

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : ***APPEAL OF***
"MAX" : ***RESTRAINT ORDER***
DOG OWNED BY Arshe Ras : ***June 14, 2018***

PROPOSED FINAL DECISION

I

SUMMARY

On August 17, 2016, Bristol Municipal Animal Control Officer, Brian Skinner, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(c), issued a Restraint Order to Arshe Ras, owner of the dog named Max. Arshe Ras timely requested a hearing before the Commissioner of Agriculture pursuant to C.G.S. §22-358.

A formal administrative hearing was opened on February 28, 2018, with Stephen Anderson serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture. Due to the fact that the municipality and the dog owner had agreed to a possible solution in the beginning of the February 28th hearing, which might have allowed a modification of the muzzle requirement in the Restraint Order, the hearing was placed on hold while that solution was explored. However, the municipality and the dog owner ultimately did not reach agreement and the dog owner requested that the hearing process be resumed. As such, the hearing was reconvened and completed on May 1, 2018.

At said hearing, Richard E. Lacey, Assistant Corporation Counsel for the City of Bristol presented testimony, exhibits and arguments. The Respondents and dog owners, Arshe Ras and Micaela Grella, appeared for the hearing and were represented in the proceedings by Arshe Ras.

Based on the testimony presented and a full review of the entire record, the Hearing Officer is recommending that the final decision maker *affirm* the Restraint Order issued on the dog Max, owned by Arshe Ras.

II

FINDINGS OF FACT

1. Commissioner Steven K. Reviczky appointed Stephen Anderson, 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 Restraint Order issued by the City of Bristol on the dog named Max, owned by Arshe Ras (dog owner). Hearing Officer Exhibit [Ex.] HO-3.
2. The Department of Agriculture gave proper notice of the hearing to both parties. Ex. HO-7. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(c), an administrative hearing was held and concluded on May 1, 2018.
3. A previous hearing was scheduled by the Department of Agriculture in this case. The Department also gave proper notice to both parties in the first hearing, which was scheduled for February 28, 2018, detailed in Ex. HO-5.
4. At the hearing on May 1, 2018, the City of Bristol presented testimony and exhibits described herein as Bristol-1 through Bristol-4, inclusive and they were admitted into the record (See Transcript [Tr.] beginning at page 4).
5. At the hearing on May 1, 2018, the dog owner presented evidence which included a series of eight (8) photos, a set of printed/copied photos and documentation of training for Max, described herein as DO-1 through DO-3, respectively.

6. The record shows that Max, described as a 2 year old male, black/tan German Shepard breed (Ex. Bristol 1-3) was involved in at least three (3) bite incidents in which a human was bitten, between September 30, 2014 and August 15, 2016.
7. In the 2014 incident, summarized by Animal Control Officer (ACO) Skinner (see Tr., beginning pg. 17), Max was loose and off the dog owner's property, and bit an individual in the leg. The second incident took place on October 29, 2015 (see Tr. beginning on pg. 18). According to Officer Skinner's testimony (supported by the investigating officer's report – Ex. Bristol 2), Max was again "roaming at large" when a school bus was stopping. A Good Samaritan tried to capture Max and he bit this individual on the stomach. Since this incident also took place off the dog owner's property, Max was again quarantined.
8. The incident/investigation report (Ex. Bristol-3) filed by Officer Kevin Monahan describes the latest incident which took place on August 15, 2016 in which a solicitor to the Ras home was attacked and bitten as Mr. Ras's son Matteo opened the door and the dog got out of the residence and bit the solicitor (see Tr. beginning on pg. 19). The solicitor, Scott Henninger, was bitten on his leg and good Samaritans helped apply pressure to the wounds before Bristol EMS arrived and subsequently took Henninger to Bristol Hospital for further treatment.
9. There was a witness to the attack, Joel Thompson, who was outside at the residence located at 193 Witches Brook Rd. (see Ex. Bristol-3 for details). According to the report, Thompson provided a sworn written statement to Officer Monahan.

