

Via certified mail and email
June 6, 2024

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**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

**IN THE MATTER OF: **APPEAL FROM RESTRAINT ORDER
ISSUED BY TOWN OF DARIEN
FOR THE DOG HANK OWNED BY
MARIA SULLIVAN****

FINAL DECISION

I, Edward C. Taiman, Jr., the Final Decision Maker in the Appeal of a Restraint Order issued by the Town of Darien (the “Town”), in the Matter of a Dog named Hank, owned by Maria Sullivan (“Owner” or “Ms. Sullivan”), hereby issue the Final Decision in this matter. This Final Decision concerns itself with whether the restraint order should be affirmed, modified or revoked. For the reasons set forth below, and for the necessity of public safety of the community, I recommend that the restraint order be affirmed. Further, having read the hearing transcripts, I am going to adopt the findings of Hearing Officer Cody Guarnieri in his Proposed Final Decision dated November 27, 2023, but with additional findings based on post restraint order evidence entered into the record.

1. On December 13, 2023, Commissioner Brian P. Hurlburt appointed me as Final Decision Maker in this matter to render a final decision on an appeal regarding a restraint order placed by the Town of Darien on a dog named Hank owned by Maria Sullivan. A Proposed Final Decision of Hearing Officer Cody Guarnieri was issued on November 22, 2023.

2. Hearings were held on this matter on July 25, 2023, August 30, 2023, and September 14, 2023. During those hearings the Owner attempted to enter into the record certain evidence regarding events that occurred after the entry of the restraint order. The Owner was denied that opportunity.

3. On November 27, 2023, Commissioner Bryan P. Hurlburt issued Hearing Officer Guarnieri’s Proposed Final Decision dated November 22, 2023, and provided the parties with 15 days within which to file their post hearing briefs and/or request oral argument. Within the stated 15 days the Owner requested permission to do both and filed her brief on December 12, 2023, and the Town filed its brief on December 28, 2023. I have reviewed both briefs.

4. In her brief the Owner argued that the prior Hearing Officer erred and abused his discretion concerning the relevance of certain proposed evidence that was precluded from being entered at the hearings, and the Town, in its brief, argued that it was within the Hearing Officer's discretion as to what evidence was relevant.

5. On December 12, 2023, the Owner requested oral argument and reiterated her claim that she was denied the fundamental right to a fair proceeding when Hearing Officer Guarnieri entered his rulings on the relevance of certain post restraint order events.

6. On January 30, 2024, I entered an order permitting the Owner to enter into the record the additional evidence concerning post restraint order events, including evidence of potential significant dog behavior training which the Owner claimed materially affected the merits of whether the restraint order was still necessary. I further ordered that prior intended testimony could be introduced in the form of one or more affidavits, and I gave the Town an opportunity to thereafter file one or more affidavits in response. The Owner then requested that she be permitted to present live oral testimony.

7. On February 9, 2024, I entered an Order allowing the submission of testimony in the form of one or more affidavits on the basis that it was sufficient to address the Owner's concerns and complied with Section 22-7-32 ("...after the hearing of a case, any party *shall prepare and file added exhibits and testimony.*").

8. Subsequent to my February 9, 2024 Order, the Owner submitted two affidavits. One affidavit was that of Debra Sheridan dated March 3, 2024, and the other affidavit was that of the Owner, Maria Sullivan, dated March 4, 2024. In response, the Town submitted the affidavit of Animal Control Officer Charles Stahl dated March 6, 2024. With that, the record was closed. I have reviewed all 3 affidavits submitted as well as all exhibits admitted into evidence, including DO – 6 & DO – 7 referenced in Ms. Sullivan's affidavit.

9. On April 30, 2024, the parties presented their final arguments.

THE PRIOR HEARINGS

10. Pursuant to Connecticut General Statutes (C.G.S.) § 22-358(c), the Department of Agriculture gave proper notice of the hearing to both parties and an administrative hearing was held on July 25, 2023, August 30, 2023, and September 14, 2023. Hearing Officer Exhibit ("HO") 4 through HO-9, HO-12 through HO-14. There were no requests by either party to

continue the hearing, to call additional witnesses, or for any other reason at the end of the September 14, 2023, session. Transcript (Tr.) 9/14/2023 at 104, and in its entirety.

