

Robertson O'Gorman



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S O L I C I T O R S

OUR REF: DDB:LP

YOUR REF:

30 January 2008

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Dear Colleague

RE: RSPCA v. GERALDINE ROBERTSON

We act for Geraldine Robertson.

We are in receipt of your correspondence dated 24 January 2008, and confirm you act for the RSPCA in the matter.

The purpose of this letter is to set out the relevant facts of the matter to date, and express the concerns of our client regarding undue delay and cost that has flowed from the conduct of the RSPCA.

RELEVANT FACTS

The relevant facts of the matter are as follows:

1. On 9 January 2008 officers of the RSPCA – including Inspector Stageman – executed a warrant at the premises of our client situated at Buccan Road, Buccan. 103 dogs were seized by the RSPCA. We understand that the search was recorded on audio tape, and that a series of still photographs and video footage was taken of the process.
2. We were retained to act and made with Inspector Stageman later that day. At that point, Inspector Stageman indicated he was aware that a number of the dogs were owned by parties other than Ms Robertson, including a number of

animals the subject of contractual arrangements requiring shipping to a kennel at Singapore. Inspector Stageman indicated that the RSPCA would facilitate transfer of the seized dogs to their lawful owners. Inspector Stageman also indicated it was likely Ms Robertson would be charged with two offences pursuant to the *Animal Care and Protection Act 2001* alleging that she had breached her duty to provide proper living conditions and veterinary treatment for the animals.

3. Subsequently, we had a number of discussions with Inspector Stageman and his superior Inspector Towers-Hammond of the RSPCA. We sought an itemized receipt in respect of the seized dogs in order that the animals owned by parties other than our client could be identified, and arrangements made for the transfer of those dogs to their rightful owners. On 11 January 2008 correspondence was forwarded to the RSPCA formally requesting an itemised seizure receipt, together with a clear indication as to the number and nature of any charges to be preferred against our client.
4. It was not until 15 January 2008 that a receipt for seized property and an information notice was served (receipt No.004456 – copy enclosed¹). An addendum seizure receipt was served 2 days later. Both receipts lack particularity insofar as a description of the seized animals, and the alleged condition of the animals time of seizure.
5. Later on 15 January 2008 we forwarded further correspondence to the RSPCA setting out the instructions of our client regarding the ownership of the seized dogs. Your client was put on notice that:
 - (a) A number of the animals are the property of other parties;
 - (b) Ms Robertson sought access to the animals for a physical inspection to identify those dogs
 - (c) Ms Robertson was prepared to provide written consent for transfer of ownership of some the adult dogs, but not until she had been afforded a physical inspection to identify the animals over which she and others claim ownership

Further, we requested copies of the photographs taken at the time of seizure, an estimate from your client as to maintenance costs being incurred and written particulars of the RSPCA's contention(s) as to the conditions of the animals at the time of seizure. We asked that our requisitions be answered by 21 January 2008.

6. Subsequently, there was contact between our firm and Inspector Towers-Hammond of the RSPCA in relation to arranging an access visit by Ms Robertson and her vet Mr Callum Robertson for the purpose of identifying the dogs which required urgent shipping to Singapore, vaccinating and micro-chipping those animals, and also identifying and micro chipping the balance

of the seized animals which Ms Robertson regards as her valuable puppies and breeding stock. On 17 January 2008 further correspondence was forwarded to Mr Towers-Hammond in that regard (copy enclosed²).

