From: Commissioner Municipal Corporation, Gurgaon

To: Presidents, RWA, Gurgaon

No. J.C(HQ)/MCG/2012/ 1485 Dated 3/2/12

Sub:- Regarding curbing cruelty against Animals.

Some incidents of cruelty against animals by RWAs, their office bearers and residents has been reported to this office. It has also come to the notice that certain RWAs have attempted to prevent or obstruct pet ownership through stipulations in terms of their rental/ownership agreements and have even threatened pet owners with electricity/water cut offs.

All RWAs are requested to take note the following issues & to abide by the legal provision mentioned therein:-

1. Kindly note that the laws on pet ownership are very clear. The Constitution of India's Directive Principles clearly state through their various sections that private groups, government bodies and any organization may not infringe upon a person’s fundamental right. Under the law, pets constitute ‘family’ and keeping a pet is a fundamental right of every Indian national. Hence, for an association or committee to impose restrictions on this right is against the law. A mention of any such clause in any agreement by a Managing Committee of a Society is not sufficient to make it a law. It may also be noted that any law or rule formed by anybody, if conflicts with the law of the urban local body, state body or central body, is automatically superseded and rendered null and void. So any society bye-law, even if it mentions such a clause in the agreement, if found conflicting with the law of the land, holds no
legal value and is automatically invalid. Nor is it legal for any RWA to threaten the discontinuation of basic facilities. Any RWA that is found taking the law into its own hands by making such threats can lead to the dissolution of that RWA and prosecution of its office bearers.

2. Various RWAs have been attempting to remove animals in their area on their own or through security guards employed by them. Further that they have taken recourse to intimidating residents who may be feeding/tending to these animals. Kindly note the laws in this regard:

i) Under the central law as laid out in Stray Dog Management Rules 2001, it is illegal for any individual, RWA or estate management to remove or relocate dogs. Complaints, if any, may be directed to the municipality or to a local animal welfare organization. The dogs will be sterilized and vaccinated and returned to the same area. In the case of vaccinated and sterilized dogs, they cannot ever be removed by the Municipality.

ii) Several Courts have held that it is both lawful and helpful for local residents to feed colony dogs as it facilitates the municipal sterilization programme. Feeding dogs has been held to be a 'social service' and the police and RWAs have been directed to protect those engaged in this social service.

iii) It is cognizable under Sections 428/429 IPC to hit, hurt, injure or kill any animal as well as under the Prevention of Cruelty to Animals Act, 1960.

iv) Under Section 506 IPC, it is a criminal offence to threaten, abuse, harass neighbors who feed homeless animals.

v) In its letter F.No 30/9/2006, the Ministry of Personnel, Public Grievances and Pensions has warned that no association recognized or unrecognized may take action on its own or through any persons employed by it like security guards against animals in violation of
these laws:

a) Article 51 (a), Constitution of India
b) Indian Penal Code, Sections 428/429
c) Prevention of Cruelty to Animals Act 1960

3. Directives of the Animal Welfare Board of India, a statutory body under the central government.

4. Any attempt to remove dogs will be in contempt of judicial rulings in several cases, including the Hon'ble Supreme Court of India (Animal Welfare Board of India Vs People for the Elimination of Stray Dogs, Record of Proceedings 265025).

Apart from being illegal, removal of colony dogs is also counter-productive. Dogs being territorial guard the area against the incursion of other dogs and animals. Should the dogs that are familiar with the area be removed, others who are new to the area will move in and the chances of accidents will increase. Sterilizing the existing population keeps the numbers in check and the area safe from intruders both human and animal alike. It is therefore in the colony's best interests to care for its existing dogs so that they may live out their natural lives, healthily and harmlessly. Any action contrary to the above is punishable under the law.

It is, therefore, requested that all RWAs may kindly ensure that the provisions of Prevention of Cruelty to Animals Act 1960 may not be violated and cooperate in vaccination and sterilization programme launched by MCG.

For Commissioner, 02/01/11
Municipal Corporation, Gurgaon