

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: MARCH 11, 2008
Honorable: PETER ESPINOSA
NONE

Judge M.RAMIREZ
Bailiff NONE

Deputy Clerk
Reporter

(Parties and Counsel checked if present)

HS0019
In re,
AMERCIAN HUMANE
ASSOCIATION OF CALIFORNIA;
TRYNTJE OLIPHANT
Petitioner,
On Habeas Corpus

Counsel for Respondent:

Nature of Proceedings: ORDER RE: APPLICATION TO AFFIRM
APPOINTMENT OF HUMANE OFFICER

The Court has read and considered the filings requesting an "Order Affirming Appointment of Humane Officer" received by this Court on January 25, 2008.

The application fails to conform with mandates under California Corporations Code section 14500 et seq.. The application is denied *without prejudice*.

The recommending humane society must submit proof that it possesses liability insurance policy of at least one million dollars (\$1,000,000) for bodily injury or property damage. (Corp. Code, §14502(a)(2); 14502(b).) The applicant has failed to meet this requirement.

Each appointment of a humane officer must be by separate resolution of the recommending humane society's board of directors or trustees. (Corp. Code, §14502(a)(3)). The resolution must include the fact that he/she is a citizen of the State of California. The applicant has failed to meet this requirement.

The recommended appointee must supply the humane society/SPCA with fingerprints taken on standard 8x8 cards, which must then be filed with the Court. (Corp. Code, § 14502(b)). However, the Court in conjunction with the Department of Justice has initiated the use of computerized fingerprinting using Live Scan. As a result, the Court requires that the recommended appointee submit to fingerprinting via LiveScan, rather than submit a copy of his/her fingerprints on a 8x8 card. The recommended appointee may submit to fingerprinting via Live Scan at the Los Angeles County Superior Court's clerk's office (Human Resources) which is then transmitted to the Department of Justice. Karine Chuang of the Human Resources Department of the Superior Court may be contacted at (213) 974-5445 for further information. The present application includes a form entitled "Request for Live Scan Service Applicant Submission" which reflects that a Live Scan Transaction was completed by a transmitting agency only identified as "D0181" in October 2005.

Prior to the granting of any application, the Court must have before it a background investigation of the recommended appointee conducted by the Department of Justice ("DOJ"). The background investigation is accomplished via letter from the Department of Justice sent to the Court after the recommended appointee submits to computerized LiveScan fingerprinting, as explained above. The DOJ thereafter submits a letter to

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the court indicating whether the recommended appointee has a criminal record. This letter is sufficient proof necessary to fulfill the mandated background check under Corporations Code sections 14502(c) and 14502(d). The present application does not include a response or letter from the DOJ with reference to Tryntje Oliphant's criminal record/background check. Results from a 2005 Live Scan will be rejected by the Court as untimely.

The recommended appointee must be a citizen of California. (Corp. Code, section 14502 (a)(2).) The application does not contain any such evidence.

Documents must be filed establishing that the appointee has satisfactorily completed the training requirements set forth under Corporations Code section 14502, subdivision (i). (See, Corp. Code, §14502(a)(2); §14502(a)(3); §14502(b).) Specifically, the recommended appointee must complete training, depending on whether he/she seeks to be appointed as Level 1 or Level 2 humane officer. Training requirement also differ depending on whether application is made for the first time appointment as a humane officer, or for a subsequent reappointment of a humane officer. Here, it is unclear whether applicant Tryntje Oliphant is seeking appointment or reappointment. Based on limited references in the application, the Court can only guess that Tryntje Oliphant is applying for appointment and not reappointment. It is similarly unclear whether Tryntje Oliphant seeks to be appointed as a Level 1 or Level 2 humane officer. The application is void of any such information.

The Court requires that humane societies applying on behalf of recommended appointees file declarations indicating that the appointee has completed his/her training requirements necessary to fulfill the statutory mandates. The declaration should include all relevant information regarding the appointee, i.e: whether the appointee seeks appointment or reappointment; whether the appointee seeks appointment as a Level 1 or Level 2 humane officer; and all other information. Proof of training, corresponding to the information in the declaration, must be filed with the application.

All applications for appointment and/or reappointment of a humane officer must comply with the pleading requirements mandated by California Rules of Court, rule 2.100 et. seq..

Additionally, each application for appointment and/or reappointment of a humane officer must include a Proof of Service indicating service of a copy of the complete application on: (1) the City Attorney's Office in the city where the recommending Humane Society maintains an office. Here, the City Attorney has designated

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the following address where all matters pertaining to humane society applications must be served: Office of the City Attorney, Chief of the Criminal Division, 500 City Hall East, 200 N. Main Street, Los Angeles, CA 90012; (2) the Office of the District Attorney. Here the applicant must serve the Organized Crime Division, attn: Head Deputy at 201 North Figueroa Street, 15th Floor, Los Angeles, CA 90012; and (3) the Sheriff's office. Here, the applicant must serve the Undersheriff's Office, 4700 Ramona Blvd., Monterey, Park, CA 91745. (Corp. Code, §14502(n).)

The application must be accompanied by a proposed order for each appointee, complying with California Rules of Court, rule 2.100 et. seq. (id.) The proposed order should be entitled "Order Reaffirming Appointment [or Reappointment] of Humane Officer (Cal. Corp. Code, §14502 et seq.)."

This order has not identified every deficiency in the present application. It is the applicant's responsibility to provide the court with an application which complies with mandates under California Corporations Code section 14050 et seq..

The clerk is to give notice and is directed to forward to the applicant a copy of the Los Angeles Superior Court General Order, *Order Establishing Procedures for Recommendations for the Reaffirmanc of Appointments of Humane Officers*, (12/12/05).

A copy of this minute order is sent this date via U.S. mail to:

LA City Attorney's Office:
Office of the City Attorney
Chief of the Criminal Division
500 City Hall East
200 N. Main Street
Los Angeles, CA 90012

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Counsel for Respondent:

Office of the District Attorney:

Office of the Los Angeles District Attorney
Organized Crime Division
201 North Figueroa Street, Suite 1500
Los Angeles, CA 90012
Attention: Head Deputy Sally Thomas

Los Angeles County Sheriff's Office

Undersheriff's Office
4700 Ramona Blvd.
Monterey, Park, CA 91745

American Humane Society

15366 Dickens Street
Sherman Oaks, CA 91403