

# **A Rebuttal to New York City Council Member Felder's Report Entitled *Curbing the Pigeon Conundrum***

November 24, 2007\*

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On November 12, 2007, Simcha Felder, New York City Council Member (44th District, Brooklyn) and possible candidate for City Comptroller in 2009, released a 15-page report entitled *Curbing the Pigeon Conundrum* with the intention to “bring attention to the various problems associated with large pigeon populations in metropolitan areas, to outline the laws relating to pigeon population control in the City of New York, and to examine various methods of population management as potential solutions to the City’s excess of pigeons.”<sup>1</sup> The Felder Report presents the results of his research on pigeons and makes recommendations including fining people for feeding pigeons, using city taxpayer dollars to fund a “Pigeon Czar,” using hawks to kill pigeons, and interfering with their reproduction.<sup>2</sup>

As demonstrated below, the Felder Report (1) lacks truth and integrity in research and reporting; (2) relies heavily on secondary sources (40% of citations were to news reports from such sources as the *New York Times* and *Fox News* and press releases) and a 13-year-old report from the United States Department of Agriculture (“USDA”) that is based primarily on decades-

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\* This paper was revised on December 2, 2007 to further explain the potential estimated cost of OvoControl P “birth control” and to provide information about pigeon population trends from the United States Geological Survey. On December 3, 2007, I added a statement discrediting Council Member Felder’s claim that “[t]he threat of pigeon droppings led the National Institute for Occupational Health and Safety to release a report in 2005 . . .” and expanded footnote 29, citing a lawsuit involving pigeons.

<sup>1</sup> SIMCHA FELDER, NEW YORK CITY COUNCIL MEMBER, ET AL., CURBING THE PIGEON CONUNDRUM (Nov. 12, 2007) (hereinafter referred to as the “Felder Report” or the “Report”) at 2, available at [http://www.nytimes.com/packages/pdf/nyregion/city\\_room/20071112\\_pigeonreport.pdf](http://www.nytimes.com/packages/pdf/nyregion/city_room/20071112_pigeonreport.pdf) and attached hereto as Exhibit A.

old studies (11% of citations); and (3) lacks scientific data on the population of pigeons in New York City and on the impact a large-scale pigeon population control program would have on the City and State's environment.

**(1) Lack of Truth and Integrity in Research and Reporting**

The Felder Report lacks truth and integrity regarding an issue that is important to animals, the environment, and City residents. (According to an interview on WNYC, Felder's interns conducted the research for the report.)<sup>3</sup> Among other things, the Felder Report (a) misstates the public health risk, (b) misadvises the public on the law, and (c) distorts statements made by animal-related organizations.

**(a) Misstating the Public Health Risk**

The first sentence of the Felder Report states that the "uncontrolled pigeon population in New York City poses a threat to public health . . . ."<sup>4</sup> This alarmist assertion flies in the face of information readily available on the City Department of Health and Mental Hygiene's ("DOHMH") Web site and the Centers for Disease Control and Prevention's ("CDC") Web site. To the Felder Report's credit, the authors state that "cases of civilians contracting diseases from pigeons or pigeon droppings are rare and the threat is often exaggerated."<sup>5</sup> However, rather than disclosing this fact up front, the authors bury this important caveat in the last paragraph of the section entitled Public Health Risks after distorting DOHMH and CDC information.

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<sup>2</sup> *Id.* at 13-14 (Exhibit A).

<sup>3</sup> *The Brian Lehrer Show, The Pestilence of Pigeons* at 13:33 (WNYC radio broadcast Nov. 13, 2007), accessible at <http://www.wnyc.org/shows/bl/episodes/2007/11/13/segments/88767>.

<sup>4</sup> FELDER, *supra* note 1, at 2 (Exhibit A).

<sup>5</sup> *Id.* at 5 (Exhibit A).

