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6/6/17

OFR-2

Provided for the
Record by

Cheyanna Ashley

May 2, 2017

Hon. Mayor Seiler & Members of the Fort Lauderdale City Commission
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

Dear Mayor Seiler and City Commissioners,

We at PuppySpot are deeply concerned about the draft ordinance you are considering today regarding the regulation of the retail sale of dogs and cats. While the articulated goal of preventing substandard and inhumane breeders, referred to as "Puppy Mills", is an important one—and one shared by PuppySpot (see our "No Puppy Mill Promise" at www.puppyspot.com/promise) --this particular ordinance is wrong-headed, vague and ambiguous and does not accomplish its stated goal.

Ordinance Issues:

- ***Dog Breeding Facts v. Fiction:*** The whereas clauses and the ordinance itself demonstrate a number of fundamental misconceptions and reference unsubstantiated figures regarding dog breeding, shelters and rescues and Puppy Mills and would not accomplish its goal. See the **Annex** to this letter.
- ***Vague and Ambiguous Language:*** The ordinance has multiple conflicting definitions and numerous undefined terms (e.g., "animal rescue organizations" and "animal shelters" are defined as bona fide 501(c)(3) charitable organizations versus the undefined humane societies, "retail sale" has multiple definitions and "non-breeding facility" is not defined).

About Us: PuppySpot is a community of dog lovers, committed to connecting the nation's top breeders to caring, responsible individuals and families. We are licensed and regulated by the US Department of Agriculture. We originated here in South Florida and run the bulk of our operations from our 160 person office in Cooper City. We hold ourselves and our clients to the highest standards and aim to improve the life of each puppy, breeder and owner who joins our family. We accomplish this by thoroughly screening both our breeders and our customers to ensure that puppies come from homes that meet our standards and go home to families that are a great fit. By screening, visiting and regularly following up with our network of



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breeders - which accepts less than 15% of screened applicants – we ensure we are always able to enforce our zero-tolerance policy for substandard breeding practices of any kind. Our puppy concierge team works diligently on the customer end to ensure that our customers are prepared to welcome their new family member into their home. Since our puppies are examined nose-to-tail by certified veterinarians before coming home and after arriving with their new families to ensure they're in great health, we are able to offer a strong health guarantee and stand by the health of our puppies for up to ten years.

We welcome the opportunity to discuss this further and to work with the City of Fort Lauderdale to adopt regulations that actually promote responsible pet ownership and dog breeding.

Sincerely,

Joshua A. Kreinberg
Chief Administrative Officer & General Counsel



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Annex: Facts v. Fiction: Dog Breeders in the United States

All animals deserve to be treated humanely. However, over-reaching legislation that makes it illegal for pet shops to sell purebred dogs from regulated breeders is based on unfounded facts and spurious reasoning.

FICTION: There is an overpopulation of dogs in the United States.

FACT: There currently is a shortage of new puppies available in the country.

In previous decades there was a dog overpopulation, but that has changed and there is currently a shortage of new puppies. Recent scientific data by Mississippi State University¹ and the Pet Leadership Council² show a significant gap between the supply and demand of puppies. And, that gap will widen by an additional seven million dogs over the next decade.³

FICTION: There are 10,000 "puppy mills" in the United States.

FACT: This number has no concrete source and reflects an extreme definition of what constitutes a "puppy mill."

Although the Humane Society of the United States (HSUS), a national lobbying organization,⁴ cites this figure frequently in published and online materials, it provides no source citation. In fact, it provides no citations for any of the "Facts and Figures" that it publishes.⁵

1 Pet Leadership Council, "Dog Shortage? New Study Reports Availability of Shelter Dogs at an All-Time Low," February 8, 2017.

2 Kim Kavin, "Does America Have Enough Dogs for All the People Who Want Them?" Washington Post, February 8, 2017.

3 Lori Ennis, "New Research Shows Dogs in American Shelters at an All-Time Low," Petguide.com, February 10, 2017.

4 Despite its name—and public perception to the contrary—HSUS "does not run or oversee local animal shelters or rescues." It is not affiliated with any local humane societies. HSUS, "Shelters and Rescues: Frequently Asked Questions," available at http://www.humanesociety.org/animal_community/resources/qa/common_questions_on_shelters.html



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The HSUS also uses an extreme and unfounded definition of “puppy mill,” including all breeding facilities that sell dogs for a profit—regardless of whether those breeders raise the animals in humane conditions that adhere to all applicable laws and regulations. The HSUS admits this, stating, “[b]ecause most puppy mills are not illegal, we need help from the public to put an end to the consumer demand for their ‘product.’”⁶

FICTION: All commercial breeders run “puppy mills.”

