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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 158

In the Matter of Stray from the
Heart, Inc.,

Appellant,

v.

Department of Health and Mental
Hygiene of the City of New York,
et al.,

Respondents.

Catherine St. John, for appellant.

Avshalom Yotam, for respondents.

Office of the Manhattan Borough President, amicus

curiae.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

When a statute or local law does not expressly
authorize a private right of action, the inquiry becomes whether

the plaintiff is one of the class for whose particular benefit the law was enacted, whether recognition of a private right of action would promote the legislative purpose, and whether creation of such a right would be consistent with the legislative scheme (see Uhr v East Greenbush Cent. School Dist., 94 NY2d 32, 38 [1999]). It is clear from the legislative findings here (former Administrative Code of the City of NY § 17-801) that the Animal Shelters and Sterilization Act was enacted for the benefit of the general public in New York City and for the safety of unwanted dogs and cats. Petitioner, an animal rescue organization "whose mission is to rescue, rehabilitate and place homeless dogs with loving new families," does not belong to the class for whose specific benefit the law was enacted. Rather, petitioner alleges that it did work and bore costs that would have been unnecessary if the City had fulfilled the duty enjoined upon it by operation of that law. While petitioner's work is commendable, the law does not provide for damages under such circumstances. Assuming, without deciding, that petitioner had standing to seek enforcement of the Animal Shelters and Sterilization Act, it has no private right of action for money damages, the only relief it seeks on this appeal.

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Order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

Decided December 11, 2012