The Felder Report states that “[t]he threat of Histoplasmosis *from pigeon droppings* led the National Institute for Occupational Safety and Health to release a report in 2005 explaining the disease and the steps that workers should take to protect themselves against it.”<sup>6</sup> (Emphasis added.) This statement—clearly intended to make the public think that pigeon droppings were the impetus for the CDC-NIOSH report—is a complete fabrication. The CDC-NIOSH report’s forward discusses the threat of bird and bat droppings generally; the 26-page report contains only eight references to pigeons; and the report notes that pigeon droppings pose a negligible risk to public health.<sup>7</sup> The Felder Report incorrectly states that “[h]istoplasmosis is a disease caused by fungus that grows in pigeon droppings” and notes that it can be fatal if left untreated.<sup>8</sup> According to the CDC-NIOSH report, histoplasmosis is caused by *Histoplasma capsulatum*, a fungus that grows in soil, especially that which has been enriched with bird or bat droppings.<sup>9</sup> The fact that the fungus grows in soil and not the droppings themselves is significant because New York City is heavily paved. CDC-NIOSH notes that “fresh bird droppings on surfaces such as sidewalks and windowsills have not been shown to present a health risk for histoplasmosis because birds themselves do not appear to be infected by *H. capsulatum*.”<sup>10</sup> The proportion of people infected with the disease is highest along the Ohio and Mississippi River valleys, not New York City.<sup>11</sup> Pigeons are not the primary culprits. Roosts of blackbirds, such as starlings, have been found to

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<sup>6</sup> FELDER, *supra* note 1, at 5 (Exhibit A).

<sup>7</sup> STEVEN W. LENHART ET AL., U.S. DEPT. OF HEALTH AND HUMAN SVCS., HISTOPLASMOSES: PROTECTING WORKERS AT RISK (Dec. 2004), *available at* <http://www.cdc.gov/niosh/docs/2005-109/default.html> and attached hereto as Exhibit B.

<sup>8</sup> FELDER, *supra* note 1, at 4 (Exhibit A).

<sup>9</sup> LENHART ET AL., *supra* note 7, at 18 (Exhibit B).

<sup>10</sup> *Id.* at 3 (Exhibit B).

<sup>11</sup> *Id.* (Exhibit B).

be heavily contaminated by *H. capsulatum*.<sup>12</sup> Habitats of pigeons—with dirt floors—have been found to be contaminated by the fungus.<sup>13</sup>

The Felder Report mentions the threat of cryptococcosis, stating that it is “similar in dissemination” to histoplasmosis.<sup>14</sup> Two paragraphs later, the Felder Report states that HIV-infected persons are at a heightened risk, neglecting to fully disclose recent conclusions by the CDC regarding the relationship of pigeon droppings to the risk of cryptococcosis in persons with HIV. CDC-NIOSH states that “evidence is lacking that contaminated bird manure is the primary environmental source of exposure to *C. neoformans* [an infectious agent] in most cases of cryptococcosis among HIV-infected persons” and notes that 1997 guidelines were revised in 2001 to remove the pigeon dropping example in the statement that “HIV-infected persons should avoid ‘sites that are likely to be heavily contaminated with *C. neoformans* (e.g., areas heavily contaminated with pigeon droppings).”<sup>15</sup> (Note: CDC-NIOSH recommends that HIV-infected persons obtain advice from their health-care provider regarding exposure precautions when engaging in activity exposing them to *C. neoformans*.)<sup>16</sup>

The Felder Report states that “psittacosis is also transmitted through the inhalation of airborne spores from dried pigeon droppings.”<sup>17</sup> Again, this distorts the health risks related to pigeons. According CDC-NIOSH, all birds are susceptible; however, pet birds (parrots,

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<sup>12</sup> *Id.* (Exhibit B).

<sup>13</sup> *Id.* (Exhibit B).

<sup>14</sup> FELDER, *supra* note 1, at 4 (Exhibit A).

<sup>15</sup> LENHART ET AL., *supra* note 7, at 18 (Exhibit B).

<sup>16</sup> *Id.*

<sup>17</sup> FELDER ET AL., *supra* note 1, at 4-6 (Exhibit A).

parakeets, macaws, and cockatiels) and poultry (turkeys and ducks) are most frequently involved in transmission to humans.<sup>18</sup> As Felder reports, psittacosis is extremely rare, with only 50 documented cases since 1996.<sup>19</sup>

In perspective, the risk of contracting a disease from a spinach salad or sitting in a whirlpool spa is greater than that posed by pigeons or their droppings. The CDC states that there are annually 76 million cases of foodborne disease in the United States.<sup>20</sup> A total of 199 persons infected with E. coli from eating uncooked spinach were reported in 2006.<sup>21</sup> Each year, 8,000 to 18,000 people are hospitalized with Legionnaires' disease in the U.S.<sup>22</sup> Legionnaire's Disease is contracted through mist and is associated with, among other things, using whirlpool spas.<sup>23</sup>

#### **(b) Misconstruing the Law**

The Felder Report wrongly advises that “feral pigeons are not afforded any protection under New York State law” and that all “New York State laws concerning pigeons are defined as New York State Environmental Conservation Laws.”<sup>24</sup> (Emphasis added.) There are multiple statutes that protect pigeons, and I list the following as examples. New York Agricultural and

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<sup>18</sup> LENHART ET AL., *supra* note 7, at 18-19 (Exhibit B).

