

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : **APPEAL OF
DISPOSAL ORDER**
“ROSE”
DOG OWNED BY GLORIANNA LAGNESE : **March 26, 2015**

PROPOSED FINAL DECISION

On April 20, 2014, the dog named Rose bit two individuals in a common area of a condominium. On April 25, 2014 the Waterbury Animal Control Officer, Mark Ring, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(c), issued a Disposal Order to Glorianna Lagnese, owner of the dog named “Rose”. Glorianna Lagnese appealed the disposal order by way of a faxed letter received by the Connecticut Department of Agriculture, Bureau of Regulation and Inspection, May 1, 2014. A formal administrative hearing was held on March 26, 2015 with the undersigned, Wayne Kasacek, serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture. At said hearing, Attorney Gary S. Roosa, representing the City of Waterbury, presented testimony, exhibits and arguments. The dog owner, Glorianna Lagnese, though properly noticed of the hearing date and time, was not present.

Based on the testimony presented and a full review of the entire record, the Hearing Officer is, therefore, recommending that the final decision maker *affirm* the Disposal Order issued on the dog “Rose” owned by Glorianna Lagnese.

Findings of Fact

1. Commissioner Steven K. Reviczky appointed Wayne Kasacek, an employee of the Department of Agriculture, to act as Hearing Officer and to issue to him a proposed final decision in the matter of the appeal of a Disposal Order issued by the City of Waterbury (City) on the dog named “Rose” owned by Glorianna Lagnese. Hearing Officer Exhibit [Ex.] HO-3.
2. The Department of Agriculture gave proper notice of the hearing to both parties. Ex. HO-4, Ex. HO-5. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(c), an

administrative hearing was held and concluded on March 26, 2015. (See transcript in its entirety).

3. The City, represented by Attorney Gary S. Roosa presented the testimony of Assistant Animal Control Officer Patrick Dionne and Animal Control Officer (ACO), Mark Ring. Exhibits [Exs.] C-1 through C-7 inclusive, were admitted into evidence as full exhibits.
4. The dog named "Rose" is described as a black, female, pit-bull cross, aged three years as of April 20, 2014. Ex. C-2, C-3 and C-7
5. ACO Dionne testified that on April 20, 2014 he was called by an officer of the Waterbury Police Department to the area of 30 Woodglen Drive to an incident involving two individuals bitten by a dog. Transcript [Tr.] page [pg.] 10. The two dog bite victims were bit outside of 30 Woodglen Drive in Waterbury in a common area of the condominium(s). Tr. at page 12.
6. ACO Dionne testified that on April 20, 2014 both individuals who had been bitten were able to identify the owner of the dog. Tr. Pg. 11, Ex. C-1 narrative
7. ACO Dionne personally saw the injuries to the two victims. ACO Dionne observed the skin broken and visible puncture wounds on both dog bite victims. Each victim was bit on the leg. Tr. at Pg. 10, Exs. C-2 and C-3.
8. That bite victim, Gilberto Ramirez stated to the responding Waterbury Police Officer, James McMasters, that he was going to drive himself to a hospital emergency room. C-1 narrative, C-2. Mr. Ramirez stated that his mother, Anna Perez was outside in the front yard when she was attacked by the dog. Mr. Ramirez ran outside to intervene and that is when he was bitten in his right leg. Ex. C-1.
9. That bite victim, Michael Pavano, refused medical attention. C-1 narrative, C-3. Mr. Pavano was bitten while he was taking his dog for a walk. Ex. C-1.
10. That the dog "Rose" was quarantined in the Waterbury Animal Control facility. Tr. at Pg.

11. ACO Ring testified that on April 25, 2014 he issued the Disposal Order. Tr. at Pg. 19-20, Ex. C-7
12. ACO Ring testified that he based his decision on the two bites that occurred April 20, 2014 with fifteen minutes of each other. If the owner of this dog did not show up there possibly would have been more victims. After receiving the information from Mattatuck Veterinary Hospital, reading the reports, and witnessing the dog's behavior, it was determined that the dog would not be safe in the public. The fact that the dog has been in the pound for almost a year has not changed his opinion at all about whether or not the dog should be disposed of. Tr. at Pg. 19-20.
13. ACO Dionne does not trust the dog Rose. Tr. at page 13.
14. ACO Ring testified that the dog is not trustworthy at all and shows aggression. Tr. at page 19.
15. Veterinary records reference medication necessary for aggressive behavior and references re-directing aggression. Exs. C-4, C-5, and C-6.
16. Veterinary records reference the dog attacked a rat and possibly killed a kitten. Ex. C-6.
17. The veterinary records state that it is not recommended to stop the medication for aggressive behavior abruptly as it may result in undesirable behavior. Ex. C-5. Mrs. Lagnese stopped providing the medication to the dog Rose for the previous two months. Tr. at page 16-18.

Conclusions of Law

Conn. Gen. Stat. § 22-358(c) provides, among other things, that “any animal control officer ...may make any order concerning the restraint or disposal of any biting dog, cat or other animal as . . . such officer deems necessary.” It further provides in § 22-358(c) that following a hearing on such order, “the commissioner may affirm, modify or revoke such order as the commissioner deems proper.”

Discussion

This hearing was held without the dog owner, Glorianna Lagnese present. This hearing officer recognizing that there may have been extenuating circumstances elected to delay the start of the hearing and inquire with Department of Agriculture, Administrative Assistant Dawn Barrett-Walsh and the City as whether anyone had had communication with Glorianna Lagnese. Glorianna Lagnese had filed the appeal with the Department of Agriculture via facsimile and all Department of Agriculture correspondence to the parties has phone numbers printed on them. It would not have been difficult or confusing for Ms. Lagnese to have notified the Department of any extenuating circumstances that prevented her from attending. During the hearing, this hearing officer remained hopeful that Ms. Lagnese would show or call, even instructing Administrative Assistant Dawn Barrett-Walsh to interrupt should she hear from Ms. Lagnese as this hearing officer was prepared to re-start the hearing if she did arrive or re-schedule the hearing if she called. It was not until 3:27 pm that Ms. Lagnese called, nearly five hours after the hearing had concluded. On March 27, 2015 this Hearing Officer received a Notice of Appearance on behalf of Glorianna Lagnese by Thompson G. Page, Esq. and Request to Vacate party's default for non-appearance and vacate any orders issued on March 26, 2015 and grant a continuance. This was the first communication by Attorney Page with the Department on this matter. Attorney Page represented that he was contacted by Ms. Lagnese after the hearing was concluded. This request was ruled on and denied by this Hearing Officer. The dog bites occurred approximately eleven (11) months prior to the hearing, giving Mr. Lagnese ample time to have contacted an attorney before the hearing was to take place.

The City of Waterbury presented evidence in this case of two bites by the dog "Rose." Both bites resulted in broken skin and puncture wounds to the victims. An Animal Control Officer may issue an order of disposal or restraint of any biting dog, cat or other animal as such officer deems necessary. ACO Ring stated in his testimony his sound reasoning for issuing the disposal order. The ACOs were credible witnesses. This hearing officer finds that ACO Ring lawfully issued the disposal order subject to this hearing and recommends to the final decision maker, that the disposal order be affirmed.

 *Wayne Kasacek*

Wayne Kasacek, Hearing Officer

1 May 2015