11. At issue is the appeal of a restraint order issued by the Town on September 10, 2022, as a result of a purported dog bite incident on August 31, 2022. Town Exhibit (“T”) 1 and 3.

12. Hank is described as a seven-year-old male Rhodesian Ridgeback as of September 2022. T-3.

13. The Town first offered Darien Police Officer Richard Flood to testify. Officer Flood testified that he responded to a dispatch call on August 31, 2022, to 29 Beach Drive in Darien. Tr. 7/5/2023 at 32. T-1. At the scene he was told by Mr. Matthew Reinbold that his children were playing outside in his presence, and that Hank and its owner came up the block and got very close to one of the children who was Mr. Reinbold’s son, Charles. Charles had coincidentally gotten onto his scooter and the dog at that point “went after the child.” Tr. 7/5/2023 at 34-36; T-1, T-3.

14. Officer Flood further testified that he spoke to the dog owner, Ms. Maria Sullivan. Ms. Sullivan reported to Officer Flood that she was walking the dog and that the boy got on the scooter and that “somehow triggered the dog to go after the boy.” Tr. 7/5/2023 at 36. Officer Flood did not note in his report that Hank had bitten Charles. Tr. 7/5/2023 at 43, T-1. From Officer Flood’s recollection, the injury to Charles could have been from a paw or a bite. Tr. 7/5/2023 at 44.

15. The Town next offered Mr. Matthew Reinbold. Mr. Reinbold and his family reside at 29 Beach Drive, Darien, which is four houses north of where Ms. Sullivan resides with Hank. Tr. 7/5/2023 at 45.

16. Regarding the subject incident, Mr. Reinbold testified that when he saw Ms. Sullivan and Hank approaching him and his children in the street in front of another neighbor’s home, he parked his stroller and told his children to get over to his side of the street, to keep them away from Hank. Tr. 7/5/2023 at 70. Mr. Reinbold claims that when Hank saw the children, “he started to jump and act wild and erratic.” Tr. 7/5/2023 at 70-71. At that time his son, Charles, was switching from one scooter to another. As he describes it: “[] my son was standing – he wasn’t moving – on the scooter as they – he had just stood up from the [scooter]

in the middle of the street. And that's when she approached us with the dog acting erratic, and it jumped and bit my son's left side." Tr. 7/5/2023 at 71.

17. According to Mr. Reinbold's recollection, he does not believe his son was moving at all when Hank approached him. Tr. 7/5/2023 at 71-72. Moreover, Mr. Reinbold's recollection was unequivocal that Hank bit his son Charles. ("Hank jumped up; turned his head. His mouth was open; his paw was up. And he bit my son's side..." Tr. 7/5/2023 at 72.) Mr. Reinbold claims to have observed Hank raise a paw, open his mouth, and clench down on [Charles'] side." Tr. 7/5/2023 at 72.

18. Town's Exhibit 5 includes the images of the wounds received by Mr. Reinbold's son Charles after his encounter with Hank, which Mr. Reinbold indicated were made from the bite he personally witnessed. Tr. 7/5/2023 at 74. Mr. Reinbold also claims to have told Officer Flood that Hank bit Charles, notwithstanding that it does not appear in his report. Tr. 7/5/2023 at 76, 91. Charles was transported to a community hospital emergency room to be treated for his injuries. Tr. 7/5/2023 at 78.

19. The Town next offered Animal Control Officer (ACO) Charles Stahl. Officer Stahl has been Darien's ACO for a little over 18 years and has training and education specific to animal-related altercations. Tr. 7/5/2023 at 108-110. He describes having been involved in five to ten dog bite incidents per year throughout his tenure. Tr. 7/5/2023 at 111.

20. ACO Stahl believes that the wounds suffered by Charles depicted in T-5 are a dog bite and not from a "paw swipe". Tr. 7/5/2023 at 114-115. Moreover, ACO Stahl also confirmed his belief that these injuries were from a dog bite by speaking with Hank's veterinarian, Dr. Duffy, before issuing the subject restraint order. Tr. 9/4/2023 at 83-84.

