

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. 12-0623
)
Rhonda Louise Gear,)
)
)
Respondent) Consent Decision
) and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Rhonda Louise Gear, hereafter referred to as the respondent, is an individual whose address is 423 McKinley Street, Galt, Missouri 64641.

2. The respondent, at all times material hereto, was operating as a dealer as defined in the Act and the regulations. The respondent's license number is 43-B-3613.

Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent, her agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from:

(a) Failing to keep the surfaces of housing facilities that come into contact with dogs free of jagged edges and sharp points that might injure the animals;

(b) Failing to spot-clean daily and sanitize hard surfaces which the dogs come in contact with in accordance with the regulations;

(c) Failing to establish and maintain an effective program for the control of insects, external parasites, and birds and mammals that are pests;

(d) Failing to establish and maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine;

(e) Failing to sanitize at least once every 2 weeks primary enclosures for dogs and more often if necessary to prevent accumulation of dirt, debris, food waste, excreta, and other disease hazards;

(f) Failing to have housing facilities for dogs that are structurally sound and maintained in good repair so as to protect the animals from injury, contain the animals securely, and restrict other animals from entering;

(g) Failing to have food receptacles for dogs that are kept clean and sanitized;

(h) Failing to store supplies of food and bedding in a manner that protects them from spoilage, contamination, and vermin infestation;

(i) Failing to provide that the suspended floor in a primary enclosure that is strong enough to prevent the floor from sagging or bending;

(j) Failing to provide dogs with adequate shelter from

the elements including shelters that are large enough to allow each animal to sit, stand, and lie in a normal manner and to turn about freely;

(k) Failing to keep primary enclosures in good repair to protect the dogs from injury;

(l) Failing to keep the premises including buildings and surrounding grounds, in good repair, and clean and free of trash, junk, waste, and discarded matter, and weeds, grasses and to control bushes, in order to protect the animals from injury, and facilitate the required husbandry practices;

(m) Failing to provide for the regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks;

(n) Failing to individually identify animals, as required;

(o) Failing to ventilate the enclosed or sheltered parts of sheltered housing facilities for dogs sufficiently to provide for the health and well-being of the animals and to minimize odors, drafts, ammonia levels, and moisture condensation;

(p) Failing to provide dogs with potable water and to keep clean watering receptacles for dogs;

(q) Failing to remove excreta and food waste from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste and, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors;

(r) Failing to maintain housing facilities and areas used for storing animal food or bedding free of any accumulation of trash, waste material, junk, weeds, and other discarded materials; and

(s) Failing to sanitize hard surfaces of primary enclosures and food and water receptacles using the methods provided for in the regulations.

2. The respondent is assessed a civil penalty of \$6,000 which shall be paid by a certified check or money order made payable to the Treasurer of United States. The notation AWA Dkt. No. 12-0623 shall appear on the check or money order.

3. The respondent's license is suspended for 14 days and continuing thereafter until the Respondent can established to APHIS that she is in compliance with the Act, regulations and standards. Once the Respondent establishes that she is in compliance with the Act, regulations and standards then APHIS will file a motion for a supplemental order lifting the license suspension.

The provisions of this order shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.



Rhonda Louise Gear
Respondent



Sharlene Deskins
Attorney for Complainant

Done at Washington, D.C.
this 13 day of June, 2013



Administrative Law Judge

Janice K. Bullard