<sup>19</sup> *Id.*

<sup>20</sup> CDC, DEPT. OF HEALTH AND HUMAN SVCS., *FOODBORNE ILLNESSES*, at 5 (Jan. 1, 2005), *available at* [http://www.cdc.gov/ncidod/dbmd/diseaseinfo/foodborneinfections\\_g.htm#howmanycases](http://www.cdc.gov/ncidod/dbmd/diseaseinfo/foodborneinfections_g.htm#howmanycases) and attached hereto as Exhibit C.

<sup>21</sup> CDC, DEPT. OF HEALTH AND HUMAN SVCS., *QUESTIONS AND ANSWERS ABOUT E. COLI 0157:H7 OUTBREAK FROM FRESH SPINACH* (Oct. 12, 2006), *available at* <http://www.cdc.gov/ecoli/2006/september/qa.htm> and attached hereto as Exhibit D.

<sup>22</sup> CDC, DEPT. OF HEALTH AND HUMAN SVCS., *LEGIONELLOSIS: LEGIONNAIRES' DISEASE (LD) AND PONTIAC FEVER*, *available at* [http://www.cdc.gov/ncidod/dbmd/diseaseinfo/legionellosis\\_g.htm](http://www.cdc.gov/ncidod/dbmd/diseaseinfo/legionellosis_g.htm) and attached hereto as Exhibit E.

<sup>23</sup> *Id.*

Markets Law (“Ag & Mkts Law”) section 353-a protects pigeons from aggravated cruelty.<sup>25</sup> Ag & Mkts Law section 353 provides that anyone who beats a pigeon (or other animal) or causes it to be deprived of necessary food or drink, among other acts, is guilty of a misdemeanor.<sup>26</sup> Ag & Mkts Law section 362 provides that throwing a substance at a pigeon (or other animal) to willfully injure it is punishable by imprisonment of up to a year, a fine of up to \$1,000 or both.<sup>27</sup> The New York State Environmental Quality Review Act (“SEQRA”) requires a municipality to carefully review the environmental impact of local legislation intended to reduce the pigeon population.<sup>28</sup> Moreover, the developing body of case law involving animals and their interests could offer pigeons protection.<sup>29</sup>

### (c) Distorting Statements Made by Animal-Related Organizations

The Felder Report cites a City Parks Department Web site<sup>30</sup> for the statement that “many wildlife groups (including the national, state and city chapters of the Audubon Society) believe that the introduction of more hawks is a positive change for the City, leading to hawk-watching

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<sup>24</sup> FELDER ET AL., *supra* note 1, at 5 (Exhibit A).

<sup>25</sup> Ag. & Mkts. § 353-a attached hereto as Exhibit F.

<sup>26</sup> Ag. & Mkts. § 353 attached hereto as Exhibit G.

<sup>27</sup> Ag. & Mkts. Law § 362 attached hereto as Exhibit H.

<sup>28</sup> See N.Y. Environmental Conservation Law §§ 3-0301 & 8-0113; 6 NYCRR Part 617 attached hereto as Exhibit I.

<sup>29</sup> See generally, STEVEN M. WISE, RATTLING THE CAGE: TOWARD LEGAL RIGHTS FOR ANIMALS (2000); Warren St. John, New Breed of Lawyers Gives Every Dog his Day in Court, NY Times (Sept. 3, 2006) (reports on case involving City law banning pigeons, except Antwerp and homing pigeons, in apartments; a veterinarian was prepared to testify that there were no biological differences between Antwerp and homing pigeons and when the opposition had no response, the judge threw out the suit).