FACT: USDA-licensed breeders are covered by federal legislation that requires regular inspections and imposes stiff fines. All breeders must adhere to all applicable state and local regulations/laws.

It is both incorrect and irresponsible to assert that all commercial dog breeders in the United States run puppy mills. There are approximately 2,300 dog breeders who are licensed by the United States Department of Agriculture (USDA) under the federal Animal Welfare Act (AWA).⁷ According to the USDA,

USDA-licensed breeders and dealers are required to meet the standards of humane animal care and treatment established by the AWA and its associated regulations. These regulations and standards cover areas such as housing, sanitation, food, water, and protection against extremes of weather and temperature.⁸

The USDA’s Animal and Plant Health Inspection Service (APHIS) inspects a breeder’s facilities prior to granting a license. Licensed breeders are then subject to “routine,

5 HSUS, “Puppy Mill Facts and Figures,” 2016, available at <http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html>

6 HSUS, “Puppy Mills: Frequently Asked Questions,” available at http://www.humanesociety.org/issues/puppy_mills/qa/puppy_mill_FAQs.html?credit=web_id86162527#definition.

7 “Hobby breeders” who have “four or fewer” female breeding dogs are exempt from the licensing requirement. 9 CFR §2.1(a)(3)(iii), available at http://www.ecfr.gov/cgi-bin/text-idx?SID=3d718be44c58fba764af3f892ed13f1b&mc=true&node=se9.1.2_11&rgn=div8

8 USDA, “Questions and Answers: Regulation of Dog/Cat Breeders and Dealers,” APHIS Factsheet, Feb. 2014, available at https://www.aphis.usda.gov/publications/animal_welfare/content/printable_version/faq_animal_dealers.pdf



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unannounced inspections.” A 2008 amendment to the AWA increased fines for violations of the AWA to \$10,000 per animal, per day.⁹ All USDA-licensed breeders (as well as small hobby breeders) are required to abide by all state and local animal welfare regulations.¹⁰

The HSUS would like us to believe that the federal government is completely lax and has no interest in the welfare of the animals. It is true that APHIS has not always had adequate resources to enforce the AWA. However, APHIS has worked in recent years to “move swiftly and consistently to take enforcement action in response to animal welfare violations.”¹¹

FICTION: Virtually all pet stores sell animals from “puppy mills.”

FACT: Larger breeders that sell to pet stores are regulated and licensed.

Once again, the problem with this statement is that all breeders who sell dogs for profit are not “puppy mills.” All breeders with five or more breeding females who sell to a pet store, as well as sellers that do not engage in face-to-face transactions with buyers, must have an Animal Welfare Act license¹² and abide by state and local animal welfare regulations and laws.¹³ Retail pet stores that sell animals directly to buyers are exempt from AWA licensure requirements, but must still abide by all applicable local and state animal welfare regulations and lemon laws (see below).

9 USDA, United States Agricultural Library, “Public Law 110-246-Food, Conservation, and Energy Act of 2008,” available at <https://www.nal.usda.gov/awic/public-law-110-246-food-conservation-and-energy-act-2008>

10 R.F. Wisch, “Table of State Commercial Pet Breeders Laws,” Animal Legal & Historical Center, 2015, available at <https://www.animallaw.info/topic/table-state-commercial-pet-breeders-laws>

11 USDA, Animal and Plant Health Inspection Service, “USDA Announces Recent Animal Welfare Act and Horse Protection Act-Enforcement Actions,” last modified Apr. 19, 2016, available at https://www.aphis.usda.gov/aphis/newsroom/news/sa_by_date/newsroom-2016/sa-08/awa-aug

12 USDA, “Retail Pet Store Rule and Importation of Live Dogs Rule – Guidance for Breeders, Brokers and Importers,” available at https://www.aphis.usda.gov/animal_welfare/downloads/retail-pet-store-guidance.pdf

13 R.F. Wisch, “Table of State Commercial Pet Breeders Laws,” Animal Legal & Historical Center, 2015, available at <https://www.animallaw.info/topic/table-state-commercial-pet-breeders-laws>



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It would be more effective to enforce existing laws and regulations to ensure that violators are closed down and to enact new animal welfare laws in jurisdictions where they are lacking than to issue a blanket ban on the sale of purebred dogs by pet stores.

FICTION: Current laws do not protect consumers who purchase animals from pet dealers.

