



## **Rabbit Advocates: Statement on Legal Action**

**August 16, 2020**

Over the past week, Rabbit Advocates (RA) has received questions about a lawsuit we recently filed asking for the return of 19 foster rabbits in the care of two former RA volunteers, Dave and Mary Marvin. Out of a desire to respect the privacy of all parties, RA did not publicize the lawsuit nor the events that transpired that led us to file the suit. However, as the Marvins have publicized their side of the story, we believe it is important that we share why RA made the difficult decision to pursue legal action in this case.

On May 15, 2002, RA was incorporated as a non-profit rabbit rescue. A small group of volunteers embarked on a unique mission of “promoting the welfare of domestic rabbits.” Over the years, the organization has overcome innumerable challenges to grow into the organization it is today.

As with many entirely volunteer-run organizations that tackle big problems and operate on a shoestring budget, mistakes were made along the way. Unfortunately, for too long, RA has been an organization where the rules did not apply to everyone equally. While there have long been protocols in place for taking in new rescues, adopting out rabbits, certifying new foster homes, and more, there were a very small number of volunteers who did not regularly adhere to the rules. Not only did this put our organization at risk financially and legally, but more importantly, it resulted in many rabbits being placed in unsuitable living situations where they did not get the socialization and care that they needed to thrive.

In preparing this statement, RA has closely reviewed records to provide a factual, transparent timeline of events. It is our hope that by addressing mistakes of the past, we will be able to build a brighter, better future. We owe that to our volunteers and to the rabbits in our care.

For some background, as of 2013, Oregon law requires rescues that keep more than 10 animals to be licensed by the state (see [ORS 609.415](#)). To qualify for a license, rescues must demonstrate they comply “with all standards imposed under applicable law,” including an inspection. A violation of this law can result in serious penalties “to be determined by the enforcing agency, including but not limited to impoundment of all animals under the animal rescue’s control, the revocation of the animal rescue’s license to operate, and a civil penalty of not more than \$500 for each violation.”

In addition to applying for state licensure, animal rescues must also register with the local county or counties where they operate. Prior to 2020, RA only applied for a Multnomah County animal rescue license, incorrectly believing that our corporate address determined where we needed to be licensed. Pursuant to licensing requirements, RA foster homes based in Multnomah County were subject to unannounced inspections and passed. There was also a concern that the Marvin household in Washington County had too many rabbits in a modest three-bedroom home with only two caretakers. Between 2016-2018, the need for ongoing internal foster home inspections every 1-2 years was hotly debated by the RA Board, but ultimately abandoned.

RA's potential licensure problems came to a head when in July 2019, RA was contacted by a Charitable Audit Coordinator from the Oregon Department of Justice Charitable Activities Section. The auditors raised questions about compliance with non-profit registration and animal rescue licensure requirements. Mary Marvin, an RA Board Member at the time, even admitted in an email to the auditor that RA could not pass inspection in Washington County because there were too many rabbits in her home.

In November of 2019, a new RA Board was seated to ensure full compliance with the State of Oregon Charitable Activities Section. By December of 2019, the RA Board was able to document that sufficient corrective measures were in place and the inquiry was closed. The Department of Justice did not find any specific instances of wrongdoing, but they informed RA that the organization would have to do better going forward. We took this warning to heart and committed to implementing the changes.

Many of you will remember that RA took the unprecedented step of issuing a "rescue moratorium" for three months from December 2019 through February 2020. However, many are unaware of the events that led to the moratorium. Just as RA was assuring state auditors that we were bringing our rescue and foster practices into compliance, Dave Marvin organized two major rescue operations, after a series of other rescues, resulting in the addition of over 30 rabbits to the organization at a time when we did not have the finances to cover medical costs, nor the foster space to safely house all the rabbits.

Dave placed rabbits in foster homes that were not certified and did not meet RA foster requirements, nor the requirements laid out by our state and local governments. In one instance, Dave placed rabbits in an unsafe home where the Marvins themselves had previously acknowledged they would never adopt one of their foster rabbits. When those rabbits were eventually removed, they had irritated skin from fleas and were

incredibly fearful. Other rabbits spent weeks in temporary holding cages at a veterinarian's office and at the Clark County fairgrounds because there was no available space to place them. The rescue moratorium was a drastic, but necessary measure. When the moratorium was lifted, RA put new protocols in place to assure we could cover medical costs and provide a safe foster space to every new rescue rabbit.

RA has made great progress in reducing the number of foster rabbits in our current foster homes and placing rabbits in great adoptive homes. RA currently has over 50 active foster providers. Without counting the Marvins' home, the number of foster rabbits in other foster homes ranges from 1-4. Additionally, without counting the Marvins' home, only four current foster rabbits have been in the same foster home for more than a year.

However, the Marvins continue to have the highest number of RA foster rabbits in their care: 19. That number is unacceptable, nor does it even take into account the number of rabbits the Marvins personally own or have rescued independent of RA. While the Marvins are very knowledgeable about rabbit care, it is simply not possible to provide 19+ rabbits with the quality time and space they need to exercise, explore, and interact with people.

Not only do the Marvins have the highest number of RA foster rabbits in their care, but they have had 9 of those rabbits (soon to be 11 in September) in their foster home for at least two years. While the Marvins do have 4 medically-fragile rabbits, 3 of those rabbits have not actually been in their care for more than a year.

Earlier this Spring, the Marvins agreed to the transfer of two of their RA foster rabbits from their care. In less than a day after the transfer, the rabbits' respective new foster providers realized that both rabbits had medical issues that required attention. One rabbit had a growth the size of a silver dollar protruding from her side that had never been noted by the Marvins. These were the last foster transfers the Marvins approved.

