



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE

Office of the Commissioner

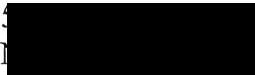


Steven K. Reviczky
Commissioner

860-713-2501
www.CTGrown.gov

December 28, 2018

Susannah Seefeldt



Mailed USPS/certified mail/return receipt



Dear Ms. Seefeldt:

I am the final decision maker in the matter of the appeal of a Restraint Order for the dog named "Sally" owned by Susannah Seefeldt. The Restraint Order was issued by the Town of East Lyme and its animal control officer on May 18, 2017.

A Proposed Final Decision of the Hearing Officer, Stephen Anderson, was served upon the parties on or about October 23, 2018, 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. On November 9, 2018, the town of East Lyme emailed objection to the Proposed Final Decision.

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 Order as stated in the Proposed Final Decision of Hearing Officer Stephen Anderson as follows:

Modification shall allow specifically that sally "be securely muzzled anytime she is not confined in the dog owner's house or at the school of the dog owner's son when Sally's presence is specifically requested and documented by school officials. Sally must be leashed and muzzled while travelling to and from the school, but while visiting in a separate room at the school, may visit with Ms. Seefeldt's son without a muzzle."

I hereby adopt the Proposed Final Decision of Hearing Officer Stephen Anderson in its entirety as the final decision in this matter.

Steven K. Reviczky
Commissioner

SKR:dbw

Enclosed: Service List
Proposed Final Decision

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : ***APPEAL OF***
"SALLY" : ***RESTRAINT ORDER***
DOG OWNED BY Susannah Seefeldt : ***October 22, 2018***

PROPOSED FINAL DECISION

I

SUMMARY

On May 18, 2017, East Lyme Animal Control Officer, Christopher Toledo, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(h), issued a Restraint Order to Susannah Seefeldt, owner of the dog named Sally. Ms. Seefeldt timely requested a hearing before the Commissioner of Agriculture pursuant to C.G.S. §22-358.

A formal administrative hearing was opened on August 28, 2018, with Stephen Anderson serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture.

At said hearing, Timothy Bleasdale, Esq. represented the Town of East Lyme and presented testimony, exhibits and arguments on behalf of the Town. The Appellant and dog owner, Susannah Seefeldt, was represented at the hearing by Mr. Steven Frischling.

Based on the testimony presented and a full review of the entire record, the Hearing Officer is recommending that the final decision maker *modify* the Restraint Order issued on the dog Sally, owned by Susannah Seefeldt.

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 Town of East Lyme on the dog named Sally, owned by Susannah Seefeldt (dog owner). Hearing Officer Exhibit [Ex.] HO-3.
2. The Department of Agriculture gave proper notice of the hearing to both parties. Ex. HO-4. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(h), an administrative hearing was held and concluded on August 28, 2018.
3. At the hearing on August 28, 2018, the Town of East Lyme presented testimony and exhibits described herein as Town-1 through Town-22, inclusive and they were admitted into the record.
4. At the hearing on August 28, 2018, the dog owner presented evidence which included a series of five (5) photos, a timeline prepared by Mr. Frischling and audio files described herein as Respondent-1 through Respondent-10, inclusive and they were admitted into the record (note that the dog owner's representative stated at hearing that he would look for complete audio files to supplement clips played in the hearing, but the files submitted post hearing did not add any substantive value to the audio files played at the hearing).
5. The record shows that Sally, described as a 2 year old female, black/white American Pitbull Mix breed (Ex. Town-9) was involved in two (2) attack or bite incidents in which a dog was attacked or bitten, one incident on April 6, 2017 and the other on May 3, 2017.

6. In the April 6, 2017 incident, as summarized by Animal Control Officer (ACO) Toledo (see Tr., beginning pg. 15), stated that when he arrived on scene a Police Officer (Lindsey Cutillo) was there with three witnesses and that the victim and her dog had left to VCA New London for care. ACO Toledo testified that the three witnesses said the attacking dog (a black and white dog) returned to 5 Wildwood Drive, the home of Ms. Seefeldt. The incident/investigation report (Ex. Town-1) filed by ACO Toledo states that he spoke with Joseph Cienik of 26 Black Point Rd., who stated that “a black and white pit bull type dog grabbed a smaller dog and wouldn’t let go.”
7. The time of the attack, while not clear, is sometime before 3:59 PM, since that was the time the first call was reported to East Lyme Police Department [Ex. Town-6]. At that time it was reported that the dog that was attacked needed an emergency vet due to its injuries [Ex. Town-2].
8. ACO Toledo testified that, due to the extent of injury to the smaller dog (a Miniature Schnauzer), the dog was taken directly to the vet before he could take any photos in addition to what was provided by a witness, Andrea Ravenelle.
9. The dog owner’s representative at the hearing presented photos of Sally, which he testified were taken shortly after 4:00 pm (Ex. R-1 through R-5), appearing to show Sally without any blood on her face.
10. An infraction was issued by ACO Toledo to Mr. Frischling on 4/6/2017 for a roaming dog and owning or keeping a dog that creates a nuisance.
11. ACO Toledo testified that Sally was quarantined on April 6th due to the attack, and because she was not current on her rabies vaccination.

