

STATEMENT OF

JAMES F. GESUALDI, ESQ.

MEMBER NEW YORK STATE BAR ASSOCIATION

SPECIAL COMMITTEE ON ANIMALS AND THE LAW

BEFORE THE NEW YORK STATE

ASSEMBLY STANDING COMMITTEE ON LOCAL GOVERNMENTS

ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS

‘DISASTER PREPAREDNESS’

HAUPPAUGE, LONG ISLAND, NEW YORK

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James F. Gesualdi, AICP  
Attorney at Law  
58 Wingam Drive  
Islip, Long Island, New York 11751-4112  
Telephone: (631)224-4801  
Facsimile: (631)224-1678  
Email: Jfges@aol.com

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Contact information for the  
New York State Bar Association Special Committee on Animals and the Law  
Holly Kennedy Passantino, Esq., Chair  
Juli Turner, Staff Liaison  
New York State Bar Association  
One Elk Street  
Albany, New York 12207-1002  
Telephone: (518)487-5531  
Facsimile: (518)463-4276  
Email: [jturner@nysba.org](mailto:jturner@nysba.org)  
Website: [www.nysba.org](http://www.nysba.org)

## Introduction and Background

Good morning Mr. Chair, Ms. Chair, Assembly Committee Members, fellow speakers and members of the public. I am James F. Gesualdi, Esq., an attorney in private practice in Islip, certified municipal planner (Member, American Institute of Certified Planners) and a municipal attorney who has worked with a number of towns and villages throughout Suffolk County. Most importantly, today I am here as a member of the New York State Bar Association Special Committee on Animals and the Law. Individually and on behalf of the Special Committee, please know that the opportunity to testify today is very much appreciated.

Of course, the Assembly Committees are to be commended for raising questions in an attempt to try to address the challenge of enhancing the readiness of our communities in the event of a disaster and the need to evacuate the region.

Given the complexities of moving vast numbers of people through a crowded, congested geographical locale, New York State's public officials are faced with a challenge which none would want to face if they didn't have to, but there is no choice. And because each locality has its own particular needs, New York State is uniquely positioned to bring the people and resources together that are needed for a successful preparedness response.

People with animals are a large and important segment of New York State's population. In many communities, the family unit includes at least one companion animal. In rural areas, livestock is a key component of the local and state economies. And of course service animals play a key role in helping people with disabilities and dogs in law enforcement play an effective and important role in keeping us safe from crime.

In short, in addition to the critically important matters touched on by the other speakers, it is imperative that any sound comprehensive disaster planning take into account animals, including family pets or companions like my Labrador puppy Memphis as well as animals in all sorts of facilities.

During the course of the sixteen years I have been engaged in animal welfare related work representing marine mammal parks and zoological institutions, the importance of emergency contingency planning for animals has often been evident, sometimes, sadly, after the disaster event. Interestingly, ten years ago, while participating on behalf of the Alliance of Marine Mammal Parks and Aquariums, in the historic United States Department of Agriculture Marine Mammal Negotiated Rulemaking, which developed new marine mammal regulations by consensus between all interested stakeholders, it was agreed that marine mammal facilities have explicit emergency contingency plans. These plans are now required under federal law, 9 C.F.R. 3.101(b), and include back up water and power sources, evacuation and recovery elements.

Recent experience demonstrates that the care of animals during times of disaster raises considerable issues for public officials at all levels of government. As seen in New Orleans, some people will *not* willingly leave the animals in their care, even when life-threatening circumstances occur. This alone has the potential to create possible public health and legal

issues that, in one form or another, and must be addressed publicly. In addition, the interplay of the various government agencies with a series of overlapping jurisdictions at such times raises questions as to who is in authority.

Fortunately for the people and animals of New York State, particularly given the Assembly Committees' proactive approach to disaster planning, the New York State Bar Association Special Committee on Animals and the Law provides a unique resource for helping to address animal welfare as part of the effort. The Special Committee on Animals and the Law's core mission is to serve as an "information resource for Members [of the Bar] and the Public about non-human, animal-related humane issues, which arise from and have an effect upon our legal system". To maximize its effectiveness, "the Special Committee [has] worked with professionals in animal health care, animal welfare, wildlife conservation, animal behavior, and other related fields in animal law and humane related work, such as veterinarians, biologists, educators, humane law enforcement officers and non-attorney government officials."