FACT: At least 21 states, including Florida, have "Pet Purchase Protection" laws, otherwise known as lemon laws.

Existing pet purchase protection laws provide consumers in many jurisdictions with a variety of legal remedies in the event a pet that was purchased at a pet dealer, including a pet store, has a disease or other defect.¹⁴ Under these laws, consumers have between 7 and 21 days to notify a dealer that an animal has a disease or injury; consumers have between 60 days and 2 years to seek a remedy for a congenital or hereditary defect. Remedies typically include refunds, reimbursement for veterinary bills, and replacement.¹⁵ Under the Florida "Pet Sales Provisions" law, for example, consumers can seek remedies for non-congenital diseases or conditions that are diagnosed by a veterinarian within 14 days of purchase.¹⁶ Consumers have up to one year to seek remedies for congenital or hereditary defects or for misrepresentation of the breed, sex, or health of the animal.¹⁷ Available remedies include a full refund (including taxes/fees), replacement, and/or reimbursement of veterinary fees up to the purchase price.¹⁸ Florida's pet protection law does not apply to government-operated animal control agencies and registered nonprofit rescue organizations.

14 American Veterinary Medical Association, "Pet Purchase Protection Laws," updated June 2014, available at <https://www.avma.org/Advocacy/StateAndLocal/Pages/pet-lemon-laws.aspx>

15 American Veterinary Medical Association, "Pet Purchase Protection Laws," updated June 2014, available at <https://www.avma.org/Advocacy/StateAndLocal/Pages/pet-lemon-laws.aspx>

16 FL. Rev. Stat. § 828.29 available at http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0800-0899/0828/Sections/0828.29.html

17 N.J. Rev. Stat. § 56:8-4(h), available at <http://law.justia.com/codes/new-jersey/2009/title-56/56-8/56-8-95/>

18 Reimbursable veterinary fees include sales tax and are capped at two times the purchase price. N.J. Rev. Stat. § 56:8-4(i), available at <http://law.justia.com/codes/new-jersey/2009/title-56/56-8/56-8-95/>



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FICTION: Dog breeders are responsible for the euthanasia of homeless dogs, because buyers would adopt homeless dogs from shelters if they could not buy purebred dogs.

FACT: Banning the sale of purebred dogs will not solve the homeless dog problem.

The euthanasia of homeless dogs in shelters is a complex, difficult problem that is linked to numerous factors, including the overpopulation of breeds perceived (rightly or wrongly) to be dangerous. For example, pit bulls constitute the majority of euthanized dogs in many shelters.¹⁹ Another significant problem is the surrender of pets by owners because of behavioral or medical problems. Many of these animals end up being unadoptable.²⁰ Banning pet store sales of purebreds is not going to change these realities.

A more effective multi-pronged approach to reducing the homeless pet population includes the implementation of strict spaying/neutering laws, the mandatory microchipping of all cats and dogs, an increase in owner education on the financial and emotional commitment that being a pet owner entails, and the institution of more behavioral modification programs in shelters.²¹

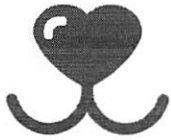
FICTION: Closing down pet stores will ensure that people will find healthy rescue dogs at shelters.

FACT: Many shelters in the U.S. do not have enough adoptable dogs to meet the demand of the local communities. These shelters import dogs from other states/countries and sometimes traffic in dogs from unregulated breeders.

19 B. Hubbard, "Pit Bulls Are Most Euthanized Breed of Dog on Front Range," Rocky Mountain PBS Mountain News, Nov. 20, 2014, available at <http://inewsnetwork.org/2014/11/20/pit-bulls-are-most-euthanized-breed-of-dog-on-front-range-analysis-shows/>

20 S. C. Kahler, "Unmasking the Shelter Dog: Research redefining adoptability could save many animals' lives," Journal of the American Veterinary Medical Association, Mar. 18, 2015, available at <https://www.avma.org/News/JAVMANews/Pages/150401a.aspx>

21 L. Miller, DVM, "Animal sheltering in the United States: Yesterday, today, and tomorrow," Veterinary Medicine, Oct. 1, 2007, available at <http://veterinarymedicine.dvm360.com/animal-sheltering-united-states-yesterday-today-and-tomorrow?id=&pageID=1&sk=&date=>



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As spaying and neutering has become more common over the past 40 years, the number of homeless dogs available for adoption has steadily decreased.²² The reduction in shelter animals in many areas, plus the push for legislation to ban retail pet stores, has led to a situation where there are not enough dogs to meet consumer demand in some regions of the U.S.²³ Rescue organizations have responded by importing hundreds of thousands of dogs from high-kill areas of the U.S. and from other countries.

