

September 6, 2016

Dear City Attorney Parkin,

This is a letter of complaint regarding the illegal killing of a dog named Thor, a healthy and adoptable Belgian Malinois, by Long Beach Animal Care Services (LBACS) at its facility on July 14, 2016. This letter lays out the facts of the violation, identifies deficits at LBACS, and presents a request for corrective action. It does not seek monetary damages.

Thor's killing violated the Hayden Act and CA Food and Agr. Code 31108(b), which regulate animal shelters in the State of California. The following facts were obtained from shelter records and e-mails obtained by animal advocacy organization *Stayin' Alive Long Beach* from LBACS through the California Public Records Act, citizen reports, as well as telephone conversations between Patricia Turner, President of *Stayin' Alive Long Beach*, and LBACS manager Ted Stevens.

BACKGROUND

THOR ("THOR") was a healthy and adoptable dog (ID# A572043) who was illegally killed on July 14, 2016 by Long Beach Animal Care Services ("LBACS") in violation of the Hayden Act and CA Food and Agr. Code 31108(b). The details of THOR's case follow.

1. THOR entered LBACS on June 2, 2016 as a stray. His behavior was initially assessed at LBACS on June 11. His behavioral notes (Exh. 1) on that date indicate that he was "fearful" of the tester dog, but there are no notes indicating displays of aggression or inappropriate behavior. According to LBACS manager Ted Stevens ("STEVENS"), THOR was placed on the "regular list," which apparently meant that he was friendly and all volunteers could interact with him with no restrictions.
2. THOR exhibited appropriate, human-friendly, non-aggressive behavior throughout his time at the shelter. In a July 3 e-mail to LBACS staff, a volunteer at LBACS described THOR as "...lovely. He has come a long way from being fearful. He still is sensitive to noises – but he went up to everyone when called and he seems to like kids. There was a family that was looking at him when we had him out and he would go up to the little boy and touch him with his muzzle to get his attention. It was very cute" (Exh. 2). THOR was clearly a normal, social dog who had adjusted to life at the shelter.
3. THOR was featured on the LBACS "Shelter Me" page, which indicates that LBACS deemed him to be a social, friendly and adoptable dog.

4. On July 13, a potential adopter ("ADOPTER") applied to adopt THOR. He met THOR outside of his kennel. The interested ADOPTER said that THOR was "super sweet" during their interaction. The ADOPTER completed his application and was told by LBACS staff to bring his other dog, also a Belgian Malinois, back to meet THOR the next day.
5. On July 14, LBACS staff went to THOR'S kennel to take him out to show him to ADOPTER. THOR'S behavior notes, recorded on July 14 at 10:29 am, state that THOR was barking and "exhibiting barrier frustration" when seeing other dogs pass his kennel. They further stated that he "lunged" and "attempted to bite leash and handlers [sic] arm" (Exh. 1). This prompted LBACS to designate THOR as (available to a) "Rescue Only." However, THOR was not deemed aggressive at this time and was still considered releasable to the public, as evidenced by the fact that LBACS was willing to release him to a rescue organization.
6. On July 14, at 10:12 am, before going to the shelter, ADOPTER received a phone call from LBACS saying that THOR was now "Rescue Only" for displaying "erratic behavior" that morning.
7. On July 14, at 12:41 pm, *Live Love Pet Care and Animal Rescue*, a registered 501(c)3 rescue, ("RESCUE") sent LBACS behavior and rehoming coordinator, Jill Prout, ("PROUT") an e-mail requesting that THOR not be euthanized over the weekend because they had located an approved adopter for him (Exh. 3).
8. On July 14, at 1:05 pm, THOR was euthanized, according to LBACS records (Exh. 4).
9. On July 14, PROUT responded to RESCUE'S e-mail, saying that THOR had been euthanized. RESCUE reports that the time mark on this e-mail was 1:07 pm, just two minutes after THOR was euthanized (Exh. 5).
10. On July 14, at 11:12 pm, LBACS Acting Shelter Operations Supervisor Christine Kucenas ("KUCENAS") e-mailed STEVENS asking "why animals with outs [options to leave the shelter] are being PTS [put to sleep]," saying that "THOR was a favorite of mine so I'm particularly bummed" (Exh. 6). This statement indicates that LBACS staff regarded THOR as a social, adoptable dog whose killing for supposed aggression came as a surprise.
11. On July 15, STEVENS responded to KUCENAS that "the rescue hold was placed after he was already euthanized" (Exh. 7), a statement that STEVENS should have known to be demonstrably false based on the timeline established by RESCUE'S e-mail at 12:41 pm and THOR'S euthanasia record indicating he was euthanized at 1:05 pm.