<sup>30</sup> Press Release, NYC Dept. of Parks and Recreation, Coalition of Conservation Organizations Announce New York City Raptor Fund (May 18, 2005), available at [http://www.nycgovparks.org/sub\\_newsroom/daily\\_plants/daily\\_plant\\_main.php?id=19513](http://www.nycgovparks.org/sub_newsroom/daily_plants/daily_plant_main.php?id=19513), and attached hereto as Exhibit J.

programs and *servicing to help in controlling the pigeon population.*” (Emphasis added.)<sup>31</sup> The cited source says nothing about pigeon control or any other kind of bird control. It does mention control of “invasive species”; however, a Parks Department press release provides clarification—the invasive species referred to is something that *harms* the habitat for raptors, likely not something that they eat.<sup>32</sup>

In a section entitled “Pigeon Control Methods” that explores the pros and cons of various methods for reducing the pigeon population, the Felder Report discusses pigeon netting. The report acknowledges that pigeon netting is illegal in the City and states that “[a]nimal rights groups, especially PETA, have managed to shut down most pigeon-shooting operations” and that “pigeons have the innate sense to return to wherever they were netted, sometimes over thousands of miles.”<sup>33</sup> The Felder Report does not reference a source for the assertion that most pigeon-shooting operations have been shut down and outrageously suggests that netted pigeons are able to fly home after being netted, packed into vans to be transported across state lines, and shot at. Presently, the Humane Society of the United States is actively working to shut down canned pigeon hunt operations. Journalist Andrew Blechman describes a canned pigeon shoot operation that he attended in Chapter 6 of his book *Pigeons: The Fascinating Saga of the World’s Most Revered and Reviled Bird* (Open City Books 2006). According to Blechman, in such operations, pigeons are shot at close range to be killed for fun and, if a pigeon manages to escape, it is usually so wounded that it would not be able to fly home. At a forum entitled “The Ultimate

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<sup>31</sup> FELDER ET AL., *supra* note 1, at 11 (Exhibit A).

<sup>32</sup> Press Release, NYC Dept. of Parks and Recreation, Coalition of Conservation Organizations Announce New York City Raptor Fund (May 17, 2005) *available at* [http://www.nycgovparks.org/sub\\_newsroom/press\\_releases/press\\_releases.php?id=19512](http://www.nycgovparks.org/sub_newsroom/press_releases/press_releases.php?id=19512) and attached hereto as Exhibit K.

<sup>33</sup> FELDER ET AL., *supra* note 1, at 13 (Exhibit A).

Urban Denizens: Pigeons and Rats—Animal Welfare and Public Health Issues” at the New York City Bar Association on June 13, 2007, participants described recent nettings that they witnessed and attorneys confronted the ASPCA on its alleged failure to actively pursue netters and prosecute the netting of such birds, which constitutes animal abuse. The ASPCA’s general counsel was unable to provide a satisfactory explanation why it was failing to protect pigeons.

(2) **Heavy Reliance on Secondary and Old Sources**

Of the 91 footnotes in the Felder Report, 34 citations (40%) were to secondary news sources, among them the *New York Times*, *Fox News*, and *The Guardian*, and press releases. In some instances, the Felder Report quotes unsupported news statements or misconstrues them. For example, for the proposition that “[p]igeon droppings are estimated to cause approximately \$1.1 billion in damage in the United States each year” the Felder Report cites Jon Mooallem’s 2006 *New York Times* article “Pigeon Wars.”<sup>34</sup> Mooallem does not cite a source for this statistic. Mooallem was likely referring to David Pimentel’s estimate in his book *Biological Invasions*.<sup>35</sup> According to Pimentel’s book, the annual cost of damage due to pigeons is on par with that of the Asian clam (\$1 billion),<sup>36</sup> exotic fish (\$1 billion),<sup>37</sup> and the fire ant (\$1 billion).<sup>38</sup>

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<sup>34</sup> Jon Mooallem, *Pigeon Wars*, N.Y. TIMES (Oct. 15, 2006) available at [http://www.nytimes.com/2006/10/15/magazine/15pigeons.html?pagewanted=1&\\_r=1](http://www.nytimes.com/2006/10/15/magazine/15pigeons.html?pagewanted=1&_r=1), and attached hereto as Exhibit L.

<sup>35</sup> BIOLOGICAL INVASIONS: ECONOMIC AND ENVIRONMENTAL COSTS OF ALIEN PLANT, ANIMAL, AND MICROBE SPECIES, at 290 (David Pimentel ed., CRC Press 2002).

<sup>36</sup> *Id.* at 292.