A close review of our records showed the problem with the Marvins' home went beyond the number of rabbits they had, but the fact that they had had many of these rabbits for a long time. A number of the rabbits had interested, qualified adopters who had submitted adoption applications over the years and been approved by the adoption team. While the Marvins' numbers of RA foster rabbits has come down from 30 to 19 over the past year, their numbers have remained too high for too long and do not show signs of stabilizing. If regulatory agencies inspected a home with this many rabbits, the organization and *all* of the foster rabbits in our care would be at great risk. We have too many other rabbits currently in our care to take that risk. Additionally, while on the RA

Board, Mary Marvin helped to establish the policy that RA foster providers could not foster rabbits with multiple organizations at the same time, so this became a concern as well.

A close review of our records also revealed that Mary Marvin, as Medical Fund Coordinator, charged thousands of dollars of care to RA for rabbits that she added to or deleted from RA's rescue database without authorization. When we discovered this was happening, we immediately suspended Mary Marvin's access to our rescue database and revoked her access to the RA credit card and bank account. During a global pandemic that has posed extraordinary challenges for non-profits, including RA, the Medical Fund expenditures alone were nearly \$40,000 in a 5-month period, an unsustainable pace of spending.

We also discovered that two checks payable to RA totaling \$1,733 for wholesale hay sales were deposited into the Marvins' personal bank account this Spring. Upon request, the Marvins returned the funds, but the deposit was in their personal bank account for at least two months before RA figured out what had happened.

The situation with the Marvins became more difficult once Covid-19 hit. RA announced new adoption protocols to assure that adoptions could still happen without risking the health and safety of adopters or foster providers. Chief among the new protocols was the suspension of in-home visits prior to finalizing an adoption, as public health experts cautioned that people are at highest risk for transmitting Covid-19 to others while indoors. Home inspections are being conducted virtually using technologies such as Zoom, FaceTime, and Skype.

However, after the new protocols were shared with foster providers, Mary Marvin wrote to the adoption team to indicate that she and Dave were not comfortable approving an adoption without an in-home inspection. While the adoptions team did give many foster providers the opportunity to place their rabbits on a temporary "Covid-19 hold," it soon became clear that the pandemic was going to last longer than anyone initially thought and foster providers were asked again to follow the new Covid-19 protocols.

Despite this guidance, Mary emailed a prospective adopter to indicate that she would only entertain the adoption if she and Dave would be allowed to enter their home to carry out an in-person inspection. The prospective adopter contacted the adoption team to express their shock and discomfort at Mary's request.

By comparison, since the pandemic struck in March, RA has used these new approaches to find excellent adoptive homes for 75 other foster rabbits without placing anyone at undue risk of contracting or transmitting Covid-19.

Mary Marvin requested that all of their remaining RA foster rabbits be transferred to the new rabbit rescue the Marvins recently started in June of 2020. RA knew that there were too many rabbits in their household and did not feel comfortable transferring 19 animals to a newly-formed rescue. The last time RA transferred rabbits to another rescue was a year ago when 3 RA foster rabbits were transferred to a well-known, well-established rescue, the Oregon Humane Society (OHS), in exchange for RA accepting 1 OHS rabbit who was not adapting well to a shelter environment. In response to Mary's transfer request, RA sent a letter to the Marvins reminding them of the RA foster contract they had signed and requesting their assistance in transferring the rabbits to new RA foster homes. We intentionally recruited more foster providers and began to make plans for how we would orchestrate such a large-scale transfer.

It was in response to our letter that Dave Marvin filled out an adoption application to adopt all 19 of the rabbits. His application was denied—just as we would deny any request to adopt such a large number of rabbits. This is particularly true in any case where concerns have been raised about the quality of life those rabbits would have, and when at least 3 of the foster rabbits are not yet spayed or neutered. In recent years, only a handful of homes have adopted 3 or more rabbits in a single year, often bonded trios of siblings. As recently as this week, the Marvins denied our request to conduct a virtual welfare check on the rabbits.

The American Society for the Prevention of Cruelty to Animals (ASPCA) has informative articles related to “care capacity” and overcrowding that caution people in the animal rescue community to look out for these signs:

- Unwillingness to allow others to see the location where the animals are kept.
- Unwillingness to disclose the total number of animals in their care.
- Continuing to take in new animals even if the available space and other resources are insufficient.
- Viewing well-established animal rescue organizations as the enemy.

When RA decided to take legal action, it was because: (1) we truly believed we had exhausted every single reasonable option to transfer the rabbits from the Marvins' home; and (2) we truly believed that because of the sheer number of rabbits in the Marvins' home, it was not possible to provide the level of care and socialization expected by the House Rabbit Society, with whom RA is a registered affiliate. RA would not pursue legal action unless we believed that it was absolutely necessary.

One of the most difficult aspects of rabbit rescue work is knowing that there will always be more rabbits in need than we are able to help. Over the past year, RA has strived to become the organization the public expects us to be. RA has grown tremendously over the years, and growth and change are never easy. We have made many improvements to our protocols to assure that this situation will not repeat itself. We are strengthening our management teams, record-keeping systems, checks and balances, and financial oversight. We continue to celebrate our latest rescues and adoptions on social media and in our new e-newsletter. We have a responsibility to the bunnies, to our community, and to state and local governments. We must not only meet their standards—we must exceed them. We do not take that responsibility lightly. RA must do what it takes to continue helping domestic rabbits for decades to come.