HAYDEN ACT VIOLATION – ILLEGAL KILLING OF A CANINE

12. LBACS illegally killed THOR in violation of the Hayden Act and CA Food & Agr. Code § 31108(b), which requires shelters to release an animal to a rescue organization if that rescue requests the animal prior to its being euthanized.

a. The RESCUE requested THOR at 12:41 pm on July 14, while THOR was still alive. LBACS killed THOR at 1:05 pm, after the RESCUE had requested his release. The Hayden Act and CA Food & Agr. Code § 31108(b), state that:

Food & Agr. Code § 31108(b). **Except as provided in Section 17006, any stray dog that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal.** The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released.

LBACS' killing of THOR was therefore illegal and in violation of California's laws regulating shelters' treatment of animals entrusted in their care.

b. LBACS killed THOR only 3 hours after designating THOR as "Rescue Only." The mandatory release provision of the Hayden Act applies in this case and implies a reasonable opportunity for the rescue to learn of an animal's being slated for death. The same provision also contains the implication of reasonable opportunity to come get a requested animal.

NO PROTOCOL FOR COMPLYING WITH THE HAYDEN ACT

13. LBACS has no basis for a claim that staff needed adequate time to respond to RESCUE's e-mail requesting THOR's release. LBACS did not give RESCUE reasonable time to request THOR's release, yet RESCUE responded before THOR was killed. Especially given the short time frame, it is reasonable to expect that LBACS would monitor e-mails leading up to THOR's killing. However, according to LBACS Manager STEVENS, LBACS has no formal protocol for notifying rescues or for checking e-mails, phone logs or voicemail prior to killing an animal to see if a hold has been placed on the animal. The Public can reasonably expect that LBACS employees will advertise "Rescue Only" status to qualified rescues, give rescues time to respond, and check these channels prior to killing an animal once a "Rescue Only" designation has been placed on the animal. LBACS did not give RESCUE adequate time, and though RESCUE was able to respond

even in the short time given them, LBACS employees apparently did not take the simple step of checking e-mail, in spite of having placed a “Rescue Only” designation on the animal.

MISSTATEMENT OF BEHAVIORAL ASSESSMENT TO JUSTIFY UNNECESSARY EUTHANASIA

14. LBACS has no basis for a claim that THOR was euthanized for aggression. LBACS uses three designations to describe animal behavior. “Manageable behavior” is the lowest level; “Severe behavior” is the intermediate level, and the designation “Aggressive” is given to animals that exhibit aggression. THOR’s euthanasia record indicates that THOR was euthanized for “Manageable behavior” (Exh. 4). Furthermore, in conversation with Stayin’ Alive’s President, Patricia Turner (“TURNER,”) on July 18, 2016, STEVENS initially stated that THOR had been euthanized for “behavior,” but in a subsequent conversation said that he was euthanized because another dog had come into the shelter, and therefore the shelter had run out of space and decided to euthanize THOR. Clearly, THOR’s behavior was not aggressive, and as has been demonstrated, LBACS’ euthanasia of THOR was illegal under the Hayden Act and CA Food & Agr. Code § 31108(b).

UNQUALIFIED ANIMAL BEHAVIORIST AT LBACS

15. According to STEVENS, LBACS’ Behavior and Rehoming Coordinator does not hold a certification in animal behavior. This was clearly a factor in THOR’s illegal killing. Based on the timeline, the decision to euthanize THOR was made hastily and without adequate consideration for his history of appropriate behavior at LBACS. Furthermore, LBACS euthanized THOR based on an isolated occurrence of a manageable behavior that was only noted one time in THOR’s record over the entire 6 weeks that he was LBACS. Indeed, THOR had an overall agreeable temperament by all accounts and both an adopter and a rescue offered to take THOR. A certified behaviorist would have made a proper assessment, taking into account the totality of THOR’s behavioral history, rather than making a hasty euthanasia decision based on one isolated incident of manageable behavior. LBACS frequently justifies euthanasia citing behavioral issues. These assessments have not been done by a certified behaviorist, and this has contributed to the killing of thousands of dogs at LBACS over the past two years alone.

LACK OF HUMANE SHELTER PROTOCOLS

16. THOR’S “erratic behavior” on the day he was to be adopted was likely due to deficits in LBACS protocols to ensure appropriate enrichment of dogs at the shelter. In a conversation with TURNER on July 18, 2016, LBACS Manager STEVENS stated that LBACS does not have a written protocol for ensuring a regular walking schedule for dogs and said he did not know how often dogs were walked. The Public has a reasonable expectation for LBACS to have a protocol for ensuring humane behavioral programs to ensure the psychological well-being of dogs. The

Public also has a reasonable expectation that the manager of the shelter would know how often dogs are walked at LBACS, yet neither of these situations currently exist.