Pimentel's estimate of the cost of damage done by pigeons is small compared to his estimates for other invasive species, including cats. For example, rats cost an estimated \$19 billion per year in damage.<sup>39</sup> Domesticated and feral cats cost an estimated \$17 billion per year of damage to native bird populations.<sup>40</sup> (In comparison, dogs account for \$250 million in estimated damage.)<sup>41</sup> Weeds cost an estimated \$33 billion in lost crop damage per year.<sup>42</sup> Notably, when interviewed on WNYC about Felder's proposal, naturalist Leslie Day explained that pigeons eat seeds of weeds<sup>43</sup>—one has to wonder what the impact a pigeon reduction program would have on weed proliferation because pigeons partially control their spread. The Felder Report fails to consider the overall impact a pigeon reduction program would have on the environment.

Nine percent of Felder's citations are to a 1994 USDA report,<sup>44</sup> which refers the reader to 12 sources for additional information—seven such sources are more than two decades old. The age of the USDA report is significant because the medical profession's understanding of infectious diseases has substantially expanded since the 1990s. For example, the 1994 USDA report states that pigeons are known to carry or transmit salmonella food poisoning. A 2004

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<sup>37</sup> *Id.* at 291.

<sup>38</sup> *Id.* at 311.

<sup>39</sup> *Id.* at 289.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 290.

<sup>42</sup> *Id.* at 293.

<sup>43</sup> The Brian Lehrer Show, *supra* note 3, at 1:40.

<sup>44</sup> DAVID E. WILLIAMS AND ROBERT M. CORRIGAN, USDA, PIGEONS (ROCK DOVES) (1994), *available at* [www.aphis.usda.gov/ws/ca/prevention\\_and\\_control\\_factsheets/wildlife\\_damage\\_and\\_control\\_handbook\\_pigeon.pdf](http://www.aphis.usda.gov/ws/ca/prevention_and_control_factsheets/wildlife_damage_and_control_handbook_pigeon.pdf) and attached hereto as Exhibit M.

study published in the *Journal of Clinical Microbiology* finds that the pigeon strain of salmonella is of “low virulence to humans” and its prevalence in city pigeons is low.<sup>45</sup>

### **(3) Lack of Data**

The Felder Report is based on the fundamental proposition that the City has an “excess of pigeons.” The Felder Report does not state how many pigeons live in New York City; provide scientific support that there is an excessive number of pigeons in the City; explain whether the growth rate of pigeons has increased in recent years (according to the United States Geological Survey, the population of pigeons in New York State peaked in 1988 and has been declining since<sup>46</sup>); or provide data on the feeding of pigeons in New York City. There are only seven citations to scientific facts published within the past decade—all relate to health concerns. As demonstrated above, this data has been grossly distorted by the authors. No studies are cited regarding the overall impact a species-specific wildlife reduction plan would have on New York City’s environment. SEQRA requires governments to take a “hard look” at the impact a government action would have on the environment.<sup>47</sup> Although the Felder Report does not purport to constitute an environmental impact statement under SEQRA, the Felder Report fails to put forth any scientific data relating to the potential impact actions designed to reduce the pigeon population would have on the environment.

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<sup>45</sup> Frank Pasmans, et al., *Assessment of Virulence of Pigeon Isolates of Salmonella enterica subsp. enterica Serovar Typhimurium Variant Copenhagen for Humans*, JOURNAL OF CLINICAL MICROBIOLOGY, 2000-2002 (May 2004), available at <http://jcm.asm.org/cgi/reprint/42/5/2000.pdf>, and attached hereto as Exhibit N.

<sup>46</sup> United States Geological Survey Web site, <http://www.mbr-pwrc.usgs.gov/cgi-bin/plotpgm0.pl?sula/jrs/bbs02/htmind/03131.ny>

<sup>47</sup> *E.g., Gordon v. Rush*, 100 N.Y.2d 236, 244 (2003) attached hereto as Exhibit O.