- None sighted on dogs in video supplied by RSPCA.*
7. Subsequently, Inspector Pecic of the RSPCA became involved. Inspector Pecic agreed to an access visit, but refused to permit our client's vet to microchip for identification the dogs over which Ms Robertson asserts a claim of ownership. Mr Pecic assured us that the RSPCA employs an unassailable "black tag" identification system in respect of each seized animal which, when cross-referenced to the video recording and still photographs of the search and seizure, would ensure each animal was positively identifiable at all times. Mr Pecic agreed to allow our client to inspect the wider mass of seized dogs and make her own independent record of the RSPCA's "black tag" identification numbers in respect of the animals over which she asserts ownership.
 8. On 21 January 2008 (copy enclosed) we forwarded a letter to Mr Pecic confirming his oral agreement to an access visit on those terms on 22 January 2008.
 9. On the afternoon 21 January 2008 Mr Pecic cancelled the access visit arranged for the next morning. Mr Pecic contended that due to urgent flood relief assistance in North Queensland, the RSPCA did not have the resources to assign a single inspector to accompany Ms Robertson and her vet for the purpose of the visit.
 10. An alternative arrangement was made for Ms Robertson and her vet to attend at the Fairfield kennels for that purpose on 29 January 2008. Mr Pecic assured us the visit would occur on that day, and that he would make an inspector available. The re-scheduled visit was again unilaterally cancelled by the RSPCA on the morning of 29 January 2008, purportedly for the same reason(s).

We enclose³ herewith a copy of email correspondence from veterinarian of our client, Mr Callum Robertson, dated 29 January 2008. You will note the expense and inconvenience which the two last minute access visit cancellations have caused.

It appears to us that the actions of your client border on conduct in bad faith. Suffice to say that the 2 separate last minute cancellations of the access visits have substantially postponed the shipping of the dogs to Singapore, causing loss and damage to Ms Robertson. The RSPCA has flatly refused to allow Ms Robertson to micro-chip the other animals she considers as her valuable poodles and breeding stock. In light of the fact that micro-chipping would ensure clear identification of any animals over which an ownership dispute may develop, the position of the RSPCA appears to be misconceived.

We are yet to receive any photographs or other material from your client supporting its contentions regarding the substandard living conditions and medical issues allegedly afflicting the animals at the time of seizure. No veterinary report(s) has been provided.

The dogs have now been in the possession of the RSPCA for 21 days. Your client may retain the animals for 28 days under the Act. Your client has not advised of a decision regarding forfeiture.

Despite our repeated requests, neither your client nor any other party has provided a clear indication to our firm and/or Ms Robertson as to whether or not a statutory prosecution is to be commenced against her and, if so, the nature and number of the charge(s) to be laid.

In the meantime, your client has asserted that it is incurring approximately \$1,500.00 per day in maintenance costs in relation to housing of the animals. It seems that your client is not prepared to take any steps to mitigate its costs.

In the circumstances, we again firmly request immediate provision of the following information:

1. Copies of all photographs, audio recordings and video recordings taken by the RSPCA in the course of the search;
2. Written particulars of the contentions of the RSPCA as to the alleged substandard living conditions and medical problems of the animals at the time of the seizure, including any veterinary report(s);
3. A clear indication from the RSPCA as to whether it is intending to forfeit the animals and, if so, to whom and on what basis;
4. A clear indication as to whether or not Ms Robertson is to be charged and, if so, the number and the nature of the charges. We hold instructions to voluntarily present our client to accept service in company with a lawyer at a mutually convenient time and place.
5. Consent to Ms Robertson and her vet Mr Callum Robertson attending at the Fairfield Kennels to identify the dogs for shipping to Singapore, vaccinate and micro-chip those animals and for Ms Robertson to identify her other breeding stock and micro-chip those animals for later identification in the event of a contested forfeiture proceeding.

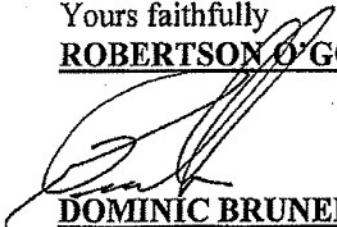
The instructions of our client are that she will not provide written consent to surrender any of the animals until she has been given access for the

abovementioned purposes. Consent to surrender of some of the animals may then be given, although our client will claim ownership of others.

We require full and timely disclosure of any and all evidence in the possession, custody and control of the RSPCA which might be in any way relevant to findings of fact pertinent to a contested forfeiture decision and/or the prosecution of any offences to be charged against our client.

Could you please revert to us in reply as a matter of urgency.

Yours faithfully
ROBERTSON O'GORMAN



DOMINIC BRUNELLO
Solicitor

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- ¹ Copy receipt
 - ² Copy letter 17 January 2008
 - ³ Copy email correspondence 29 January 2008