Although this pipeline of dogs has saved many homeless animals, it also has a documented dark side. In contrast to licensed breeders, most rescue organizations and some shelters operate in a grey zone with little or no official regulatory oversight or care guidelines.²⁴ Because of this lack of oversight, rescuers have been able to import animals with dangerous contagious diseases, including rabies and parvovirus.²⁵

22 A. Mach, "Behind the big drop in euthanasia for America's dogs and cats," *The Christian Science Monitor*, Feb. 10, 2012, available at <http://www.csmonitor.com/USA/Society/2012/0210/Behind-the-big-drop-in-euthanasia-for-America-s-dogs-and-cats>

23 G. Allen, "With Rescue Dogs in Demand, More Shelters Look Far Afield for Fido," *National Public Radio*, Jan. 1, 2015, available at <http://www.npr.org/2015/01/01/374257591/with-rescue-dogs-in-demand-more-shelters-look-far-afield-for-fido>

24 S. Newbury et al., *The Association of Shelter Veterinarians, "Guidelines for Standards of Care in Animal Shelters."* 2010, available at <http://oacu.od.nih.gov/disaster/ShelterGuide.pdf> (stating that society's increased "expectations for the care and welfare of animals" is present "in almost every conceivable setting [including breeding kennels and pet industry retailers] except animal shelters."); K. Pariser, "Detailed Discussion of the Laws Regulating Rescue and Foster Care Programs for Companion Animals," *Animal Legal & Historical Center*, available at <https://www.animallaw.info/article/detailed-discussion-laws-regulating-rescue-and-foster-care-programs-companion-animals#id-7>

25 K. Lazar, "Saved but suffering," *The Boston Globe*, May 21, 2011, available at <https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/AVMA-Welfare-Focus-Featured-Article-Nov2011.aspx>http://archive.boston.com/community/pets/articles/2011/05/21/disease_statistics_raise_dog_adoption_concerns/?page=full; CDC, "Rabies in a Dog Imported From Egypt with a Falsified Rabies Vaccination Certificate—Virginia, 2015," *Morbidity and Mortality Weekly Report*, Dec. 18, 2015, available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6449a2.htm>



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Another problem is that some “rescuers” are motivated primarily by profit: the more dogs they “save,” the more money they make.²⁶ The chairwoman of the Columbia-Greene Humane Society/SPCA noted that “[d]og trafficking converts participating animal shelters and rescues into unregulated pet stores in a totally unregulated chain of supply . . .”²⁷ The lack of oversight has led to situations where some of the “rescued” dogs come from the immoral, unscrupulous breeders—i.e., “puppy mills.”²⁸

FICTION: The HSUS and the ASPCA are national umbrella organizations that run a network of animal shelters across the U.S.

FACT: The HSUS and the ASPCA are predominantly lobbying organizations: the HSUS does not run any shelters; the ASPCA runs one shelter in New York.

It is a common misperception that the HSUS and the American Society for the Prevention of Cruelty to Animals (ASPCA) oversee and/or provide financial support to animal shelters all over the country.²⁹ This misconception has been fueled by national television ads and fundraising campaigns that have led to investigations by the Louisiana³⁰ and Oklahoma attorney generals³¹ and a lawsuit from the State Humane Association of California.³² In fact,

26 S. Kuriakose, “Pet Adoption Becoming Money-Making Business?,” NBC Connecticut, Nov. 6, 2013, available at <http://www.nbcconnecticut.com/troubleshooters/LWRD--230769221.html>

27 C. Marchand, “Recognizing and avoiding dog trafficking,” Register-Star, June 11, 2016, available at http://www.registerstar.com/columnists/soft_paws/article_b9560fc4-2cf8-11e6-a372-0fc84d75f6b1.html

28 M.C. White, “Here’s How Much It Really Costs to Adopt a Pet,” Money, Nov. 17, 2015, available at <http://time.com/money/4111183/pet-adoption-cost/>

29 M. Lushek, “A Dog Fight Over Donations,” NBC Bay Area, May 4, 2011, available at <http://www.nbcbayarea.com/news/local/A-Dog-Fight-Over-Donations-.html>; M. Hrywna, “Animal Groups Barking At ASPCA,” The NonProfit Times, Aug. 1, 2011, available at <http://www.thenonprofittimes.com/news-articles/animal-groups-barking-at-aspca/>