SPACE ISSUE USED AS AN EXCUSE TO JUSTIFY EUTHANASIA

17. LBACS cannot claim that THOR was killed because the shelter was out of space. ADOPTER had applied for and had stated an intention to adopt THOR. Had LBACS adopted THOR to ADOPTER, no space issue would have existed. Further, after the ADOPTER had been denied the opportunity to adopt THOR, a RESCUE requested his release. Had LBACS released THOR to RESCUE, as required by the Hayden Act and CA Food and Agr. Code § 31108(b), no space issue would have existed. By violating California law requiring the shelter to release THOR to RESCUE, LBACS created a space issue which they then used as a groundless justification for killing THOR.

FALSE STATEMENTS BY SHELTER MANAGER TO QUELL COMPLAINTS

18. In his e-mail response to KUCENAS (Exh. 7), as well as in an e-mail to a member of the Press, Kate Karp ("KARP") (Exh. 8), STEVENS repeated his assertion that THOR was euthanized due to "aggressive behavior." This statement is not supported by the THOR'S behavior notes or by his euthanasia record. We believe that STEVENS purposefully or neglectfully told KUCENAS and KARP, who had written an article for publication about THOR which was receiving negative commentary online after his killing, that THOR exhibited aggressive behavior to justify the fact that LBACS euthanized a healthy, adoptable dog with no significant behavioral issues.

19. In his e-mail to KUCENAS (Exh. 7), KARP (Exh. 8), as well as conversations with TURNER, STEVENS stated that the request from RESCUE came after THOR was killed. This is not supported by LBACS e-mails obtained by *Stayin' Alive Long Beach* under the California Public Records Act. We believe that STEVENS purposefully or negligently told KUCENAS, KARP and TURNER, on separate occasions, that THOR exhibited aggressive behavior to justify the fact that LBACS euthanized a healthy, adoptable dog with no significant behavioral issues.

20. *Stayin' Alive Long Beach* has received complaints from members of the Public stating that STEVENS has instructed LBACS Behavior and Rehoming Coordinator PROUT to designate healthy and adoptable animals as having behavioral defects in order to justify euthanizing them. This, combined with the other facts presented in this case, indicate a willingness on STEVENS' part to engage in unethical behavior in the execution of his duties.

CORRECTIVE ACTION

Long Beach Animal Care Services illegally killed a dog in their care in violation of the Hayden Act. Therefore, we respectfully submit the following corrective actions and ask that they be implemented:

1. Immediate cessation of killing animals by LBACS in violation of the Hayden Act, and specifically the section which makes it mandatory under law for shelters to release an animal to a rescue organization if requested prior to the animal's being killed.
2. Immediate cessation of the ongoing practice by LBACS of denying adoptions due to isolated incidents of manageable behavior when the animal has consistently shown positive, human-friendly behaviors and an adopter or rescue is available.
3. Mandatory training for all LBACS staff on laws regulating the treatment of animals in shelters, including the Hayden Act.
4. Establishment of a written protocol for designating animals as "Rescue Only" which
 - a) sets required criteria an animal must meet in order to be designated "Rescue Only"
 - b) requires LBACS to make a documented attempt to contact rescues when an animal has been designated "Rescue Only" and
 - c) allows for a reasonable amount of time for a rescue to respond to a call before the animal is killed.
5. Establishment of a protocol for ensuring that all channels of communication have been checked to determine if a home, foster or rescue is available immediately prior to killing an animal.
6. Establishment of a full written protocol for providing behavioral enrichment and rehabilitation for animals that includes a plan for walking dogs on a daily basis.
7. Mandatory training for LBACS staff in adhering to appropriate protocols for standards of humane treatment, including behavioral enrichment and rehabilitation.
8. An audit by City Auditor Laura Doud into the practices of LBACS and their compliance with California law and standards of ethical shelter operations.

9. The replacement of the current Behavior and Rehoming Coordinator at LBACS with one who holds the appropriate certifications for that position.

10. Immediate investigation into the circumstances surrounding the death of Thor to determine any negligence or unethical behavior by the shelter manager and implementation of disciplinary action, as appropriate. In addition, an investigation into the matter discussed in #20, p. 5, is requested.

We look forward to hearing your response in a timely manner, in any case, not longer than a month from the date of this letter.