12. A second attack was also described in the hearing, through testimony given by ACO Toledo – that attack took place [beginning on Tr. page 31] on the evening of May 3, 2017.
13. ACO Toledo investigated the report the following day, on May 4, 2017 – he was not working on May 3rd.
14. ACO Toledo testified that the dog Sally was again quarantined due to the lack of rabies vaccination which had not been completed as of 5/4/18.
15. There is an affidavit in the record [Ex. Town-12] from the owner of the dog that was attacked, Ms. Susanna Fisch, dated August 27, 2018. According to the affidavit, Ms. Fisch (the owner of a Toy Poodle) states in part that “while walking along Wildwood Drive on the roadway, a large dog belonging to.....Susannah Seefeldt broke free from a ground tether and charged” her and her dog.” Ms. Fisch also describes the injury to her dog as a result of the attack.
16. ACO Toledo testified that two additional infractions were issued to the dog owner, one for the continuing lack of a rabies vaccination and one for roaming.
17. Nothing in ACO Toledo’s testimony conflicted with the affidavit submitted by Ms. Fisch.
18. A restraint order, the subject of this hearing, was issued on May 18, 2017, requiring that the dog Sally be securely muzzled when not confined in the home of the dog owner.
19. Attached to the affidavit [Ex. Town-12], is a letter from Ms. Seefeldt (the dog owner) to Ms. Fisch. In the letter, relevant to the restraint order, Ms. Seefeldt recognizes that her dog has “issues with small dogs” and discusses her intent to build a fence to “prevent any further issues” related to her dogs. Further, Ms. Seefeldt recognized and apologized,

stating “I remain sorry for the interaction that occurred between my dog and yours yesterday May 3, 2017.”

20. The dog owner’s representative, Mr. Frischling, disputed that the wound came from Sally. He inquired about another dog at the beach [Tr. page 67] and also questioned the wound on the poodle.
21. Mr. Frischling also offered tape recording (pieces of tape recordings) into evidence, and based on those recordings and his conversation with Ms. Fisch, he stated his conclusion that another dog at the beach may have been responsible for the wound(s) on Ms. Fisch’s dog [Tr. beginning page 79].
22. Lastly, Mr. Frischling testified that he has an 11 year old son who is autistic, and that Sally can be used as therapy to help regulate his son’s mood. His school, at times, has requested that Mr. Frischling bring Sally to the school for helping to calm his son. Mr. Frischling added that his son “starts smashing his head into the floor” when he sees the muzzle on Sally, and that being able to have Sally at the school when needed was “the greatest single tool in the world” (for calming his son).

III

CONCLUSIONS OF LAW

C.G.S. §22-358(h) provides that “[t]he 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.” It further provides in §22-358(h) 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(h), the East Lyme Animal Control Officer, Christopher Toledo, issued a Restraint Order to Ms. Susannah Seefeldt, owner of the dog named Sally.

Although the dog owner's representative clearly tried to cast doubt that Sally was responsible for both the April 6, 2017 and May 3, 2017 attacks, Mr. Frischling offered little in the way of compelling evidence to show that Sally was not the attacking dog in these incidents. In the April 6th incident, eyewitnesses reported that the attacking dog was a large black and white dog and that they saw the dog run back into the home at 5 Wildwood Dr., the home of Ms. Seefeldt – where Sally is the only black and white dog. In the May 3rd attack, there is an affidavit from the owner of the dog Toby (a Toy Poodle) that was attacked while being walked on the road. Further, Ms. Seefeldt readily admits that an “interaction” occurred between Sally and Toby in her letter which is attached to Ms. Fisch's affidavit. Both attacks took place off the property of Sally's owner.

However, while there is ample evidence to support the restraining order, the lack of witnesses and/or affidavits in the first attack (where the bitten dog was immediately transported for veterinary care) and the lack of clear photographic evidence of a bite and a timely interview with the complainant in the second attack, are both of concern.

Finally, Mr. Frischling's testimony concerning the nature of Sally's therapeutic relationship with his son is compelling. While Sally is not a registered “service dog,” she is clearly providing emotional support to Ms. Seefeldt's son. Further, while Sally is clearly dog

aggressive, there have been no reports of a person being bitten or attacked by Sally. The fact that Mr. Frischling has been called upon by school officials to bring Sally to school for calming his son is further evidence that Sally could continue to be used in this capacity.

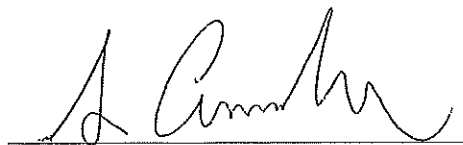
Upon careful consideration of the testimony and exhibits presented in this case, there is a preponderance of evidence in the record to affirm the Restraint Order based on both the April 6, 2017 and May 3, 2017 attack and bite incidents. However, given the therapeutic nature of the relationship between Sally and Ms. Seefeldt's autistic son and the low risk involved in continuing to use Sally for this purpose, I am recommending that the decision maker in this case modify the restraint order to accommodate bringing Sally to school for visiting Ms. Seefeldt's son when asked to do so by the school.

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, *modify* the Restraint Order issued by the Town of East Lyme on the dog named Sally, owned by Susannah Seefeldt. Such modification shall allow specifically that Sally "be securely muzzled anytime she is not confined in the dog owner's house or at the school of the dog owner's son when Sally's presence is specifically requested and documented by school officials. Sally must be leashed and muzzled while travelling to and from the school, but while visiting in a separate room at the school, may visit with Ms. Seefeldt's son without a muzzle."

Dated: October 22, 2018



Stephen Anderson
Hearing Officer