Instead of citing scientific studies and statistics on the City's pigeon population, in news reports and interviews, Felder bases his proposition on personal hysteria and informal observations such as his recent experience stepping on pigeon droppings, constituent complaints, and his six-year-old daughter's fright.<sup>48</sup> According to his Web site, Council Member Felder earned a degree in Accounting.<sup>49</sup> No scientific, environmental, or animal-related experience is listed in his background information.<sup>50</sup>

Astonishingly, Council Member Felder, a likely candidate for City Comptroller, fails to provide a cost estimate of his recommendations—recommendations that could prove quite costly to City taxpayers. For example, the report states “As a potential compliment or alternative to dovecoting, the City should seek approval from New York State to pilot the use of OvoControl on a controlled population of City pigeons.”<sup>51</sup> According to Innolytics, the maker of OvoControl P, the pesticide costs \$7.50 per day to feed 100 pigeons.<sup>52</sup> Sweeney DF3-OC Automatic Feeding Systems are necessary to dispense the feed from rooftops.<sup>53</sup> The cost of the DF3-OC model is not available on the Sweeney Web site; the cost of other feeders ranges from \$280 to \$850.<sup>54</sup> Feeders

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<sup>48</sup> E.g., Lisa Anderson, *Hawks vs. doves on pigeons*, CHICAGO TRIBUNE (Nov. 14, 2007), available at <http://www.chicagotribune.com/news/nationworld/chi-birdwarnov14,1,708581.story>, and attached hereto as Exhibit P; The Brian Lehrer Show, *supra* note 3, at 4:33.

<sup>49</sup> New York City Council Web site Simcha Felder page, [www.nycouncil.info/constituent/member\\_details.cfm?con\\_id=71](http://www.nycouncil.info/constituent/member_details.cfm?con_id=71), attached hereto as Exhibit Q.

<sup>50</sup> *Id.*

<sup>51</sup> FELDER ET AL., *supra* note 1, at 14 (Exhibit A).

<sup>52</sup> Innolytics Web site, Frequently Asked Questions on OvoControl P, [http://www.innolyticsllc.com/new%20pigeon%20pages/pigeon\\_FAQ.html](http://www.innolyticsllc.com/new%20pigeon%20pages/pigeon_FAQ.html)

<sup>53</sup> *Id.*

<sup>54</sup> Sweeney Enterprises, Inc., Web site, <http://www.sweeneyfeeders.com>.

require batteries or solar panels at an additional charge.<sup>55</sup> Rooftop space must be leased for the feeders, unless City-owned buildings (such as schools) are used. City employees must monitor the feeders at least weekly. Pigeons must be fed OvoControl P daily throughout the breeding season.<sup>56</sup> The population of the pigeons in New York City is unknown; a rehabilitator at the Wild Bird Fund stated that there could be 200,000 or 2,000,000 pigeons in the City. Assuming that the pilot program targets 100,000 pigeons over a nine-month period, the cost to the city is \$2,062,500 ((100,000/100 x \$7.50) x 275 days), not including the feeders, battery or solar packs, employee costs, storage and lease costs.

### **Conclusion**

After shamelessly distorting facts to support his forthcoming proposed local law, Felder makes five policy recommendations: enact and rigorously enforce ban of pigeon-feeding, replace litter baskets and increase pickup frequency, support growth of hawk habitation and use of electronic hawks, erect dovecotes and implement a pigeon birth control program, and create a taxpayer-funded position of Pigeon Czar.<sup>57</sup> According to an e-mail to the author dated November 5, 2007, from Michael Casertano, Council Member Felder's Director of Legislation and Policy, Felder's proposed law will seek only to impose fines on people for feeding pigeons.<sup>58</sup> In an interview, Felder did not deny news reports that he wants to charge fines of \$1,000 and stated that he hoped only a few such fines would be imposed in order to send a message and get people

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<sup>55</sup> *Id.*

<sup>56</sup> Innolytics, *supra* note 49.

<sup>57</sup> FELDER ET AL., *supra* note 1, at 13-15 (Exhibit A).

<sup>58</sup> E-mail from Michael Casertano, Council Member Felder's Director of Legislation and Policy (Nov. 15 2007), attached hereto as Exhibit R.

to stop feeding altogether.<sup>59</sup> Leslie Day expressed her concerns that the fine would deprive most people of a harmless way to commune with and learn about City wildlife.<sup>60</sup>

The Felder Report has produced no data on the relationship between casual pigeon feeding and issues relating to pigeons in New York City. Nor has the Report explained how casually feeding pigeons can be harmful to the birds—he merely references two municipal educational campaigns that discourage pigeon feeding that in turn cite no sources on the relationship between casual feeding and pigeon population.<sup>61</sup> According to news reports, Felder stated that people who care so much about pigeons should “let them crap all over the place in your living rooms.”<sup>62</sup> His sarcasm aside, the sad truth is many of the City’s apartment dwellers are unable to keep companion animals in their living rooms or homes because of restrictions in their rental leases. Casually feeding wild birds is one of only a few limited activities that allow many poor and middle class City-dwellers to develop a level of intimacy with animals.