Best regards,



Patricia Turner, Ph.D.



Tracy Smith

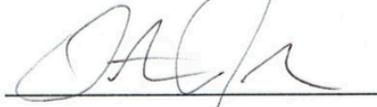
With CONCERNED LONG BEACH CITIZENS



Kristie Mamelli, Long Beach



Alison Dice, Lakewood



Dustin Jordan, Lakewood



Cassie Orr, Lakewood



Basti Gladys Garcia, Long Beach

Anna Sweeny
Anna Sweeny, Lakewood

Emily Belzer
Emily Belzer, Long Beach

Ben Belzer
Ben Belzer, Long Beach

Robert Lee Harmon
ROBERT LEE HARMON
Robert Lee Harmon, Long Beach

Joan Harmon
Joan Harmon, Long Beach

Elizabeth Reyes
Elizabeth Reyes, Long Beach

Pamela J. Dominguez
Pamela J. Dominguez, Long Beach

Anne Heston
Anne Heston, Long Beach

Exhibit 1

06/11/16 16:23 JProut Likely no other dogs - fearful w/ appropriate tester dog

07/14/16 10:29 Jprout

Dog is showing signs of kennel deterioration.

Dog is spinning in kennel & jumping off kennel wall

Dog is barking excessively and exhibiting examples of barrier frustration at the sight of passing dogs

Dog attempted to bite leash and handlers arm

Dog is lunging at members of the public

Dog appears to have become highly stressed and anxious that was not seen upon intake

Exhibit 2

From: [Jill Prout](#)
To: [Ted Stevens](#)
Subject: Fw: Thor
Date: Thursday, August 11, 2016 11:29:54 AM

Note - medical did end up re-evaluating him and changed his age in hopes of finding placement

Jill Prout

Behavior & Rehoming Coordinator
Long Beach Animal Care Services
7700 E Spring Street
Long Beach, CA 90815
Jill.Prout@LongBeach.gov

Regular schedule Wed-Fri 9:00-5:30 / Sat & Tues 8:00-4:30
For immediate service on Sun/Mon call 562-570-7387
Direct: 562-570-3061 - Fax 562-570-3053

From: Pamala Machado <[\[REDACTED\]](#)>
Sent: Sunday, July 3, 2016 7:32 AM
To: Jill Prout; Kathy Roddy
Subject: Thor

Hi ladies,

We took Thor out on Saturday - he is lovely. He has come a long way from being fearful. He still is sensitive to noises - but he went up to everyone when called and he seems to like kids. There was a family that was looking at him when we had him out & he would go up to the little boy & touch him with his muzzle to get his attention. It was very cute.

they have Thor as 7 years old - but we noticed that his teeth are very nice - more like a 2 or 3 year old dog.

I know he looked like heck when he came in all emaciated & missing fur -- and I wonder if contributed to them saying he was 7.

Do you think his age could be re-evaluated? I really think he is younger than 7. I think it would help him to get adopted. The family was looking for a younger dog because their 7 year old dog just died of cancer (F cancer!) and they didn't want to go thru something like that again so soon.

Take care!!

Exhibit 3

Jill Prout

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Long Beach Animal Care Services
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Jill.Prout@LongBeach.gov

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From: Emily Ghosh <[REDACTED]>
Sent: Thursday, July 14, 2016 12:41:40 PM
To: Jill Prout
Subject: THOR A572043

Hi Jill,

We are working with an approved adopter to get Thor out of the shelter. Could you please ensure he stays safe this weekend while we make arrangements?

As always, thank you so much for your tireless efforts. We appreciate you!

Sincerely,
Emily

--

<p>livelove.png</p>  	<p>Emily Ghosh <i>Founder & Chief Executive Officer</i></p> <p>Office: [REDACTED] Cell: [REDACTED] [REDACTED]</p>
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	<p>Emily Ghosh <i>Founder & Chief Executive Officer</i></p> <p>Office: [REDACTED]</p>
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Exhibit 4

Kennel No:
K623

Animal No:
A572043

Long Beach Animal Care Services

Kennel Card



Name:

***THOR**

Color:

BROWN & BLACK

Breed:

BELG MALINOIS

Weight:

80.00 6/24/16

Sex:

MALE

Age:

4 YEARS

Collar Color

Collar Type

Tag

Status

UNAVAIL

Special Note:

