

STATE OF CONNECTICUT  
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:

APPEAL FROM DISPOSAL ORDER  
ISSUED BY THE TOWN OF SOUTHURY

“ROSCOE”

Owned by: Cynthia Edgar

July 27, 2015

**PROPOSED DECISION**

**FINDINGS OF FACT:**

1. Commissioner Steven K. Reviczky appointed Attorney Wayne Kasacek to act as hearing officer in this matter and to issue a proposed decision in this matter. Notice of a hearing scheduled for July 10, 2015 was provided via certified mail to the Town of Southbury and its representatives as well as the owner of the canine subject of this appeal and her representative.
2. At issue was the appeal of a disposal order issued by the Town of Southbury to Cynthia Edgar concerning her dog known as “Roscoe”, a neutered male Labrador/Pit Bull mix approximately 11 years of age.
3. On July 10, 2015 a hearing was held and concluded.
4. Present at the hearing was Southbury Animal Control Officer, Marilyn Murratori-Jarvis. The Town of Southbury was represented by Attorney Amita P. Rossetti. The dog owner Cynthia Edgar, who was represented by Attorney Victor M. Rodriguez.
5. The testimony revealed that on August 25, 2014 a disposal order was issued pursuant to Connecticut General Statute section (C.G.S. §) 22-358(h), as to the canine in question. (T-9) The order was based upon an incident occurring on August 15, 2014 during which Roscoe caused injury to a dog named “Max”, owned by Erica Jorgensen of Southbury. The disposal order noted that previous to this incident, there had been three violations to stipulations in a previously issued restraining order. (T-6)
6. That on August 15, 2014 “Roscoe” attacked a dog named “Max”, owned by Erica Jorgensen of Southbury. Testimony concerning the actual location of the attack conflicted but both parties agreed that the attack occurred on a public road. (TR pgs. 55,63,65,163 T-1, T-8, T-9)

7. That the attacked dog, "Max" left it's owner's property and entered onto a public road where both "Max" and "Roscoe" engaged each other. (TR pgs. 42.59,163)

8. At the conclusion of the hearing, the hearing officer requested counsel for both parties submit briefs arguing whether the statutory requirements of C.G.S. § 22-358(h) for the issuance of a disposal order were satisfied. Briefs from both parties were received and were considered.

### DISCUSSION

In addition to the incident on August 15, 2014, the town of Southbury in presenting it's argument to affirm the disposal order cited several violations of the restraint order issued December 6, 2006 and affirmed May 20, 2007 (T-6) as supporting justification for the disposal order. The alleged violations of the conditions of the restraint order included not muzzling Roscoe as stated stipulation 3 of the restraint order final decision (T-6) and not complying with providing proof of liability insurance as stated in stipulation 3 of the restraint order final decision (T-6). This hearing officer finds that Cynthia Edgar was evasive during questioning regarding the question of liability insurance, neither was any evidence presented that the Town of Southbury made any demand for proof of liability insurance during the period after the final decision was became effective (July, 19, 2007) and the present. Regarding the 3 incidents where Roscoe was alleged to be in the public while not muzzled, this hearing officer finds that in these incidents Cynthia Edgar failed to comply with the 2006 restraint order and the 2007 final decision. Furthermore Cynthia Edgar was irresponsible by disregarding the conditions mandated in the restraint order and demonstrated a careless attitude towards the public and their fear of Roscoe who does exhibit aggressive behaviors. This hearing officer notes that language in C.G.S. § 22-363 appears to address these violations.

### LEGAL CONCLUSION AND RECOMMENDATIONS:

Connecticut General Statute 22-358 provides, in part, that "...If such officer finds that the complainant's animal has been bitten or attacked by a dog when the attacked animal was not on the premises of the owner or keeper of the attacking dog and provided the complainant's animal was under the control of the complainant or on the complainant's property, such officer, the commissioner, the Chief Animal Control Officer or any animal control officer may make any order concerning the restraint or disposal of such attacking dog as the commissioner or such officer deems necessary." (underline added) It further provides that following a hearing on such order "the commissioner may affirm, modify or revoke such order as the commissioner deems proper."

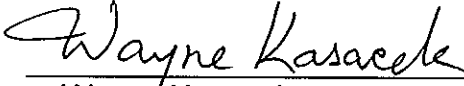
Upon review of the evidence and exhibits of the parties and after much reflection, I propose that the Town of Southbury failed to establish that "Max" was under the

control of it's owner when the attack occurred, rendering the disposal order defective as it does not meet the statutory test.

I recommend that the disposal order as to "Roscoe" be revoked.

Please note that the restraint order issued by the Town of Southbury, December 6, 2006 and the final decision of the Commissioner issued July 19, 2007, remain in effect.

Dated: September 15, 2015

  
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Wayne Kasacek  
Duly Appointed Hearing Officer