frightening environments found in animal shelters.

The clients I represent also do not agree that frightened cats brought to AHS are necessarily “suffering” beyond cure. Returning these cats to their caretakers and owners quickly cures their terrified state, which is a condition of the shelter environment and not inherent in the felines themselves. Furthermore, a variety of palliative housing techniques are available to ease the stress of confinement that can be associated with the caging of felines in a shelter. There is no statutory language that could be interpreted to suggest that the language “suffering and beyond cure” is intended to include animals that are simply fearful of a shelter environment, as you suggest in your letter.

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My clients can demonstrate that the practice of the AHS in destroying cats prior to the statutorily required five-day holding period, results in felines needlessly being destroyed, contrary to law, even as frantic caretakers or guardians of the cats may be trying to locate their lost pets.

In one case, the guardian of a group of felines arrived at the Humane Society in Afton to reclaim the cats, within hours of their arrival. By the time the guardian arrived at the Humane Society, the cats were already dead. The AHS intake paper for these felines listed them as “domesticate short-hair” cats, not “feral beasts.” In another instance, a young stray kitten was taken to the AHS facility in Golden Valley. Despite the five-day holding law, it was killed within five minutes of being admitted to the facility. References in your letter to Minn. Stat. § 343.29, subd. 2 and § 343.227, subd. 3, also are misplaced. These statutes pertain only to animals that are suffering irremediably, after they have been confiscated as the result of a formal animal cruelty investigation. These measures do not, in any way, apply to our concern about healthy, yet frightened, domestic cats that have been taken to AHS as strays.

Due to the seriousness of this issue, and the extended period to which no action has been taken by AHS to alleviate these concerns, we feel it is necessary to make the following requests of the AHS leadership. Taking these actions would bring AHS policies into line with relevant and applicable Minnesota state laws.

- Provide us with assurances of how this has been done.
- I also reiterate my suggestion that the appropriate personnel from the organizations meet and attempt to resolve this matter in a collegiate way, which may be preferable to exchange of lawyer-to-lawyer letters. I enjoy writing them, and receiving them, but it may be more productive for the parties themselves to meet, confer, and attempt to resolve the issues, using their own knowledge and expertise.

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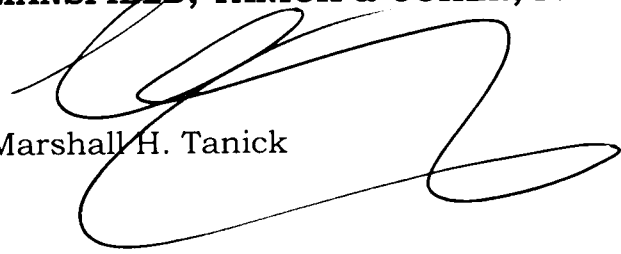
If actions are not taken promptly, preferably within the next 10 days, my clients are prepared to take appropriate action to protect and preserve their rights and the rights of the animals in order to assure compliance with the laws, which may include contacting the administrators of AHS to attempt to bring AHS policies into compliance with the law, and other measures in a more public nature. We would prefer not to have to bring this matter into public domain, and try to resolve this amicably, on a confidential basis, with appropriate and responsible AHS personnel.

Thank you for your consideration.

Very truly yours,

MANSFIELD, TANICK & COHEN, P.A.

Marshall H. Tanick

A large, stylized handwritten signature in black ink, appearing to be 'M. H. Tanick', written over the printed name.

MHT:dt

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bcc: TJA
Mike Fry
Marlene Foote

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