



Lawyers for Animal Welfare (LAW)

April 30, 2011

VIA EMAIL to: office@calas-acsal.org

AND VIA LETTER MAIL to:

CALAS/ACSAL National Office

Attn: Jacqui Sullivan

144 Front Street West, #640

Toronto, Ontario

M5J 2L7

RE: CALAS/ACSAL 2011 AGM: Potential Breaches of Federal, Provincial and Municipal Law

Dear Ms. Sullivan:

It has come to our attention that CALAS intends to hold live animal workshops at the 2011 Annual Symposium, which is scheduled to be held May 14 to May 17, 2011 at the Sheraton Parkway Toronto North Hotel at 600 Highway 7 East, Richmond Hill, Ontario (the “Hotel”).

As an organization whose stated mandate is to enhance animal welfare, we write to advise you that your plans to conduct live animal experimentation workshops at the Hotel runs contrary to existing legislation, regulations and bylaws. Failure to ensure compliance with these laws could result in significant penalties. Our concerns are as follows:

Animals for Research Act, R.S.O. 1990, c. A.22 (“ARA”)

As you are no doubt aware, the ARA prohibits animal research in a facility that is not registered under the Act.

Section 1(1) defines ‘research facility’ as “premises on which animals are used in research...”

Section 1(1) also defines ‘research’ as “the use of animals in connection with studies, investigation and teaching in any field of knowledge, and, without limiting the generality of the foregoing, includes the use of animals for the performance of tests, and diagnosis of disease and the production and testing of preparations intended for use in the diagnosis, prevention and treatment of any disease or condition.”

Section 4(1) clearly states, “no person shall commence or continue to operate a research facility unless the research facility is registered under this Act.”

Convictions under the ARA may result in a fine of up to \$2,000 and three months in prison, or both. Subsequent offences may result in a fine of up to \$5,000 and six months in prison (Section 21(1)).

If you or CALAS conducts research on animals at the Hotel without having the Hotel registered as a research facility, you will be in breach of the ARA and may face fines and imprisonment.

Richmond Hill Bylaw 403

If the Hotel is not registered as a research facility pursuant to the ARA prior to the Symposium date, Richmond Hill Bylaw 403 will apply to the keeping of animals at your event.

The CALAS website states that workshops will or may include the use of live mice, rats, rabbits, dogs, snakes, lizards, turtles, crocodiles, eagles, hawks, falcons, owls, zebra fish and frogs.

Bylaw 304.6.1 and Schedule ‘B’ of Bylaw 304 explicitly state that crocodiles, eagles, hawks, falcons and owls may not be kept for exhibition or any other purpose in Richmond Hill.

Bylaw 304.7.1 provides that “every person who contravenes any of the provisions of this Chapter [304] is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*. . . .”

Health Protection and Promotion Act, R.S.O. 1990, c. H.7 (“HPPA”)

Beyond the foregoing potential violations, we have been advised that you may be intending to hold your live animal workshops in areas used for the consumption of food.

Please note that Section 16(1) of the HPPA states that, “every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.”

Section 2 (2) of *Food Premises, R.R.O. 1990, Reg. 562* states, “no person shall operate or maintain a food premise to which this Regulation applies except in accordance with this Regulation.”

Section 59(e)(2) of *Food Premises, R.R.O. 1990, Reg. 562* is clear in mandating that “every operator of a food premise shall ensure that in respect of the food premise, ...(e)

every room where food is manufactured, prepared, processed, handled, served, displayed, stored, sold or offered for sale is kept free from, ... (ii) ... live birds and animals.”

Please be advised that bringing live birds and animals into areas of the Hotel where food is consumed is a contravention of the HPPA.

As enumerated in Sections 101(1) and (2) of the HPPA, contraventions may result in a fine of up to \$5,000 per day for an individual and \$25,000 per day for a corporation.

Such behavior may also affect the Hotel’s ability to operate its restaurant and catering facilities in the future.

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36 (“OSPCAA”)

Section 11.1(1) of the OSPCAA states, “every person who owns or has custody or care of an animal shall comply with the prescribed standards of care with respect to every animal that the person owns or has custody or care of.”

Section 11.2(1) further states, “no person shall cause an animal to be in distress.” Subsection 2 adds: “no owner or custodian of an animal shall permit the animal to be in distress.”

If you cause or permit the live animals at your event to be in distress, you and/or CALAS may be in violation of the OSPCAA.

According to Section 18.1(3), a violation of the OSPCAA may result in a fine of up to \$60,000 and imprisonment for up to two years or both. Subsection 5 extends liability to directors of a corporation involved in the offense.

Criminal Code of Canada, R.S.C. 1985, c. C-46

Sections 444 and 445 of the Criminal Code prohibit the killing, maiming, wounding, poisoning or injuring of animals. Section 445.1 prohibits cruelty to animals including willfully causing, or willfully permitting to be caused, unnecessary pain, suffering or injury to an animal or a bird. Criminal sanction could result from such behaviour.

Private Prosecution

Be further advised that in Canada, citizens hold a common law right to engage in private prosecutions. This right permits an individual with evidence of a statutory offense to proceed with prosecution in instances where law has been breached and the offense is not

being brought to trial by the Crown Prosecutor. Lawyers for Animal Welfare (LAW) has published a detailed guide on how to commence private prosecutions on our website at <http://www.lawyersforanimalwelfare.com> in the 'Resources' section.

In order to ensure that CALAS is compliant with the foregoing laws, bylaws and regulations *at all times*, we are sending copies of this letter to York Regional Police, York Region Health Services, the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) York Region Branch and the Hotel.

As an organization dedicated to enhancing animal welfare, I trust that CALAS will take these concerns seriously and ensure compliance with existing laws during the course of the Symposium. Please govern yourself accordingly.

Sincerely Yours,

Nicholas dePencier Wright

Nicholas dePencier Wright, BA LLB MBA

Evelyne Kostanska

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