21. In issuing the subject restraint order on Hank, ACO Stahl took into consideration the severity of the injuries sustained by Charles, Tr. 7/5/2023 at 116, 119-120, the owner's perceived lack of control of Hank, Tr. 8/30/2023 at 15, and the tightness of the community where Hank lives, which creates a high likelihood that Hank will encounter others while being walked on the public road. Tr. 7/5/2023 at 119-120.

22. The restraint order requires that when not on the owner's property Hank be on a secure leash of not more than six (6) feet in length, under the control of a responsible individual of not less than 21 years of age and who can keep him under control, and that Hank have a secure basket muzzle. T-3, Tr. 7/5/2023 at 119. Given his knowledge and expertise as

an ACO, Officer Stahl believes that restraint order is reasonable and appropriate. Tr. 7/5/2023 at 123. Moreover, that training alone would not be a sufficient means to remediate the risk of a future bite incident by Hank. Tr. 8/30/2023 at 15-16.

23. ACO Stahl rejected that the bite incident with Charles was a “startle response” by Hank. Tr. 7/5/2023 at 134. ACO Stahl pointed to the fact that Ms. Sullivan and Hank were facing the children and that the children did not sneak up on Hank or otherwise scare Hank to discount that Hank was justifiably startled. Tr. 7/5/2023 at 134, 138. Indeed, by her own admission Ms. Sullivan approached the Reinbolds with Hank. Tr. 8/30/2023 at 58-59, 9/14/2023 at 33-34. Moreover, ACO Stahl repeatedly asserted that a child playing on a street should not startle a dog to the point of an attack. Tr. 7/5/2023 at 159.

24. Regarding the subject incident, Ms. Sullivan, testified that after approaching the Reinbolds, Charles “jumped suddenly and unexpectedly and loudly” onto his scooter and “shot right in front of [her and Hank].” Tr. 8/30/2023 at 59. Put another way, she indicated that “Charlie “suddenly jumped up and got on his scooter and sped forward in front of us.” Tr. 9/14/2023 at 40. Moreover, Ms. Sullivan claims that Charles’ conduct caused Hank to react and jump forward and he “knocked Charlie with his paw.” Tr. 8/30/2023 at 59. However, Ms. Sullivan has consistently denied that Hank bit Charles. Tr. 8/30/2023 at 59-60. Notwithstanding, Ms. Sullivan posits that Hank was being defensive and jumping up to protect himself when he made contact with Charles. Tr. 8/30/2023 at 61.

25. The dog owner also presented Ms. Debra Sheridan. Ms. Sheridan completed an applied animal behavioral course through the University of Washington and a “master class” relating to aggression in dogs offered by a Michal Shikashio. Tr. 9/14/2023 at 46, DO-2. Moreover, Ms. Sheridan is certified end-of-life doula for companion animals through the University of Vermont, a Pet Partners therapy animal handler, a family dog mediator, a dog-bite prevention educator and a licensed family dog mediator in behavior. Tr. 9/14/2023 at 47, DO-2.

26. Based on her understanding of the circumstances of the subject incident, Ms. Sheridan believes it was a “startle response” or “startle reflex”, which was essentially an automatic response, that caused Hank to injury Charles. Tr. 9/14/2023 at 49. She believes that Charles’ injuries, as shown on T-5, was a paw swipe and not a dog bite. Tr. 9/14/2023 at 52.

Moreover, she testified incredibly that it is *not possible* for the wounds to Charles in T-5 to have been made by Hank's teeth and therefore must have been a paw swipe. Tr. 9/14/2023 at 68.

