



November 19, 2009

The Honorable Micah Kellner
The Honorable Thomas K. Duane
834 Legislative Office Building
Albany, NY 12248

Re: Oreo's Law

Dear Assembly Member Kellner and Senator Duane,

We are writing to thank you for your decision to introduce "Oreo's Law" in the New York State legislature: a law modeled on California's Hayden law, which makes it illegal for an animal shelter to kill an animal who a rescue organization is willing to save. We applaud this common sense and compassionate approach to protecting animals' lives and empowering those who want to save them. Such a law is not only necessary, reasonable and an effective means of preventing future tragedies such as the killing of Oreo, its passage would also bring your state's sheltering procedures more in line with the humane, progressive values of the American public.

In 1998, California passed a similar law for these very reasons. Unfortunately, shelters mired in killing, afraid of public scrutiny, and unwilling to work with rescue groups opposed the measure. In addition to their desire to avoid being held accountable, their primary—though unstated—objection was that the law threatened to open up shelter killing and other atrocities to public scrutiny. As frequent visitors to the shelters, rescuers saw systemic problems and inhumane treatment of animals, but their access to animals was tenuous and many times hinged on not publicly disclosing concerns. Under the 1998 Animal Shelter Law, their right to take these animals is no longer legally premised on silence as to shelter practices and violations of the law.

Despite the opposition of shelters and their allies, it made no sense to state legislators that taxpayers were spending money on killing animals when No Kill shelters and other private rescue agencies were willing to spend their own money to save them. Legislators also found that public shelters did not reflect the humane values of their constituents. Not surprisingly, the proposed bill passed the legislature with overwhelmingly bipartisan support—ninety-six to twelve—and the state's Republican governor signed the measure into law.

The Honorable Micah Kellner
The Honorable Thomas K. Duane
November 19, 2009
Page two

History reveals that social progress does not occur in a steady, linear fashion. Often, the most groundbreaking change occurs in response to tragic events which throws the issue into stark relief, and gives us an opportunity to define as a people what it is we stand for, as well as what it is we don't. The decision by the ASPCA to kill Oreo, despite a rescue group's offer to save her, is one such seminal event. When word of the ASPCA's actions spread throughout the animal rescue community last week, a furor was unleashed that has yet to subside. Animal rescuers, as well as everyday animal loving Americans, are shocked and dismayed by the ASPCA's actions, and demanding accountability.

While it may be tempting to consider the case of Oreo as an isolated, unique incident, the fact is that animal rescuers throughout the country can attest that such incidents are, in reality, tragically common. At the No Kill Advocacy Center, while we, too, mourn the death of Oreo and share in the public's condemnation, we do not share in their surprise. In fact, our indignation regarding Oreo's killing is compounded by the knowledge that her death, tragic as it is, is *not* an isolated incident. That there are, in fact, thousands upon thousands of animals killed by animal shelters throughout the country every year, despite the offers of No Kill shelters, sanctuaries, and rescue groups willing to give these animals the second chance they so richly deserve, but are prevented from doing so by shelter directors who simply decide to say "No."

How did this happen?

For over a hundred years, animal shelters in this country and their allies working at large, national animal protection organizations have argued that the killing of animals in shelters is unavoidable, and that the irresponsible American public is to blame. Without an alternative model to challenge the assumptions upon which these calculations were based—animal shelters were, by default, granted almost unequivocal discretion to kill millions of animals a year, while blaming others for the need to do so. Not only did this stymie any innovation seeking to reduce the numbers of animals killed, but, having been unchallenged in this course of action for so long, it had the unfortunate side effect of creating the expectation among shelter directors that they should be able to operate without public scrutiny, comment or accountability for their actions and decisions.

In the late 1990's, when the burgeoning No Kill movement proved that many of the assumptions upon which traditional sheltering were based were, in fact, untrue, and that nearly all animals entering shelters can be saved, traditional sheltering models had by that time become so firmly entrenched that any challenge to their hegemony was met with recrimination and hostility. And since that time, animal advocates throughout the country, working to reform their local shelters by demanding innovation,

The Honorable Micah Kellner
The Honorable Thomas K. Duane
November 19, 2009
Page three

modernization and greater lifesaving, have almost universally found themselves at cross purposes with not only their local shelters which refuse to reform, but, just as often, the large, national groups, such as the ASPCA and HSUS, which come to the defense of their local shelter and its archaic, regressive policies which favor killing.

As a result, it is not uncommon for shelters to refuse the assistance of grassroots rescue organizations willing to save the animals they are determined to kill. Time and again, these organizations hold the animals hostage, ignoring the requests of local sanctuaries and rescue groups willing to assume responsibility and liability for their care, even as they then turn around and kill them, just as the ASPCA did to Oreo.

For far too long, those running our animal shelters – agencies funded by the philanthropic donations and tax dollars of an animal loving American public – have refused to mirror our progressive values. For far too long, they have assumed a power and authority to act independent of public opinion, and the will of the people who have entrusted them to do their jobs with compassion, dedication and integrity. In betraying this trust, they have proven that they can't be trusted, and that we must regulate them in the same way we regulate other agencies which hold the power of life and death: by removing the discretion which has for too long allowed them to thwart the public's will and to kill animals who should be saved. Oreo's Law, thankfully, seeks to do just that.

Sadly, we cannot bring Oreo back and give her the second chance the ASPCA denied her. And we will forever remember her killing at the hands of those who were supposed to protect her from further harm as many things: tragic and heartbreaking, chief among them. Nothing can alter that calculus. But we can lessen the futility of Oreo's death if we learn from it, and alter our society in such a way as to prevent such a betrayal from ever happening again. The legislation you have introduced would accomplish this vital and important outcome, and for that we offer our deepest and most heartfelt gratitude.

Very truly yours,

A handwritten signature in black ink, reading "Nathan J. Winograd". The signature is written in a cursive, flowing style with a prominent flourish at the end.

Nathan J. Winograd