

Klayton Rutherford

From: Klayton Rutherford
Sent: Thursday, January 16, 2020 2:25 PM
To: Scott Moye
Subject: RE: Research re: PETA request re: Elephants in the Garden Bros. Circus in Ware County

[REDACTED]

Mr. Moye,

It's alarming that the County would choose not to protect public safety and animal welfare by enforcing its own laws, which would be as simple as informing the venue and the circus that elephants are prohibited.

Elephants previously used by Garden Bros. have escaped from venues, damaged property, and attacked other elephants. One even remained at large for *weeks* before being recaptured after an escape from a circus.

PETA hopes that you will reconsider this decision and choose instead to protect the citizens of Ware County by enforcing the ordinance. The public will be disturbed to hear that its leaders are selectively enforcing the law and putting them at risk by allowing an out-of-town circus to flout it.

Klay Rutherford
Research Associate
Captive Animal Law Enforcement
PETA Foundation

From: Scott Moye [REDACTED]
Sent: Thursday, January 16, 2020 12:31 PM
To: Klayton Rutherford [REDACTED]
Subject: FW: Research re: PETA request re: Elephants in the Garden Bros. Circus in Ware County

Mr. Rutherford:
Please see email below from one of our County attorneys.
Thank you.

Scott M. Moye, MPA, ICMA-CM | County Manager
Ware County Board of Commissioners | [REDACTED]



Confidentiality Notice:

This message and the accompanying documents or attachments may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, you are hereby notified that you are strictly prohibited from reading, disseminating, distributing, or copying this communication. If you have received this email in error, you are supposed to notify the sender immediately and destroy the original transmission.

Thank you for your kind cooperation.

From: Jennifer Dorminey Herzog [REDACTED]
Sent: Friday, January 10, 2020 10:50 AM
To: Scott Moyer
Cc: Anthony A. Rowell; Nick Kinsley
Subject: Research re: PETA request re: Elephants in the Garden Bros. Circus in Ware County

Scott, per the below correspondence, PETA has requested that Ware County bar Garden Bros. Circus from bringing elephants into the county when it performs at the Okefenokee Fairgrounds on January 22. Thanks to Nick for assisting with research on this one.

Although the plain letter of the ordinances would restrict the circus from bringing elephants, Ware County has discretion to enforce the ordinances. As Mr. Rutherford correctly points out, Section 10-21 of the Ware County Code of Ordinances states that “no person shall own, have, keep or maintain within the unincorporated county area” any animal listed as inherently dangerous in the Georgia code or any animal on the endangered species list. The Okefenokee Fairgrounds is in the unincorporated area of the County. In determining what the Georgia code considers an inherently dangerous animal, Section 10-21 cites O.C.G.A. § 27-5-4. However, the correct citation is O.C.G.A. § 27-5-5(a), which does in fact include elephants as an inherently dangerous animal (learn something new every day!).

Therefore, Mr. Rutherford appears to be correct in his analysis that elephants could be prohibited under the local code. However, Section 10-4 of the ordinances address the enforcement and penalties for the animal control ordinances and it is clear that enforcement is discretionary. The code assigns the enforcement duty to the animal services officer under the direction of the planning and codes department head. More importantly, it gives the department “the authority” to impound any animal. It does not require the animal services officer to take action. Because the authority granted in Section 10-4 and law enforcement in general is discretionary, the County is not required to ban elephants as requested by Mr. Rutherford. As such, any mandamus action or other enforcement action would likely fail.

Therefore, if you and your Board are in agreement, it is our recommendation that Ware County take no action in response to this correspondence. We can discuss further with the Board at Monday’s meeting if you desire. Thanks,

Jennifer

Jennifer Dorminey Herzog

HALL BOOTH SMITH, P.C.



Website: www.hallboothsmith.com

From: Scott Moyer [REDACTED]
Sent: Thursday, January 9, 2020 3:11 PM
To: Jennifer Dorminey Herzog [REDACTED]; Anthony A. Rowell [REDACTED];
Nick Kinsley [REDACTED]
Subject: FW: On behalf of PETA, regarding the Garden Bros. Circus in Ware County

Email received below.

Scott M. Moyer, MPA, ICMA-CM | County Manager

Ware County Board of Commissioners | [REDACTED]



Confidentiality Notice:

This message and the accompanying documents or attachments may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, you are hereby notified that you are strictly prohibited from reading, disseminating, distributing, or copying this communication. If you have received this email in error, you are supposed to notify the sender immediately and destroy the original transmission.

Thank you for your kind cooperation.

From: Klayton Rutherford [REDACTED]
Sent: Thursday, January 09, 2020 2:58 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: On behalf of PETA, regarding the Garden Bros. Circus in Ware County

Jennifer Dean
Ware County Animal Services

Dear Ms. Dean,

I'm writing on behalf of PETA to confirm that Ware County will, in accordance with local law, bar the [Garden Bros. Circus](#) from bringing elephants to the county when it performs at the Okefenokee Fairgrounds on January 22.

Under the county's ordinances, no one may own, have, keep, or maintain any animal listed as "inherently dangerous to humans" pursuant to the provisions of O.C.G.A. § 27-5-4 or any federally-protected endangered species. Circuses are not exempt. Code of Ware County, Georgia § 10-21. The elephants exhibited by Garden Bros., whom it is currently advertising that it plans to bring to the county, meet both of these criteria and are therefore prohibited in Ware County. See 50 CFR § 17.11(h), O.C.G.A. §§ 27-5-4, 27-5-5(a)(1)(D).

Garden Bros. and its exhibitors have a well-documented history of flouting the law and endangering animals and the public. Take, for example, elephant exhibitor [Larry Carden](#), who supplied Garden Bros.' elephant act last year and was once charged with cruelty to animals in Fulton County after he reportedly tried to move an elephant—who was evidently frightened and refusing to follow commands—by inserting a bullhook into the animal's mouth. This incident could have easily turned deadly for the trainer and the crowd, as no amount of training can overcome the instincts of a wild animal. [Dangerous interactions](#) with captive elephants have resulted in dozens of [human deaths](#) and catastrophic injuries—including severed limbs, broken bones, crushed pelvises, collapsed and punctured lungs, degloving injuries, head wounds, and brain injuries. Nevertheless, circuses use whatever method they can to try to force them into submission, and elephants often suffer for it.

During training, they're violently punished whenever they attempt to engage in any type of instinctive, natural behavior, and humans subjugate them using heavy chains, electric prods, and steel-tipped weapons called bullhooks. In this training [footage](#), a well-known circus trainer strikes elephants with a bullhook to "make 'em scream" in pain. His goal is to break their spirit and will and to elicit full compliance at all times.

May I please hear from you that the county has informed Garden Bros. that it is unlawful to bring elephants into Ware County and intends to enforce the law? Thank you for your attention.

Sincerely,

Klay Rutherford

Research Associate
Captive Animal Law Enforcement
PETA Foundation

CC: Scott Moye, County Manager