James R. Clifford, Sr. (MD, VA, PA)
James J. Debelius (MD)
Lynn Caudle Boynton (MD, DC)
Jerry W. Hyatt (MD, DC)



316 East Diamond Avenue Gaithersburg, MD 20877 (301) 840-2232 tel (301) 975-9829 fax

November 2, 2017

Montgomery County Council Council Office Building 100 Maryland Avenue, 4th Floor Rockville, MD 20850 ATTN: Roger Berliner, President

Re:

Exotic Animals Bill No. 23-17

Dear President Berliner:

As attorney for the Montgomery County Agricultural Center, I am most appreciative that you have moved the ban on performance animals out of the strict liability section under the Animal Cruelty Section of the Code (§5-201). It appears that someone wanted to have a "one size fits all" enforcement of the animal protection laws so cases would not have to be evaluated one occurrence at a time.

As you know, the existing laws under both §5-201 and §5-202 already protect animals from harm, but require the complainant to show a violation of the law based on the abusive actions of the accused in §5-201, or the past bad behavior of the animal or species in §5-202. What is being attempted in this new §5-204 of the law is to create a violation "per se" without an actual act of cruelty or without a dangerous episode of a particular animal. By the mere fact that an animal can be classified in a species that the code says it is prohibited from being exhibited, it is a violation under the law, without any proof that the animal is in fact dangerous or being mistreated. It is a lazy way to achieve a bigger agenda of keeping animals from being exploited.

The problem is that the old law was good enough and, if enforced by the authorities, it accomplished the more important result of preventing mistreatment of animals. We know of no existing problems being addressed here in our County with this new law. This new section, (§5-204) of the protection laws seems to be driven by politics and outside agendas and it exposes breeders, agricultural clubs, agriculture educators, agricultural fairs, zoos, rehabilitation organizations, etc. that all have positive and important missions one that include using exhibitions to educate and raise funds for their organizations.

Roger Berliner, President Montgomery County Council November 2, 2017 Page Two

I have been part of a world-renowned raptor banding group for decades that have done important scientific fact gathering for the U.S. Department of Fish and Wildlife relating to raptor migration. On Fall weekends, shortly after a capture and scientific evaluation, we take several captured birds to local gatherings of ornithologist and bird enthusiast from places like Cornell University to educate them on different species of raptors, and raise awareness of the value of these birds in the food chain. The birds are released within 30 minutes of capture. However, if raptors were to be included in §5-204(a)(4) defining "wild animals" under that definition, we could be in violation of the proposed animal protection law. Not based on our mistreatment of the birds, nor based on the exposure to the public of a dangerous situation. The violation would be based on a definition that is blind to the actual facts of the exhibition. This raptor banding activity has gone on for over 40 years and no bird or human has ever been injured. Why, because the handlers are seasoned veterans with preservationist mentalities. The code changes suggested in this new law would not account for or recognize these factors. However, we do handle wild animals, we transport them to a nearby location, and we show them with the purpose, in part, to exhibit them and entertain the attendees that have come to our nature pavilion to see and learn about these wild birds. This effort also helps us raise funds for our banding operation.

I know raptors are not included in these provisions, but the above example could have similar implications to those species that are included. We have a good law in place, don't try to change it and cause damage which is wide of the mark intended and likely to do far more bad than good. At the very least, why not form a work group to bring the steak holders to the table to discuss a resolution? This approach is common with difficult Council issues. Why not here?

Very Truly Yours,

CLIFFORD, DEBELIUS, BOYNTON

& HYATH, CHIE.

James R. Clifford, Sr., Esquire

JRC/alt

cc: Council Members