30 “Louisiana attorney general launches HSUS investigation,” Journal of the American Veterinary Medical Association, June 1, 2006, available at <https://www.avma.org/News/JAVMANews/Pages/060601j.aspx>

31 “AG Pruitt Warns Oklahomans of Misleading Solicitations by National Welfare Organizations,” Oklahoma Office of the Attorney General, Mar. 12, 2014, available at <https://oag.state.ok.us/oagweb.nsf/0/D80A317C9BBDA32286257C99005F002C!OpenDocument>



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the HSUS runs no shelters³³ and the ASPCA runs only one shelter in NY.³⁴ Neither is affiliated with any local humane societies. They are both lobbying and educational organizations that use virtually all donations to influence legislation at the local, state, and national level.³⁵ For example, in 2011, the HSUS awarded \$6.5 million—approximately 4.9 percent of its 133 million in revenue—to domestic welfare charities; the same year, the ASPCA allocated 10 percent of its budget to local humane societies.³⁶ As Wayne Pacelle, the president of HSUS, stated in 2007, the HSUS is a lobbying organization that “has committed itself to political activity as never before”³⁷

Legislation banning the sale of purebred dogs by pet stores harms regulated, humane breeders and pet stores. It also will not stop the puppy mills. Unscrupulous breeders will find a way to sell their product—even if it means passing those dogs off as rescues.

Banning pet store sales will also reduce consumer rights and choices. Consumers should have the option of purchasing a purebred dog from a regulated and humane breeder. The ability to choose is crucial, for example, for allergy sufferers. Up to 30 percent of the U.S. population, or 100 million people, is allergic to cats and/or dogs.³⁸ Although there is no such

32 “State Humane Association of California Files Complaint Against the ASPCA with the Attorney General,” State Humane Association of California, May 3, 2011, available at http://www.californiastatehumane.org/PDFs/Press_Release_ASPCA.pdf

33 HSUS, “Shelters and Rescues: Frequently Asked Questions,” available at http://www.humanesociety.org/animal_community/resources/qa/common_questions_on_shelters.html

34 ASPCA, “Adopt a Pet,” available at <http://www.aspc.org/adopt-pet>

35 “Is The ASPCA’s Tear-Jerking Commercial Deceptive?,” CBS Los Angeles, May 4, 2011, available at <http://losangeles.cbslocal.com/2011/05/04/is-the-aspcas-tear-jerking-commercial-deceptive/>

36 S. Cooper, “Local 6 investigates donations to national animal charities,” News 6, May 3, 2013, available at <http://www.clickorlando.com/news/local-6-investigates-donations-to-national-animal-charities>

37 J.H. Birnbaum, “The Humane Society Becomes a Political Animal,” The Washington Post, Jan. 30, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/29/AR2007012901861.html>

38 Ryan Collins, “Allergy-Free Dogs,” Healthline, May 4, 2016, available at <http://www.healthline.com/health/allergies/hypoallergenic-dogs>



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thing as a hypoallergenic dog or cat, there are breeds that have types of coats that are less likely to trigger allergies.³⁹

It is also widely accepted that dog breeds demonstrate varied personality characteristics, including different activity levels, size, grooming needs, aggressive/protective tendencies, etc. "A purebred dog allows you to know some of its character and personality traits in advance."⁴⁰ Families choose purebred dogs because they are looking for particular characteristics that will fit their lifestyles.

In addition, in many jurisdictions, if a family purchases a purebred dog that turns out to have medical or genetic issues, the family has the right under Pet Purchase Protection Laws to seek compensation for veterinary care or to return the animal to the store for a refund.⁴¹ Reputable breeders and brokers frequently offer additional health guarantees. No such protections exist for adopted animals. Consumers deserve to have a choice.

³⁹ Ryan Collins. "Allergy-Free Dogs," Healthline, May 4, 2016, available at <http://www.healthline.com/health/allergies/hypoallergenic-dogs>; "9 Dogs Less Likely to Aggravate Allergies," Health, Sept. 29, 2016 (available at <http://www.health.com/allergy/hypoallergenic-dogs>)

⁴⁰ S. Coren, "Purebred Personalities," included in "Feeling Guilty About Your Purebred Dog?," The New York Times, Feb. 17, 2010, available at <http://roomfordebate.blogs.nytimes.com/2010/02/17/feeling-guilty-about-your-purebred-dog/>

⁴¹ American Veterinary Medical Association. "Pet Purchase Protection Laws." updated June 2014, available at <https://www.avma.org/Advocacy/StateAndLocal/Pages/pet-lemon-laws.aspx>