

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**CITY OF LOS ANGELES DEPARTMENT OF
ANIMAL SERVICES
221 N. FIGUEROA STREET, STE. 600
LOS ANGELES, CA 90012**

Employer

Inspection No.

1654479

DECISION

Statement of case

City of Los Angeles Department of Animal Services (Employer) is an animal shelter. From February 28, 2023, to August 23, 2023, the Division of Occupational Safety and Health (the Division), through Associate Safety Engineer Adrienne McCambridge, conducted an inspection of Employer's worksite at 1850 West 60th Street, Los Angeles, CA 90047 (the worksite).

On August 23, 2023, the Division issued one citation to Employer, alleging two violations of the California Code of Regulations, title 8.¹ Citation 1, Item 1, alleged that Employer failed to maintain clear walkways of not less than 24 inches. Citation 1, Item 2, alleged that Employer failed to maintain guillotine doors in the kennels in safe operating condition.

Employer timely appealed the citations, disputing the alleged violations, challenging the classification, and arguing that the proposed penalties were unreasonable. Employer also raised multiple affirmative defenses.²

This matter was heard by Administrative Law Judge Ka H. Leung for the California Occupational Safety and Health Appeals Board (Appeals Board) on January 8, 2025. Jorge M. Otano, Deputy City Attorney, and Travis Hall, Deputy City Attorney, represented Employer. Lisa Wong, Staff Counsel, and Dinora Perez, Staff Counsel, represented the Division. The matter was submitted on July 1, 2025.

¹ Unless otherwise specified, all references are to California Code of Regulations, title 8.

² Except where discussed in this Decision, Employer did not present evidence in support of its affirmative defenses, and said defenses are therefore deemed waived. (*RNR Construction, Inc.*, Cal/OSHA App. 1092600, Denial of Petition for Reconsideration (May 26, 2017).)

Issues

1. Did Employer maintain walkways with a minimum width of 24 inches?
2. Did Employer ensure that the guillotine doors in the kennels were maintained in a safe operating condition?
3. Is the proposed penalty for Citation 1, Item 2, reasonable?

Findings of Fact

1. The Division does not have accurate measurement of Employer's walkway.
2. The width of Employer's walkway cannot be deduced based on incomplete measurements of the items within the walkway.
3. Employer does not have a standardized method to determine when a kennel can be safely used with a malfunctioning guillotine door.
4. Employer's continued use of kennels with malfunctioning guillotine doors poses a hazard to employees.
5. The Division calculated the penalty of Citation 1, Item 2, in accordance with the penalty setting regulations set forth in sections 333 through 336.

Analysis

1. Did Employer maintain walkways with a minimum width of 24 inches?

Citation 1, Item 1, alleged that Employer violated section 3272, subdivision (b), for failure to maintain a walkway of at least 24 inches. Section 3272, subdivision (b), reads:

(b) Where aisles or walkways are required, machinery equipment, parts, and stock shall be so arranged and spaced as to provide clear walkways or aisles of not less than 24 inches in width and 6 feet 8 inches clear headroom to a safe means of egress from the building.

The Division's alleged violation description reads:

Prior to and during the course of the inspection, including but not limited to, on February 28, 2023, in required aisles and hallways in the main animal intake and medical services building, the Employer did not ensure that equipment such as wheeled portable pop-up crates for animals were arranged and spaced so as to provided clear walkways or aisles of not less than 24 inches in width to a safe means of egress.

The Division bears the burden of proving, by a preponderance of the evidence, that a cited safety order was violated. (*Lone Pine Nurseries*, Cal/OSHA App. 00-2817, Decision After Reconsideration (Oct. 30, 2001).) The Appeals Board applies a reliability-based evidentiary standard in its proceedings, offering more flexibility than the strict mechanical rules of the Evidence Code. The Appeals Board must rely on “the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs” (See §376.2), ensuring it meets the necessary reliability standard. (See *Sweetheart Cup Company*, Cal/OSHA App. 95-979, Decision After Reconsideration (Nov. 5, 1999) [evidence supporting the accuracy and reliability of comparison methods was inadequate and failed to meet the standard of clear and certain proof required by a trier of fact].)

At the hearing, the Division presented two witnesses familiar with the width of the walkways at the worksite: Karlee Cabana, a registered veterinary technician who took measurements, and Hien Le, a Senior Safety Engineer familiar with the Division’s inspection records. Employer’s animal shelter is arranged in a U-shape with adjoining walkways. The Division presented a picture of Employer’s walkway with portable animal cages situated on both sides of the walkways. (Exhibit 16.)

Cabana testified that the total wall-to-wall width of the walkway measured 71 inches. There are crates of various sizes placed along the walkway on the left and the right side, but Cabana only measured two. Referring to Exhibit 16, she testified that a black crate on the left measured 31 inches and a silver crate on the right measured 28.5 inches; however, these two crates were not placed directly across from each other. Cabana testified that similarly styled crates depicted in Exhibit 16 would have the same measurements.

Based on Cabana’s measurements, a single crate on either side of the walkway would not reduce the passable width to below 24 inches. Theoretically, if the 31 inches crate is placed directly across from a 28.5-inch silver crate, the remaining width of the walkway would be 11.5 inches. However, in Exhibit 16, where a black crate is staggered across from a silver crate, the space between the two crates appears significantly wider than 11.5 inches, casting doubt on the reliability of Cabana’s measurements.

