

STATE OF CONNECTICUT  
DEPARTMENT OF AGRICULTURE

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JUDITH BOUCHARD  
V.  
TOWN OF SOUTHWINGTON  
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NOVEMBER 13, 2018  
RE: DOG MOLLY

PROPOSED DECISION

FINDINGS OF FACT

1. The Connecticut Department of Agriculture ("the Department") received an appeal on August 20, 2018 from Judith Bouchard ("Ms. Bouchard") concerning a RESTRAINT ORDER issued by the Town of Southington on a dog named "Molly" owned by Hannah Turci. See Exhibit (Ex.) HO-1. Ms. Turci did not appeal.
2. Ms. Bouchard claimed status as an aggrieved party because her dog "Scooter" was the dog attacked and bitten by Molly.
3. On August 24, 2018 Commissioner of Agriculture, Steven K. Reviczky granted Ms. Bouchard status as an aggrieved party, and her request for a hearing. Ex. HO-2
4. On September 28, 2018 all parties were properly noticed of the purpose of the hearing and the date, time and location of the hearing. Ex. HO-3
5. On November 9, 2018 Chief of Staff, Jason E. Bowsza acting on behalf of Commissioner of Agriculture, Steven K. Reviczky, appointed Wayne Kasacek to act as Hearing Officer and render a proposed decision after holding a full evidentiary hearing. Ex. HO-4
6. On November 13, 2018 a full evidentiary hearing was held and concluded. See Transcript (Tr.)
7. The dog owner was represented by Attorney Ronald J. Pugliese, Jr. Appearing under subpoena issued by Attorney Pugliese was Town of Southington Municipal Animal Control Officer Josh Karabin (ACO Karabin), and also appearing was the owner of the dog Molly, Hannah Turci (Ms. Turci). Tr. Pg. 1, Tr. Pg. 4, Tr. Pg. 63
8. Ms. Bouchard represented herself. Tr. Pg. 1
9. Though served with notice of the appeal and hearing, the Town of Southington did not send a representative to the hearing. Tr. Pgs. 4,5

10. At issue is a restraint order on the dog Molly, issued by Southington ACO Karabin on August 10, 2018, citing Connecticut General Statute 22-358 subsection (h) as the authority to issue the order.
11. Ms. Bouchard appealed the order, as issued, claiming it was insufficient to protect the safety of animals that may come in contact with Molly, and that the order should be modified to a disposal order based upon the facts and circumstances of attacks by Molly, further discussed below. Tr. Pg. 7
12. It is not disputed that on August 6, 2018, Molly left the yard of Ms. Turci by slipping under a fence and attacked, bit, and killed the dog Scooter, owned by Judith Bouchard. Tr. Pg. 7, 15-16
13. On the date of the attack and bite, Ms. Turci resided at 791 Prospect Street, Plantsville (Southington) CT.
14. Two days later, on August 8, 2018, Ms. Turci informed ACO Karabin that she had moved to a new residence at 16 Salem Way and that Molly would be residing at this location. Respondent (R) 10.<sup>1</sup>
15. The restraint order was issued on August 10, 2018, which required that Molly while not on the property (16 Salem Way) be on a leash at all times, securely muzzled and under the control of a person 18 years of age or older. While not in the residence, Molly was to be confined to a 6 foot high by 10 foot wide by 10 foot long run, secured to a concrete surface or that Molly be on a leash within the existing fenced in area. The restraint order also did not permit Molly to be loose either on or off the property. R-10
16. Testimony was received that Molly had been involved in an incident prior to the August 6, 2018 attack, in January of 2017, in which a dog named Linus, owned by Patty Czuprynski, was attacked and injured by Molly. The injuries required veterinary medical care. The incident was not reported to Southington Animal Control. Tr. Pg. 12, Tr. Pgs. 12-15, Tr. Pg. 23 Ex. A-1
17. Ms. Bouchard testified that the restraint order, if followed properly, would be adequate to protect other animals. Tr. Pg. 21, 27-28
18. Ms. Turci testified that it was her intention to comply with the conditions of the restraint order at all times. This testimony was corroborated by ACO Karabin in that his inspection and observations led him to conclude that the restraint order is being followed. Tr. Pg. 41, Tr. Pg. 48
19. Testimony was heard and exhibits placed into the record, which were not disputed in any substantive way, concerning the condition of fencing at 791 Prospect Street where Molly had resided at the time of the attack. The dog Molly was able to force her way through a gap, and attack, bite, and kill the dog Scooter. Tr. Pg. 7, Tr. Pg. 19, Tr. Pg. 26 Ex. A-3

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<sup>1</sup> Conn. Gen. Stat. § 22-358(h) does not specifically provide that an owner of a dog that is attacked or bitten by an animal is entitled to a contested case hearing before the Department. Based on the new permanent address of Ms. Turci and the dog Molly, and the record, it is not clear that Ms. Bouchard is an aggrieved party, possessing a specific personal and legal interest that is distinguished from a general interest such as a concern of the community as a whole.

20. Subsequent to the attack on Scooter, Ms. Turci relocated to a new home and installed fencing and other yard improvements to meet the Restraint Order requirements. Tr. Pg. 32, 35-39. Ex. R-2 through R-9.
21. Ms. Turci testified that she engaged the services of a professional dog trainer for Molly. Tr. 43
22. ACO Karabin testified that the Restraint Order is sufficient to prevent any danger from Molly to other dogs if followed properly. Tr. Pg. 47-50. ACO Karabin testified that he has inspected the home where Molly resides and found all conditions of the restraint order are being complied with. Tr. Pg. 48.
23. ACO Karabin did not think a disposal order was necessary to protect other animals. Tr. Pg. 56-57.
24. On December 10, 2018, Ms. Turci filed a brief in support of affirming the ACO's restraint order.

### DISCUSSION

The August 6, 2018 attack and bite on the dog Scooter and the prior unreported incident involving the dog Linus are not disputed. This appeal questions ACO Karabin's decision to issue a restraint order rather than a disposal order.

This hearing officer received credible testimony and evidence that at her current residence, Ms. Turci has fully complied with the conditions of the restraint order, and that she takes full responsibility for the attacks. Ms. Turci also engaged the services of a professional dog trainer for Molly which was not a condition of restraint.

This hearing officer finds that ACO Karabin's decision to issue the restraint order is consistent with Conn. Gen. Stat Section 22-358(h). Ms. Turci testified that it was her intention to comply with the conditions of the restraint order at all times. This testimony was corroborated by ACO Karabin in that his inspection and observations led him to conclude that the restraint order is being followed. ACO Karabin provided credible evidence that this restraint order is adequate to protect other animals. Based on the evidence in the record, it was appropriate to issue a restraint order. Based on his professional judgment and past practices within the Town of Southington, ACO Karabin came to a thoughtful and reasonable conclusion that a restraint order would serve to protect the safety of animals that may come in contact with the dog Molly.

Upon careful consideration of the testimony and all of the evidence presented in this case, there is a preponderance of evidence in the record to affirm the Restraint Order.

### LEGAL CONCLUSION AND RECOMMENDATION:

Connecticut General Statute 22-358 subsection (h) states in part "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.”

Connecticut General Statute 22-358(h), provides in part “After such hearing, 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 have determined that there is a preponderance of the evidence in the record to support the issuance of the restraint order. This hearing officer recommends the restraint order as issued be AFFIRMED.

Respectfully submitted,



Wayne Kasacek  
Hearing Officer

18 Dec 2018

Date