



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE

Office of the Commissioner



Bryan P. Hurlburt
Commissioner

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July 5, 2019

Lori and Josef Graham
49 Fishing Trail
Stamford, CT 06903
Mailed USPS/certified mail/return receipt and email
#7018 2290 0001 5297 5617

Tilford Cobb
201 Macgee Avenue
Stamford, CT 06902
Mailed USPS/certified mail/return receipt and email
#7018 2290 0001 5297 5624

I am the final decision maker in the matter of the appeal of a Restraint Order for the dogs named "Tennessee" and "Sandy" owned by Lori and Josef Graham. The Restraint Order was issued by the City of Stamford and its animal control officer on November 1, 2018.

A Proposed Final Decision of the Hearing Officer, Wayne Kasacek, was served upon the parties on or about April 24, 2019, through notice from the undersigned. The notice afforded each party the opportunity to present exceptions or briefs and requests for oral arguments to the Commissioner, as the final decision maker.

I have read the entire record in this matter. Upon due consideration of the entire record, I find there is substantial evidence in the record to MODIFY the Restraint Orders and I hereby adopt the Proposed Final Decision of the hearing officer in its entirety as the final decision in this matter along with the dog owners request to edit "Fact 8" from:

8. During the course of the 8/20/2018 attack on the dog Max, Geri Jackson was bitten on the right leg, by either Tennessee or Sandy for which she received medical care. Testimony did not clearly establish which dog caused the injury. T-5, T-7, Tr. Pg. 12.

to:

8: During the course of the 8/20/2018 attack, Ms. Jackson was unaware of being bitten. Ms. Jackson got between her dog Max and the dogs Tennessee and Sandy. The bite could have been from any of the three animals.

Bryan P. Hurlburt
Commissioner

BPH:dbw

Enclosed: Proposed Final Decision

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : ***APPEAL OF***
"TENNESSEE AND SANDY" : ***RESTRAINT ORDER***
DOGS OWNED BY JOSEF GRAHAM : ***FEBRUARY 26, 2019***

PROPOSED DECISION

A formal administrative hearing was held on February 26, 2019 with the undersigned, Wayne Kasacek, serving as Hearing Officer pursuant to designation by Jason Bowsza, Chief of Staff for the Commissioner of Agriculture. At said hearing, Animal Control Officer Tilford Cobb, representing the Town of Stamford presented testimony, exhibits and arguments. The owner of the dogs, Josef Graham presented testimony, exhibits and arguments.

Findings of Fact

1. Jason Bowsza, Chief of Staff for the Commissioner of Agriculture appointed Wayne Kasacek, an employee of the Department of Agriculture, to act as Hearing Officer and to issue a proposed decision in the matter of an appeal of a Restraint Order issued by the Town of Stamford, Connecticut "the Town" on two dogs named "Tennessee and Sandy" owned by, Josef Graham. Hearing Officer Exhibit [Ex.] HO-4.
2. Josef Graham timely filed an appeal of the restraint order on 10/25/18. Josef Graham filed the appeal to modify the restraint order to remove the off-premises muzzle requirements. Transcript ("Tr.") Pg. 8.
3. The Connecticut Department of Agriculture gave notice of the hearing to all parties at their last known address. Ex. HO-3

4. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(c), an administrative hearing was held and concluded on February 26, 2019. (See transcript in its entirety).
5. Stamford Animal Control Officer Tilford Cobb ("ACO Cobb") testified that Stamford Animal Control (ACO Franzetti, T-6) responded to a complaint 8/20/2018 concerning an incident where a bite to a dog (Max) and two persons occurred (Geri and Robert Jackson). Tr. Pg. 11
6. The dogs involved were identified by the victims as having left the property of Josef Graham and attacked the dog Max while being walked on a leash, by Robert and Geri Jackson, on Fishing Trail Road, Stamford, CT. Tr. Pg. 11, T-6, T-7, T-8, T-9, T-10
7. The attack on 8/20/2018 resulted in injury to the dog Max, owned by Geri and Robert Jackson. Tr. Pgs. 14 -17, T1-T4, T-6, T-8, T-9
8. During the course of the 8/20/2018 attack on the dog Max, Geri Jackson was bitten on the right leg, by either Tennessee or Sandy for which she received medical care. Testimony did not clearly establish which dog caused the injury. T-5, T-7, Tr. Pg. 12.
9. ACO Cobb testified that Robert Jackson sustain an injury to his hand during the 8/20/18 attack for which he did not receive medical care. Tr. Pg. 12, Tr. Pg. 21.
10. After the 8/20/18 attack, Geri and Robert Jackson called to report a subsequent incident where they reported that, while walking their dogs, Tennessee and Sandy ran to the front of Josef Graham's property but did not leave the property. As a result of these incidents, ACO Cobb issued restraint orders as to the dogs Tennessee and Sandy on 11/1/18. Testimony of ACO Cobb Tr. Pg. 13. T-13, T-14
11. The restraint orders were issued pursuant to section 22-358, subsection (c) and subsection (h). T-13, T-14
12. Testimony of ACO Cobb and Josef Graham corroborate that the fencing conditions of the restraint orders on the property of Josef Graham have been complied with. Tr. Pg. 13, Tr. Pg. 44.

13. Josef Graham testified that both Tennessee and Sandy had successfully completed dog obedience training by 203 Canine. ACO Cobb testified that to his knowledge, 203 Canine was a professional dog training company. Tr. Pg. 39 – 41,
R-1
14. Josef Graham testified that the dogs Tennessee and Sandy have been trained to ignore other dogs. Tr. Pg. 41.

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.... Any person aggrieved by an order of any municipal animal control officer, the Chief Animal Control Officer, any animal control officer or any regional animal control officer may request a hearing before the commissioner within fourteen days of the issuance of such order. ...After such hearing, the commissioner may affirm, modify or revoke such order as the commissioner deems proper.”

Conn. Gen. Stat. § 22-358(h) provides, among other things, 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.... A person aggrieved by an order of the Chief Animal Control Officer or any animal control officer, municipal animal control officer or regional animal control officer made pursuant to this subsection may request a hearing before the commissioner not later than fourteen days after the issuance of such order. After such hearing, the commissioner may affirm, modify or revoke such order as the commissioner deems proper.”

Discussion

It is undisputed that the attack by Tennessee and Sandy occurred on 8/20/18. Tr. Pg. 16, testimony of Josef Graham. At issue is a requirement in the restraint orders for the dogs Tennessee and Sandy owned by Josef Graham, be muzzled when off the property of Josef Graham.

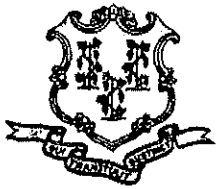
This hearing officer through the testimony of the owner of the dogs Tennessee and Sandy, Josef Graham and through his actions since the attack, believes that Josef Graham has taken responsibility for the attack and has taken the necessary precautions by complying with the conditions of the restraint order to prevent future attacks.

Proposed Final Decision

After consideration of the entire record in this case, and after much reflection, I recommend that the final decision maker in this matter, **MODIFY** the Restraint Orders issued as to the dogs Tennessee and Sandy, owned by Josef Graham to remove the requirement that Tennessee and Sandy be muzzled when off the property of Josef Graham one year from the date of issuance of the restraint orders (11/1/2018), provided no further incident is reported where any aggressive behavior or contact is made by Tennessee or Sandy towards any person or domestic animal during that time.

 24 Apr 2019

Wayne Kasacek, Hearing Officer



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE



Office of the Commissioner

In the Matter of "TENNESSEE and SANDY"
Dog owned by Lori & Josef Graham
Appeal of Restraint Order

SERVICE LIST

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