10. Mr. Ras was also interviewed by Officer Monahan. It is notable that, according to the investigation report, Mr. Ras stated (at least in part) to Officer Monahan that “Max is an aggressive dog.”
11. Mr. Ras was subsequently issued a 14 day on-property quarantine for Max, which Mr. Ras signed. The quarantine required Max be kept inside the home and on the property for the entire 14 day quarantine period (Ex. Bristol-4).
12. A Restraint Order was subsequently issued after the third bite incident (see Tr. beginning on pg. 20). ACO Skinner opined in his testimony that he thought it was not unreasonable, after three bite incidents to have issued the Restraint Order, which requires that Max be muzzled when loose in the back yard, muzzled and leashed when taken off property, or kept in the enclosure under the deck if unmuzzled.
13. ACO Skinner also testified that the dog owner installed secure doors and what he described as a “nice high fence.” However, ACO Skinner also testified that he has an issue with the fencing (see Tr. beginning at line 13 of pg. 20). In summary, there are chain links that are large enough to stick an adult hand through, more than enough space for a child’s hand. ACO Skinner testified that he had shown this to Mr. Ras and asked him to modify the fencing to address his concerns – ACO Skinner suggested additional privacy fencing (privacy slats – Tr. pg. 26).
14. ACO Skinner also testified that an autistic child lives next door and was concerned that without the privacy fencing, the child may be at risk for a bite.
15. Mr. Ras argued that he has complied with the restraint order, that he has invested in double doors for the front of his home, a higher chain link fence (which is of standard gauge), and that he has invested in training classes for Max.

16. Mr. Ras also argued that he believed, after the hearing on February 28, 2018, that ACO Skinner was only concerned with the anchoring of the fence and that once he confirmed that, he would modify the restraint order (see Tr. at pg. 49).
17. When asked by the City of Bristol's attorney about his unwillingness to install the privacy fencing according to ACO Skinner's requirements, Mr. Ras stated that he thought it was unnecessary and that he felt like he was being targeted racially (see Tr. beginning at page 62).
18. On re-direct examination (see Tr. beginning at pg. 38), ACO Skinner testified as to the reasonableness of the restraint order and the requirements placed therein.

III

CONCLUSIONS OF LAW

C.G.S. §22-358(c) provides that “[t]he 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.” 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.”

IV

DISCUSSION

Acting under the authority of C.G.S. §22-358(c), the Bristol Municipal Animal Control Officer, Brian Skinner, issued a Restraint Order to Arshe Ras, owner of the dog named Max.

Although the dog owner believes the existing Restraint Order is excessive, given that Max has bitten on at least three occasions between September 2014 and August 2016, it is the

opinion of the Hearing Officer that there is a clear public safety issue which is further compounded by the fact that an autistic child lives in an adjacent property. While the dog owners have taken substantive measures to secure their home and property to prevent attacks and bites such as those that have already taken place, based on the credibility of ACO Skinner in his testimony and his reasoning for requiring additional measures be taken by the dog owners, it is the opinion of the Hearing Officer that the City of Bristol's requirement for further measures such as the additional privacy fencing to protect public safety and health is reasonable.

Upon careful consideration of the testimony and exhibits presented in this case, there is a preponderance of evidence in the record to affirm the Restraint Order based on the August 15, 2016 attack and bite which resulted in an injury. Further, given that this is Max's third biting incident, the evidence in the record leads to the reasonable conclusion that Max may either attack another dog or bite a human who is under the assumption that he is approachable.

It is the opinion of the Hearing Officer that the existence of the Restraint Order is necessary for public safety.

V

PROPOSED FINAL DECISION

After consideration of the entire record in this case, I recommend that the final decision maker in this matter, in order to protect the public, *affirm* the Restraint Order issued by the City of Bristol on the dog named Max, owned by Arshe Ras.

Dated: June 14, 2018



Stephen Anderson
Hearing Officer