

STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:

APPEAL FROM DISPOSAL ORDER
ISSUED BY THE TOWN OF TORRINGTON

"CHEECH"
Owned by Josh F. Petitt

PROPOSED DECISION

FINDINGS OF FACT:

1. The hearing was scheduled for 10:00 am. This hearing officer inquired with building security at 10:10 am, Mr. Petitt had not entered the building. This hearing officer then asked administrative assistant Dawn Barrett-Walsh to attempt to make contact with Mr. Petitt.
2. At 10:20 the hearing was called to order. At 10:25 am the hearing went off the record so the hearing officer could take a phone from Dawn Barrett-Walsh. At 10:26 am the hearing was resumed. For the record the hearing officer stated he was informed by Dawn Barrett-Walsh that an individual had answered the phone number she had on file for Josh Petitt but that individual hung up when she identified herself as an employee of the Connecticut Department of Agriculture. Further attempts at contact were unsuccessful. At this time the hearing officer continued with the hearing.
3. Commissioner Steven K. Reviczky appointed Wayne Kasacek to act as hearing officer in this matter and to issue a proposed decision. (Ex. HO-3)
4. Notice of hearing was provided via certified mail to the Town of Torrington and its representatives as well as the owner of the canine subject to this appeal. (Ex. HO-4)
5. At issue was the appeal of a disposal order issued by the Town of Torrington to Josh Petitt concerning the disposal of his dog known as "Cheech".
6. Present at the hearing was Torrington Municipal Animal Control Officers Deborah Gath and Caitlin Nield. The town was represented by Attorney Jamie M LaMere.
7. The dog owner Josh F. Petitt failed to appear.
8. The following timeline was supported by testimony and evidence:
 - 7/23/2014 Cheech was involved in an attack on James Patenude. (Ex. T-1)
 - 8/2/2015 Cheech was involved on a dog on dog attack. The attack occurred on a service dog owned by Nicholas Deleo. (Ex. T-4)
 - 8/3/2015 the Town issued an Animal restraint Order. (Ex. T-4)

10/10/2015 Cheech was involved on an attack on James Patenude. (Ex. T-7).

10/15/2015 Animal Control Officer Gath while investigating the 10/10/2016 took statements from the victim and an individual who witnessed the attack and lives in the same building as Josh Petitt. Animal Control Officer Gath from the evidence of the attack, and statements taken from the victim and a witness, concluded that that Josh Petitt was not complying with the 8/3/2015 restraint order concerning Cheech. (Ex. T-7).

10/16/2015 the Town of Torrington issued a disposal order. Citing the incidents of 7/23/2014, 8/2/2014 and 10/10/2015 as justification for determining Cheech is of vicious propensity.

LEGAL CONCLUSION AND RECOMMENDATIONS:

I propose that by his failure to appear, Josh Petitt has in effectively withdrawn his appeal in this matter, however it is incumbent on this hearing officer to determine if the legal tests to issue the disposal order were met and if the disposal order was supported by the facts.

Connecticut General Statute section 22-358(c) provides in part that "The commissioner, the Chief Animal Control Officer, any animal control officer, any municipal animal control officer or any regional animal control officer may make any order concerning the restraint or disposal of any biting dog, cat or other animal as the commissioner or such officer deems necessary. Notice of any such order shall be given to the person bitten by such dog, cat or other animal within twenty-four hours."


Connecticut General Statute section 22-358(h) provides in part that "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."

Connecticut General Statute section 22-358 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 transcript, evidence and exhibits of the parties and after much reflection, I propose that the Town of Torrington has established by a preponderance of the evidence that Cheech is a dog of vicious propensity and that the issuance of the disposal order meets the legal tests provided in Connecticut General Statute section 22-358.

I recommend that the disposal order as to Cheech be affirmed as issued and unmodified.

Dated: May 15, 2017



Wayne Kasacek
Duly Appointed Hearing Officer