

# CLAYTON UTZ

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30 May 2008

**By Email - [mail@robertsonogorman.com.au](mailto:mail@robertsonogorman.com.au)**

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**Cc. By Email - DPI - F Ferguson - [f.ferguson@dpi.qld.gov.au](mailto:f.ferguson@dpi.qld.gov.au)**

Your reference: DDB:LP

Our reference: 12352/12209/80070709

Dear Mr Brunello

## **Geraldine Fooi Fong Robertson**

We acknowledge your letter 29/05/2008 and the proposal in relation to resolution of the application for stay. In relation to the issues you raise:

- (a) *Return of animals:* We are unable to accept the proposition that 10 neutered dogs be returned to your client. Our client's investigations are not completed and on the material available this would appear to be an unacceptable proposition. Amongst other issues we note that your client's kennels permit was revoked some time ago and accordingly we are uncertain as to the basis upon which your client would comply with local council regulations. We would of course point out that this is an issue which in truth rests with the DPI.
- (b) *Psychiatric care issues:* We note your client has suggested that she would undergo a course of psychiatric treat to assist her in dealing with some issues in her life. We note that treatment is asserted to have a potential beneficial impact on her ability to care for any returned animals. Should she consider this necessary, then that would be all the more reason for declining to return any animals until such time as all treatment has been received and an independent evaluation received.
- (c) *Third party interests:* We acknowledge that assertions of third party interests have been made. The assertions by your client do little to progress matters. Should any third party be involved, then those parties need to come forth assert their rights and state their position. There is no ability under the Act for your client to assert any another person's rights.
- (d) *Materials:* Note your comments on the materials and we will arrange a mutually convenient time.
- (e) *Business records:* We note your comment on business records and find this somewhat surprising. The materials that have been sighted:
- contain no records of vet care or costs of a like nature for the care of 105 animals;
  - contain no records of food stocks for the care of 105 animals;
  - contain no records of staff costs or other service providers for the care of 105 animals; and
  - contain no records in relation to expenditure for the cost of consumables such as heart worm medications, flea and tick treatments, etc. for the care of 105 animals.

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Mr Dominic Brunello, Robertson O'Gorman

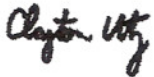
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Even if source documents are not readily available, then we would have expected that tax returns with relevant profit and loss statements would give indicative material of amounts being expended in the care of the animals. We would again request that you check with your client.

(f) *Pending application:* We note that we are yet to receive a response to the issues we raised in relation to the material in support of the application and the costs associated with ongoing care during any operative stay. Please note that it is now only two working days to the hearing.

(g) *List and inspection:* Whilst our client is unwilling to accept the proposition of return of 10 animals, it is conscious of the cost and difficulties associated with gathering the 150 odd animals that is caring for. Accordingly, we will shortly forward a list of animals (excluding the puppies) together with a description of them so that the scope of any stay application can be limited and accordingly costs saved both in care and legal costs.

Yours faithfully



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