In interviews, Council Member Felder states that the majority of City residents are anti-pigeon based on interviews with people on the street.<sup>63</sup> An unscientific poll (no scientific polls are available) on AM New York’s Web site, posted in reaction to Felder’s proposal, shows that 61.3% of those responding to the poll are opposed to his law.<sup>64</sup> Even if Felder were right about the public’s attitude towards pigeons, making a decision to reduce a sentient species of animals

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<sup>59</sup> The Brian Lehrer Show, *supra* note 3, at 11:06.

<sup>60</sup> *Id*

<sup>61</sup> FELDER ET AL., *supra* note 1, at 7 n.37 & 12 nn.85-86 (Exhibit A).

<sup>62</sup> *E.g.*, Betsy Morais, *Bird Feeders Up in Arms Over City's Anti-Pigeon Crusade*, COLUMBIA SPECTATOR (Nov. 13, 2007) available at <http://www.columbiaspectator.com/?q=node/28074> and attached hereto as Exhibit Q.

<sup>63</sup> The Brian Lehrer Show, *supra* note 3, at 3:56.

predominantly on the basis of public sentiment is morally unjustifiable and, in the case of pigeons, could lead us down the same path that resulted in the extinction of the once populous passenger pigeon in a matter of twenty years.

Council Member Felder is probably guilty of ignoring the opinions of many constituents outside of his district and Manhattan. I invite the Council Member to come to my neighborhood and ask the residents what they think—my hunch is he will hear a different story. I live in North Crown Heights, Brooklyn, near Brower Park. (Members of my block association have observed that journalists frequently ignore our neighborhood except when reporting violence, so it's no surprise that the news reports Felder cites don't document their thoughts adequately.) For more than three months, I have been rehabilitating a juvenile flightless pigeon that was injured in a car crash with the help of an avian veterinarian who donates her time and a licensed wildlife rehabilitator. I frequently walk through Brower Park with my pigeon companion and talk to my neighbors who go to the park to feed the birds and squirrels. There are at least three senior citizen homes within a two-block radius of Brower Park. I have met a retired truck driver who buys one or two 99-cent bags of in-the-shell peanuts for the Brower Park pigeons whenever he's in town (he still trucks in retirement). On Election Day, I met a man of retirement age who raised pigeons as a young man. An IT contractor and his elementary school-aged son who live on St. John's Place talked to me about their experience taking care of a wounded pigeon. On warm days, an elderly woman sitting outside of a large apartment complex on Prospect Place at New York Avenue blesses me and my pigeon. The proprietor of Neru's on Kingston Avenue also blessed my pigeon when he (or she; we don't know the bird's sex yet) was on the verge of death. In part, I credit the kindness and support of my neighbors with my pigeon's newfound health. At

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<sup>64</sup> AM NY Web site, <http://www.amny.com/news/local/am-pigeon-poll,0,936140,post.poll> (last accessed Nov. 25,

a meeting on September 17, 2007, I proposed a photography project documenting people and pigeons in the Brower Park vicinity to the Hampton, Virginia, and Sterling Place and Kingston Avenue Block Association. My fellow members wholeheartedly embraced it, and a Community Board 8 member noted that it would be an excellent way to show our pride in our neighborhood.

A local law banning feeding based on the Felder Report could harm the pigeons, but it is undocumented to what extent their existence depends on people casually feeding them. What is clear is that Felder's proposed local law will penalize good people like my neighbors—to the tune of \$1,000—for participating in an activity that has not been shown to cause substantial harm to the City.

Felder's remaining recommendations are equally repugnant. Victimizing pigeons by interfering with their reproduction, employing hawks to kill them, or starving them on the basis of unfounded fears about health risks, aesthetics, or a child's fright is morally unjustifiable.

Calling the fact that birds poop a "pigeon conundrum" is like calling the fact that we have to rake and dispose of leaves in autumn a "tree problem." Cleaning up after pigeons is simply a cost of doing business in the City, just like cleaning up after hurricanes is a cost of doing business in Florida. Instead of fruitlessly trying to conquer nature by killing it, the City should learn to adapt—and lead other municipalities by example.