Cabana did not measure the distance between the two crates, and the Division offered no evidence that its inspector took such measurements. Neither of the Division’s witnesses could explain why the passable portion of the walkway was not measured. Although the walkway’s width could potentially be estimated by subtracting the width measurements of two crates that are placed directly across from each other, not all crates were measured, making any conclusion speculative.

Additionally, the photographs presented do not reliably demonstrate that any walkway was less than 24 inches wide, as they lack a reference scale for measurements and do not provide

multiple angles to accurately assess the placement of items within the walkway. Without a reference object or varied perspectives, factors such as camera angle and lens distortion further undermine measurement reliability. Therefore, with one photograph alone, it cannot be concluded that the width of Employer's walkway was less than 24 inches.

Based on the foregoing, the Division has failed to provide evidence demonstrating that the walkways were less than 24 inches wide by a preponderance of the evidence. Accordingly, Citation 1, Item 1, is vacated.

2. Did Employer ensure that the guillotine doors in the kennels were maintained in a safe operating condition?

Citation 1, Item 2, alleged a violation of section 3328, subdivision (g). Section 3328, subdivision (g), requires that "Machinery and equipment in service shall be maintained in a safe operating condition." The Division's citation alleged that:

Prior to and during the course of inspection, including but not limited to, on February 28, 2023, the Employer did not ensure that equipment such as the guillotine doors in the kennels that are used to separate dogs from the front of the kennel while employees are cleaning the kennels or feeding the animals were maintained in a safe operating condition. Some of the guillotine doors would not close properly.

The plain language of section 3328, subdivision (g), does not require that machinery and equipment be in perfect condition; rather, it mandates that they be maintained in a safe operating condition. The central issue is whether Employer's malfunctioning guillotine doors created a hazardous condition that compromised employee safety.

Employer routinely uses kennels with malfunctioning guillotine doors without incident, but this does not indicate that the conditions were safe, only that work persisted despite the hazard. Karlee Cabana, a registered veterinary technician, testified that administering medication to an aggressive dog without a functional guillotine door would be dangerous, as the animals could lunge and attempt to bite. Similarly, Diana Guzman, an animal care technician, testified that while guillotine doors do not completely eliminate the hazard of working with dangerous animals, they function to separate animals from employees during kennel cleaning. Based on the testimony of witnesses who performed work in the animal shelter, the evidence clearly demonstrates that guillotine doors play a critical role in separation of animals, and their failure compromises employee safety.

One of Employer's incident reports corroborates the testimonial evidence that a malfunctioning guillotine door presents a hazard. (See Exhibit 13, p.4.) On October 11, 2022, while an employee was cleaning a dog's kennel, a dog escaped from its cubby due to a

malfunctioning guillotine door. The employee, unsure whether the dog was attempting to escape or bite, quickly exited the kennel. In the process of closing the kennel door, the employee slammed his arm in the door, resulting in an injury. This incident illustrates how malfunctioning guillotine doors compromise safety. When employees cannot reliably close these doors, they lose a critical barrier for separating animals, increasing the risk of injury.

A malfunctioning guillotine door may not always pose a hazard, but Employer lacks a standardized method to determine when a kennel can be safely used with a malfunctioning guillotine door. Instead, employees must rely on their own judgment without formal training, leaving the risk of exposure to aggressive animals unmitigated. As a result of this approach, malfunctioning doors have already led to one employee injury. Based on the foregoing, Employer has failed to maintain the guillotine doors in a safe operating condition as required by section 3328, subdivision (g), and Citation 1, Item 2, is affirmed.

3. Is the proposed penalty for Citation 1, Item 2, reasonable?

Penalties calculated in accordance with the penalty setting regulations set forth in sections 333 through 336 are presumptively reasonable and will not be reduced absent evidence that the amount of the proposed civil penalty was miscalculated, the regulations were improperly applied, or that the totality of the circumstances warrant a reduction. (*RNR Construction, Inc.*, Cal/OSHA App. 1092600, Decision After Reconsideration (May 26, 2017), citing *Stockton Tri Industries, Inc.*, Cal/OSHA App. 02-4946, Decision After Reconsideration (Mar. 27, 2006).)

Exhibit 2 is the Division's "Proposed Penalty Worksheet." The Division's inspector testified that the penalties reflected on Exhibit 2 were calculated in accordance with the Division's policies and procedures. Employer did not produce evidence to rebut the presumptive reasonableness of the calculation. Accordingly, the penalty of \$560 for Citation 1, Item 2, is found reasonable.

Conclusion

For Citation 1, Item 1, the Division did not establish a violation of section 3272, subdivision (b), because the Division did not present reliable evidence to show that Employer failed to maintain egress walkways with a width of at least 24 inches.

For Citation 1, Item 2, the Division established a violation of section 3328, subdivision (g), because the Division proved that Employer failed to maintain its kennel guillotine doors in safe operating condition. The penalty is reasonable.

Order

It is hereby ordered that Citation 1, Item 1, is vacated.

It is hereby ordered that Citation 1, Item 2, is affirmed, and the penalty is sustained at \$560, as set forth in the attached Summary Table.

Dated: 07/31/2025

/s/Judge Ka H. Leung

Ka H. Leung
Administrative Law Judge

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**

If no petition is filed, the penalty amount set forth in the Summary Table is due and payable 30 days after the Order or Decision is issued. If the Appeals Board approved a payment plan, all payments are due in accordance with the dates indicated in the Summary Table. If a Petition for Reconsideration is filed, no payment should be made until the final outcome of the appeal.