

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: FEBRUARY 21, 2008

Honorable: STEVEN R. VAN SICKLEN
V. BOWMANJudge
BailiffJ. PULIDO
C. ROMERODeputy Clerk
Reporter

(Parties and Counsel checked if present)

HS0015

In re,
ANIMAL CRUELTY
INVESTIGATIONS, a Non-Profit
Corporation in formationCounsel for People: Jeremy Berzon, DCA (x)
James W. Colbert, III, DCA (x)
Sean M. Carney, DDA (x)

Counsel for ACI: David B. Casselman, Pvt. (x)

Petitioner,
On Habeas Corpus

Nature of Proceedings: CITY ATTORNEY'S MOTION FOR LEAVE TO INTERVENE AND RECONSIDERATION AND VACATING PRIOR ENDORSEMENT OF THE PETITIONER'S ARTICLES OF INCORPORATION

The Court has read and considered the City Attorney's (1) Motion for Leave to Intervene and Reconsideration and Vacating Prior Endorsement of the Petitioner's Articles of Incorporation, as well as the Request for Judicial Notice and Declarations all filed January 4, 2008; (2) the District Attorney's Motion for Leave to Intervene and Request for Reconsideration and Vacating of Petitioner's Endorsement filed on January 8, 2008; (3) plaintiff Animal Cruelty Investigations Inc.'s (here "ACI") Opposition to the City Attorney's Request for Leave to Intervene and Vacate the Existing Article of Incorporation filed on January 22, 2008 and Notice of Errata filed on January 23, 2008; and (4) the City Attorney's Reply filed on January 28, 2008. The Court has heard argument on February 4, 2008 and held a subsequent hearing on February 21, 2008.

The requests for reconsideration of the endorsement of ACI's articles of incorporation entered on April 10, 2007 is granted.

Unlike a typical private corporation, a humane society formed under section 10400 et seq. may, after six months of its incorporation, apply to the court for appointment of its humane officers who, if qualified, may carry firearms, make arrests and serve search warrants. (Corp. Code, §14502(a)(2); 14502(i)(1)(A)-(G)). It is clear therefore, that the incorporation of a humane society is not analogous to the incorporation of a typical private corporation, but is different in many ways, the most apparent because of its ability to legally arm its officers. Perhaps for this reason, section 10402 requires the preliminary endorsement of a humane society by the California Department of Justice and if refused or withheld, then the endorsement of the Superior Court as a condition of its incorporation. (Corp. Code, §10401; 10402.). Oversight by the Department of Justice and the Superior Court is inherent in the statutory scheme involving both the incorporation of humane societies and the appointment/reappointment of humane officers. (Corp. Code, §10400 et seq.; §14500 et seq.).

While it is true that no statutory provision exists directing the Court to notify the City Attorney or the District Attorney when the Court is reviewing a petition for the endorsement of a humane society's Article of Incorporation under section 10400 et seq., it is nevertheless apparent that the involvement of these agencies is

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reasonable when taking into consideration the intent of the statutory scheme. (Corp. Code, §10400 et seq; §14500 et seq.) This conclusion is reinforced in light of the consistent refusal by the Department of Justice to accept applications for endorsement of humane societies. (*In re Animal Cruelty Investigations*, HS0015, Petition for Endorsement of Articles, 2/23/07, Exhibit B; *See, In re Bureau of Humane Law Enforcement*, BH003750, Order, 3/2/06, p. 4, fn. 3; Corp. Code, §§10401, 10402 .) Input from the District Attorney's office and the City Attorney's office may fill the void left due to the absence of any involvement by the Department of Justice in these matters.

The Court is in communication with court counsel to amend the Standing Order to include the District Attorney and City Attorney on its service list so that these prosecutorial agencies will be served with any petitions/applications filed for the endorsement of a humane society's articles of incorporation.

After reviewing the papers and declarations filed by both parties and hearing argument, the Court finds that there is a need for the services of an additional humane society in Los Angeles County. Additionally, the Court agrees that Mr. Allen's failure to disclose his criminal history created the appearance of concealment. However, the Court has been advised that Mr. Allen has tendered his resignation and is no longer involved as a Board member in AIC. Although the record as now known to the Court reflects the fact that Mr. Allen was less than honesty and should have described his criminal background in his declaration, there was nevertheless a second affidavit attached to the Petition for Endorsement which supports a finding of the necessity for the establishment of an additional humane society in Los Angeles County and therefore supports the Court's decision to grant AIC's Endorsement of its Articles. After considering the record, the Court finds that AIC's decision to incorporate was in good faith. Testimony of Lorri Bauston on February 21, 2008, is consistent with the Court's finding of necessity. ACI's exhibit A, (3 page declaration of Lorri Bauston), marked for identification only.

On reconsideration, the requests to vacate the prior endorsement of AIC's Articles of Incorporation is denied.

AIC is to give notice.