

*This letter, affidavits/letters from neighbors, an official Request for Exemption letter from EarthSave and other supporting materials were delivered to the Mayor's office at 4:45 on August 3, 2009.*

August 3, 2009

Mayor Matti Bower  
and Commissioners  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

Subject: Requesting Special Exemption for Mr. Clucky

Dear Mayor Bower and Commissioners,

On the morning of July 30<sup>th</sup> I faced the city on the charges of keeping farm animals under the law regarding "keeping livestock", Sec. 10-15.

The lawyer for the city based his case on secondary Webster's dictionary descriptions of livestock, farm animals and poultry. I countered his claims preferring the primary definitions of pets, livestock, farm animals, poultry and domesticity. In all cases 'farm animals, livestock and poultry' referred to animals that are raised for food or profit, not animals that could potentially be used for food or profit.

I made my case that I was a vegetarian, my birds are well cared for and fell within the boundaries of animals allowed to be kept in the building where I reside. Dogs, cats and birds limited to three pets with a total weight not to exceed 25 lbs. My birds fit the definition of pets; 'Animals kept as favorites, tame or domesticated and kept or treated with affection.' I showed evidence of the animals' character, well being and domesticity.

I believe that in these kinds of hearings the burden of proof is on the city and that a tie goes usually to the runner. Yet the city has held to its vague, open interpretation, based on semantics, which I clearly showed was invalid in my case and contrary to the dictionary definitions presented as a standard.

Although, the breed of these domestic creatures has been allocated to a farm to be processed for food or profit for maybe the greater part of their history, nothing is shown in the nature of the creature to be hazardous to the community or necessitates its exclusion to only such a facility.

The Special Master asked me if I believed all persons in Miami Beach should be allowed to have chickens. With much difficulty I conveyed my response, "Yes", within the restrictions of proper care for any pet and under the provisions of not causing a nuisance.

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Of course there may be great problems if larger domestic animals like horses, cows, pigs, sheep, goats and the larger varieties of birds, like peacocks, geese and turkeys, had the run of the town. Our modern cities and maybe all cities are not properly prepared to house, give them space to exercise and clean up after them. Problems could occur with an already established dog presence not used to such strange creatures, that they may instinctually consider them as prey. Although charming, experimenting with their introduction and maintenance under the best conditions could well be unfair to the population as a whole as well as for the animals.

In the case of chickens, the hen, a docile creature that only raises its tone from a gentle cluck when truly disturbed or excited. She can be easily tamed and could be a good pet, as long as she is given the basic necessities of good food and water, safe shelter, air, light, companionship and kindness. She needs a minimal amount of space, enjoys a place to dig in the dirt or a sandbox and perches at rest just like a parrot, and is not much more to clean up after. The issue of the male of the species, the rooster, is that it can make a loud noise, and left to his own accord, could become a nuisance. The nature of the bird is veritable and it takes a good sense of the bird to temper it.

I know there is the issue of raising animals as livestock for food and profit. In some countries I've heard that cats and dogs are eaten. But, to allow keeping of creatures in the urban community thought of as food, would bring up questions of right and wrongs on a legal and emotional level, of their place and in the matter of slaughter and cruelty.

I have innate knowledge of these birds, growing up on farms in my youth. My connection to my birds in Miami Beach was organic. I found them wounded in both cases with no vet who would see them, or shelter to accept them in the vicinity. Finding the two birds after they had been treated as refuse, I acted socially responsibly with compassion.

In this action I have formed a unique connection and bonding with these creatures. Their innocent and good qualities have moved many in our community to be inspired by these exotics that I have learned to maintain within the constraints of good social order for which others of their species might not conform.

Within this, there is a unique avenue for a special exemption. Not to open the door to odd experiments, but that this case was not perpetuated out of contempt for the laws that bind our community, but of a unique moment at the crossroads.

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The rooster goes with me almost everywhere. Also I have a morning ritual of putting him in a quiet space (a soundproof box) to keep him quiet and this has been documented by three major TV news stations.

I offered a stack of letters of support for my pets and the work we do, to the Special Master and attempted to show other witnesses to my pets' contributions to the community as teaching aids, and as much needed ambassadors of goodwill for the animals so often abused of their lot and for the city that I have loved and lived in for so long.

I have acquired letters (attached) from the majority of my neighbors in my building and those in the building apartments directly across from my apartment # 2 on either side, stating that there has never been a problem with my pets, including the young couple who just moved out of apartment # 3. Their letter contradicts the statement that Miss. Gonzalez, the owner of # 3 made under oath. The young couple's letter says that they never had a problem with the rooster and were moving out because they just got married and needed a larger place. These letters also invalidate Ms. Leavit's claims. She rents apartment # 14 all the way in the back of the building, and works for the developer Mallory Kauderer, who lives north of our neighborhood, who we have multiple lawsuits against. He was quick to pose as a neighbor on local television, saying "All the neighbors will be happy when Mr. Clucky is gone."\*\*

Note: I had approached the city clerk and the code departments before my hearing with requests for the identity of my accusers so as to know if it was specifically the developer Mallory Kauderer and his assistant Donita Leavit, who have plagued our building with debt, malice and false accusations for years, so I would know to bring my lawyer, Louis Arslanian, who is representing me and others in my building in litigation against them. The city in all cases told me the complainants were anonymous.

Mr. Clucky is not a business. He is not trained. He rides on the bike of his own accord. His wings have never been clipped and he has never been tied down. Thousands of dollars have gone to veterinary visits.

The Mr. Clucky card was originally a little present for the school kids we visited directing them to a web site to hear him crow and see their pictures. His website was created and is run by friends and family. The t-shirt shop, they are experimenting with, was hoped to be a fund for animal causes. My animals are not exploited. I have not accepted donations from the thousands of citizens and

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tourists who visit with us, nor from the schools, special earth friendly events, television and radio.

Mr. Clucky and Wallflower are happy little friends that stand out as icons of conscience, not as doormen for a world we're not ready for. Their only bidding is that future unwantedes are cared for and the situations that create them be investigated.

I do not believe I was given a fair hearing, but I held no malice, as I was given an option to request a special exemption in regards to the unique nature of my case.

I appeal to you to see the special nature of my case, the uniqueness of my pets and their contribution to the world and our community. Harm has not been shown, only the potential to bring joy and make a better world. This is my home as well as the home of these pets. We send a message. As Gandhi said, "The greatness of a nation and its moral progress can be judged by the way its animals are treated." Let the city set this example.

Sincerely,

Mark Buckley  
1606 Jefferson Avenue, # 2  
Miami Beach, FL 33139

*\*Correction: The exact quote as written and live on WSVN was: "If the rooster leaves, it's a relief to the entire building," said a resident of Mr. Clucky's apartment complex.*  
<http://www.wsvn.com/news/articles/local/MI127318/>

*Letters and phone numbers and a detailed map of locations of neighbors throughout my building and in buildings adjacent to my apartment validating that there has never been a problem with Mr. Clucky and Wallflower – now, in the mayor's possession – have been withheld from the public out of respect for these good people.*