Intake Date:
06/02/2016

Evaluation Date:
06/08/2016

Intake Type:
STRAY / FIELD

Intake By:
WH

Crossing:
1000 BLK E 70TH

Outcome Info

<u>Outcome Type:</u>	<u>Subtype:</u>	<u>Weight:</u>	<u>Dose:</u>	<u>Date:</u>	<u>Time:</u>
EUTH	BEH MANAGE	80.00	8.00	07/14/2016	1:05 pm

Exhibit 5

From: [Emily Ghosh](#)
To: [Jill Prout](#)
Cc: [Ted Stevens](#); [Sam Ghosh](#)
Subject: Re: THOR A572043
Date: Thursday, July 14, 2016 1:42:57 PM

Hi Jill,

There seems to be a procedure discrepancy. There was an adopter, the adopter was denied to make the dog Rescue Only, then euthanized hours after. We would like to understand how this happened. Can we please schedule a call to discuss how to prevent this going forward.

Thank you,
Emily

On Thursday, July 14, 2016, Jill Prout <Jill.Prout@longbeach.gov> wrote:

I am so sorry to tell you that Thor is no longer here Emily :(

Jill Prout

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From: Emily Ghosh <[REDACTED]>
Sent: Thursday, July 14, 2016 12:41:40 PM
To: Jill Prout
Subject: THOR A572043

Hi Jill,

We are working with an approved adopter to get Thor out of the shelter. Could you please ensure he stays safe this weekend while we make arrangements?

As always, thank you so much for your tireless efforts. We appreciate you!

Exhibit 6

Mother would come out and say "You're tearing up the grass,"
Dad would reply, "We're not raising grass, we're raising boys."
- Harmon Killebrew

From: Christine Kucenas
Sent: Thursday, July 14, 2016 11:12 PM
To: Ted Stevens
Subject: Thor

So he was PTS even though there was a rescue hold? Or was there not again? Obviously I don't trust what's said on Facebook, but wondering what happened here. I know we're utterly full, just not understanding why animals with outs are being PTS. Hard not being there to know the whole story.

Thor was a favorite of mine so I'm particularly bummed.

Sent using OWA for iPhone

Exhibit 7

From: [Christine Kucenas](#)
To: [Ted Stevens](#)
Subject: FW: Thor
Date: Thursday, August 11, 2016 11:21:12 AM
Attachments: [image001.png](#)

Christine Kucenas

Acting Shelter Operations Supervisor
City of Long Beach Animal Care Services
7700 E. Spring Street
Long Beach, CA 90815
Office 562.570.3076
Fax 562.570.3053
Email: Christine.Kucenas@longbeach.gov



From: Ted Stevens
Sent: Friday, July 15, 2016 2:20 PM
To: Christine Kucenas <Christine.Kucenas@longbeach.gov>
Subject: RE: Thor

The rescue hold was placed after he was already euthanized. We can explain better when you get back to the office next week, but he displayed some significant disturbing aggressive behaviors yesterday morning. We were already making decisions to PTS other dogs due to being full so Jill came to me about adding him to the list. We did remove a different dog from the list that had no issues though.

The potential adopter/foster came back yesterday afternoon and I spoke to them and explained what had happened and they were very nice and understanding and they actually decided to adopt a different dog and they took him home today!!

Ted Stevens
Manager - Animal Care Services
City of Long Beach
Department of Parks, Recreation and Marine
7700 E. Spring street
Long Beach, CA 90815
(562) 570-3051 (office)
(562) 570-3053 (fax)

My father used to play with my brother and me in the yard.

Exhibit 8

Kate Karp

The Scratching Post

<http://www.lbpost.com/life/pets>

On Fri, Jul 15, 2016 at 2:16 PM, Ted Stevens <Ted.Stevens@longbeach.gov> wrote:

Hi Kate,

Thor displayed some disturbing aggressive type behavior early in the morning yesterday which concerned staff greatly. We were/are very full and were making decisions on dogs with behavior and medical issues. Due to the displayed behavior and his length of stay (he was not handling confinement well and he had some dog to dog issues in recent dog introductions that didn't go well), we made the decision to humanely euthanize. We were able to save a different dog from being euthanized due to this decision. We invested a lot of time and medical resources in treating him for medical issues so this decision was not made lightly or without careful consideration. He was also a favorite of many staff and volunteers. Ultimately we have to think of the safety of the adopting public and the mental health of the animals.

Unfortunately we were not made aware of the foster/rescue until it was too late.

I would add that the adopter/foster came back to the shelter yesterday afternoon and I spoke to them in great length about what happened and they were very understanding and actually picked a different dog and took him home today!!!

Please let me know if you have any other questions.

Ted Stevens
Manager - Animal Care Services
City of Long Beach
Department of Parks, Recreation and Marine
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