POST RESTRAINT ORDER EVENTS

27. After the entry of the restraint order, Ms. Sullivan retained the services of Debra Sheridan who, adding to the list of accomplishments described in paragraph 25, above, is a "Certified Dog Behavior Consultant specializing in fearful and aggressive canine behavior." Affidavit of Debra Sheridan at para. 2. She began working with Ms. Sullivan and her dog Hank in November 2022. Sheridan Affidavit at para. 3. Her affidavit speaks to the various training techniques she employed when working with Ms. Sullivan and Hank which were intended to, among other things, "teach[] Hank to count to three", and "encourage slow thinking". *Id.* at paras. 12, 17. In turn, her work with Hank further promotes "a better alternative behavior particularly when faced with a stressful situation outside of their home." *Id.* at para. 9. Ms. Sheridan concluded her affidavit by stating "I see no reason for Hank to have to wear a muzzle whenever outside at this time or in the future." *Id.* at para. 20.

28. In Ms. Sullivan's affidavit she testifies to the extensive training that both she and Hank have undergone since shortly after the 8/30/2022 incident which led to the restraint order now at issue. Through this training she has learned various techniques designed to "modify[] unwanted behaviors", reduce stress, and promote calm in Hank and promote public safety. Sullivan Affidavit at para. 7.

29. In response to the affidavits of Debra Sheridan and Ms. Sullivan, the Town presented the Affidavit of ACO Charles Stahl. His primary concern was Ms. Sullivan's "startling inability to physically control Hank" Stahl Affidavit at para. 9. *See also*, para. 8 ("By contrast, in the Appellee Town of Darien's Exhibits T-8 and T-9, there is post incident video footage from 10-14-2020, showing Hank breaking loose from Maria Sullivan's control and rapidly entering the personal space of passersby, before Maria Sullivan can be seen reasserting control over Hank."). His conclusion was that the restraint order should remain in place without modification. Stahl Affidavit at para. 11.

LEGAL DISCUSSION

Connecticut General Statute § 22-358(h) provides that "the Commissioner, the Chief Animal Control Officer, any municipal animal control officer... may make any Order concerning

the restraint or disposal of any biting dog or other animal as the Commissioner or such officer deems necessary.” It further provides that following a hearing on such Order the Commissioner may affirm, modify or revoke such Order as the Commissioner deems proper.”

Through her appeal, Ms. Sullivan seeks to have the restraint order modified to remove the requirement that Hank wear a basket muzzle when in public. My review of the testimony at the July 25, 2023, August 30, 2023, and September 14, 2023 hearings, including the affidavits of Debra Sheridan and Ms. Sullivan, and all exhibits, leads to but one conclusion: the restraining order that requires Hank to, among other things as described above, wear a basket muzzle, was entirely reasonable and more importantly, necessary to protect and promote the health, safety and welfare of the general public. The weight of the evidence, especially Exhibits T – 8 and T – 9, establishes beyond any reasonable doubt that Ms. Sullivan cannot control or contain the dog Hank. Both exhibits are Ring videos from a nearby neighbor showing Hank running down the street with her leash dragging behind to the obvious surprise of Ms. Sullivan. In each video Hank was wearing a basket muzzle. But for the basket muzzle, it is possible that Hank would have bitten another person, and we would be talking not about whether Hank should wear a basket muzzle, but whether the entry of a disposal order should stand. I am further convinced from looking at the photo exhibits that Charles Reinbold was bitten by Hank and not merely scratched. Being attacked by a dog can have long-lasting psychological and emotional implications on someone beyond the physical injury itself. No child should have to endure what Charles Reinbold suffered. The evidence further supports my conclusion that the neighborhood lives in constant fear of Hank. Affidavit of ACO Stahl at para. 9. Other than a restraint order that restricts Hank to Ms. Sullivan’s property, which I have considered entering through a modification of the existing restraint order, only a basket muzzle (along with the restraint order’s other requirements) will protect the residents of Darien from Hank. I commend the recent efforts of Ms. Sullivan to train Hank, but they are insufficient to ensure the public is safe from further harm.

FINAL DECISION

The Town of Darien has sustained its burden by a preponderance of the evidence, based upon the entire record, including the last filed evidence, that the restraint order was reasonable and necessary for public safety, and appropriate as issued.

Dated June 5, 2024

Edward C. Taiman, Jr.
Edward C. Taiman, Jr.,
Hearing Officer