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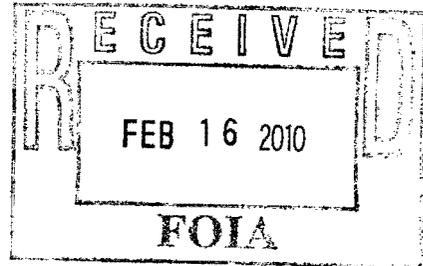


"Aaron Green"
<agreen@humanesociety.org
>
02/16/2010 04:57 PM

To <foia.officer@aphis.usda.gov>
cc
bcc
Subject FOIA Request

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232

February 16, 2010



Freedom of Information Act Request

Dear Ms. Woods:

MAR 16 2010

On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552, *et seq.* If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

Background

In 2003, APHIS announced that animal dealers Roy Allen Stevens, Ted Eric Stevens, and Lois Stevens (doing business as Bone Farm Kennels) were to be charged with violations of the Animal Welfare Act and that APHIS could prove 379 violations of the AWA. USDA Press Release, Sept. 29, 2003 (available at http://www.aphis.usda.gov/lpa/news/2003/09/stevens_cmp_ac.html). In the same press release, APHIS indicated that Lois Stevens settled a case in 1998 by agreeing to surrender her license and that in 2002, Bone Farm Kennels applied for a license. *Id.* It appears as though Lois Stevens continues to sell dogs through kennels named "Lazy S Aussies" and "Bone Fam Pets." (http://www.lazysaussies.info/Home_Page.php).

A. Records Request

This request is for all records related to Bone Farm Kennels, also known as "Bone Fam Pets" and "Lazy S Aussies," and for all records related to Lois Stevens, Ted Eric Stevens and/or Roy Allen Stevens (herein collectively referred to as "the Stevens").

The responsive records should include but not be limited to the following:

1. All records received and/or created by APHIS in the last 15 years related to the application for a USDA license by the Stevens and/or any of the above-named associated entities including but not limited to Bone Farm Kennels, Bone Fam Pets or Lazy S Aussies. These records should include, but not be limited to, all initial and renewal applications, including any approved or denied applications.

2. All records related to the inspection of the Stevens and any related business regulated by APHIS carried out by APHIS in the last 15 years. These records should include, but not be limited to, any Inspection Report created by APHIS.
3. All records related to any complaints received by APHIS or the USDA in the past 15 years concerning the Stevens or any of the above-named entities.
4. All records related to AWA Docket No. 98-0002 (1/12/98).
5. All records related to AWA Docket No. 03-0025 (2/24/04).
6. All records received or generated over the last 15 years related to any correspondence between the Stevens and APHIS or the USDA.
7. Any and all responses to similar FOIA requests generated by APHIS in the past 10 years. FOIA

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA Exemption under which the information is being withheld. The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Requests

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of "representative of the news media." See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). The FOIA was amended to include a definition of the term "representative of the news media" that is in line with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep't of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). As such, an entity is a "representative of the news media" if it "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a "representative of the news media." The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large. As a result of its longstanding advocacy and work on companion animal issues, The HSUS has developed a substantial level of expertise about puppy mills which commands public attention when such information is

disseminated.

For instance, The HSUS Stop Puppy Mills Campaign maintains a website, <http://www.stoppupmills.org/>, where frequently asked questions about puppy mills are addressed and where the public and interested parties are provided with the results of The HSUS's research and investigations. As an end result of synthesizing such research and investigations, the public is informed about puppy mills and the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS also serves to inform and protect consumers by alerting them to false and misleading statements made by puppy sellers such as Bone Fam Pets/Lazy S Aussies. In addition to maintaining the website, The HSUS also publishes materials such as the Canine Chronicle newspaper which exposes the conditions of puppy mills, discusses the laws that regulate them and covers the USDA's role in inspecting such facilities and enforcing the Animal Welfare Act ("AWA"). The HSUS, "Behind the Scenes: What Investigators Found," Canine Chronicle, 2006, pg. 3. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to puppy mills, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to granting preferred fee status, under federal law, records are to be furnished completely without charge when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this requirement, The HSUS seeks a waiver of any search and copy fees for this FOIA request.

As a threshold matter, the information sought in this request is in the public interest. The issue of puppy mills is of intense and ongoing interest to the public at large, due to the inhumane conditions in which puppy mill dogs are kept, the illnesses and congenital defects suffered by many puppy mill puppies, the rampant consumer deception in the puppy mill industry, and the risk to human and animal health posed by the transmissible diseases often carried by puppy mill puppies. National mainstream newspapers, television shows and other mass media have run stories discussing these issues, demonstrating that the interest in preventing egregious cruelty to animals is commonly held by the public generally, and is not limited to merely a subsection of the population. *See, e.g.,* Jeanette Trompeter, "I-TEAM: Inside A Minnesota Puppy Mill," WCCO (available at <http://wcco.com/pets/i.team.puppy.2.872927.html>); The Oprah Winfrey Show, April 4, 2008; Jane Weaver, "Pet store chain linked to puppy mills," MSNBC, Nov. 20, 2008.

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public's understanding of the "operations and activities of the government," because it details the USDA's efforts in enforcing the Animal Welfare Act and holding violators of the law accountable.

ii. Public Understanding

The HSUS is a non-profit organization dedicated to animal protection and has focused its efforts on puppy mills for over four decades. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public abreast of these activities, as well as educating the public about puppy mills and the role of the USDA in regulating and inspecting

commercial breeding operations.

The HSUS contributes to the public's understanding of companion animal issues generally, as well as the controversy surrounding puppy mills, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. See, e.g., <http://www.stoppupmills.org>; <http://www.hsus.org/pets>. The information sought in this request will enable The HSUS to further educate the public about the role USDA plays in regulating breeders as well as the seemingly absent oversight of non-licensed breeders.

iii. Significant Contribution

The contribution of this information to the public understanding will be "significant," because it is the sole source of information as to the conditions surrounding the Stevens' kennel operations.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

C. Conclusion

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676-2334, or by email at agreeen@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction. If you have any questions or need additional information regarding this request, please contact me. I look forward to receiving your reply within 20 business days as required by law. Thank you for your assistance.

Sincerely,

Aaron D. Green, Esq.

Litigation Fellow

agreeen@humanesociety.org

t 202.676.2334 f 202.676.2357

Animal Protection Litigation & Research
The Humane Society of the United States
2100 L Street NW Washington, DC 20037
humanesociety.org/litigation

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