In the aftermath of Hurricanes Katrina and Rita, the Special Committee on Animals and the Law, its individual members and a number of their organizations, have played significant roles in assisting in the massive ongoing animal rescue and relief effort. As just one of seemingly countless examples, one Special Committee member, here on Long Island arranged for the shelter she works at to provide housing and care for animals recovered in the Gulf States. The Special Committee also has a representative on the American Bar Association's Animal Law Committee which has already started work on short- and long-term needs and action plans relating to a coordinated Animal Disaster Relief Network. Of course, the Special Committee and its members have also provided legal and other assistance.

Beyond these works responsive to the recent disasters, the Special Committee, like the Assembly Committees, is striving to make sure that animals and the people who care for them fare better in any such future situations. To this end, the Special Committee is pleased to announce an important forthcoming legal education program, "Leave No Animals Behind: How to Ensure More Effective Disaster Evacuations". The program, for which the Special Committee would invite input and participation from the Assembly Committees, is currently anticipated to cover the following: (1) the situation that occurred as a result of the Hurricanes in terms of lost and abandoned animals; the conditions faced by animals and rescuers; and rescue efforts; 2) key legal questions such as entering property, ownership, re-homing of animals that are not reunited with owners; 3) making the future response better - addressing proposed legislation such as the Pets Evacuation and Transportation Standards Act (HR 3858); obstacles to effective rescue; what current laws and regulations if enforced would assist in a better result. This program will focus on both legal and other issues at the federal, state and local levels. The program will be held at the Marriot Marquis in Manhattan, in conjunction with the New York State Bar Association's Annual Meeting at 6:00PM, on January 25, 2006.

With respect to the thoughtful, detailed and specific questions set forth by the Assembly Committees and your capable staff, please note the following on the need to include animal-related considerations in disaster planning.

New York State Executive Law Section 23, provides a broad comprehensive framework for disaster planning.

- o Animal-related disaster planning tools should be included by adding a reference to subdivision 5 to “animal shelters, and welfare organizations, other interested groups and the general public.”
- o Other tools could include provision of model plans for municipalities, including animal-related companies to aid in the preparation of same at greatly reduced cost.
- o Use of existing animal-related resources. The Assembly Committees may want to review the website of the American Veterinary Medicine Association ([www.avma.org](http://www.avma.org)) and, closer to home, Pet Safe Coalition, ([www.petsafecoalition.org](http://www.petsafecoalition.org)) a partnership of nearly two dozen non-profit organizations, local governments, and professionals, who are doing precisely what needs to be done to prepare for the next big event.
- o Subdivision 10 ... “providing information to the public” could be revised to add “... on community and individual disaster planning for human and animal welfare”. Public education is clearly the most efficacious way to mitigate human and related animal suffering. By providing *coordinated* information into the hands of individuals and families to help them develop their own evacuation and preparedness plan, then that makes for one less individual and one less family that Government has to provide for in an emergency. That leaves room for another individual or family that does not have the resources or ability to evacuate on their own.

#### Intergovernmental Response

- o Integrated intermunicipal cooperation is especially important with respect to animal matters, including animal rescues and public health considerations.
- o Consistency and coordination is important because of the home rule prevalent throughout Long Island and different local regulations regarding animals, keeping and managing them.

#### Emergency Services

- o Specific questions to address include legal rights, responsibilities and liabilities for municipal and non-governmental rescuers.
- o Additional guidance could be provided on actions police/public health officials may take.

These are issues the Special Committee has researched and will provide the results of this preliminary research to Assembly Committees staff.

### Resources/Volunteers

There is no doubt that disaster planning for humans alone requires additional funding and resources from the Federal and State governments. Proper planning for animal considerations is not only cost effective (e.g., public education) but likely to aid human and animal welfare. In addition, the not-for-profit and private sector contributions of resources and volunteers for animal welfare could be more effectively integrated into disaster planning.

### Conclusion

In closing, the Special Committee stands ready to work with the State and the people of New York to help focus the public discussion towards fashioning a public policy plan for both human and non-human animals faced with disasters. Beyond that the Special Committee is committed to working with the Assembly Committees to make this a reality. Thank you again for your foresight and leadership in scheduling this hearing and for the opportunity to participate.

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Opinions expressed are those of the Committee preparing this Testimony and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.