

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : ***APPEAL OF***
"BUSTER" : ***RESTRAINT ORDER***
DOG OWNED BY Connor Morron : ***February 25, 2019***

PROPOSED FINAL DECISION

I

SUMMARY

On July 31, 2018, the Town of East Haddam Animal Control Officer (ACO), Wendy Savino, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(h), issued a Restraint Order to Connor Morron, owner of the dog named Buster. Ms. Morron timely requested a hearing before the Commissioner of Agriculture pursuant to C.G.S. §22-358.

A formal administrative hearing was held on December 13, 2018, with Stephen Anderson serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture.

At the hearing, Jennifer A. Pedevillano, Esq. represented the Town of East Haddam and presented testimony, exhibits and arguments on behalf of the Town. The respondent and dog owner, Connor Morron, was present at the hearing and also presented testimony.

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 Buster, owned by Connor Morron.

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 Haddam on the dog named Buster, owned by Connor Morron (dog owner) (Hearing Officer ("HO") Exhibit ("Ex.") HO-3).
2. The Department of Agriculture gave proper notice of the hearing to both parties Pursuant to Connecticut General Statutes (C.G.S.) §22-358(h), an administrative hearing was held and concluded on December 13, 2018 (Ex. HO-6).
3. At the hearing on December 13, 2018, the Town of East Haddam presented testimony and exhibits described herein as Town-1 through Town-7, inclusive and they were admitted into the record as full exhibits.
4. The record shows that Buster, described as a three year old, black and white male, Bull Dog breed was involved in three incidents where he attacked another dog while not on the premises of his owner or keeper (Ex. Town-3). In all three incidents, Buster charged a neighbor's Golden Retriever while the neighbor, Tara Goodspeed, was walking her dog Finn past the home where Buster resides.
5. The first attack, not cited in the Restraint Order but described by Ms. Goodspeed during her testimony, took place on February 14, 2018 (See Transcript ("Tr.") beginning on page 15).
6. A second attack occurred on June 19, 2018. Both the February attack and a second attack, which took place on June 19, 2018 are further described in Ex. Town-2.

7. A third attack took place on July 31, 2018. This attack is the second incident recorded by ACO Wendy Savino, and resulted in the issuance of the Restraint Order which is the subject of the instant appeal (See Tr. at page 23).
8. Ms. Goodspeed was asked by the Town's attorney if she sustained any injuries in the third attack (the July 31, 2018 attack) and Ms. Goodspeed stated that she had sustained injuries due to a fall during the attack (See Tr. beginning on page 24).
9. The Animal Control Officer who investigated the attack, Wendy Savino, testified at the hearing on December 13, 2018. ACO Savino testified as to her qualifications and experience, the results of her investigation and the reason for issuance of the restraint order (See Tr. beginning on page 52).
10. Ms. Morron testified that Buster has been in a dog training program (See Tr. at page 73.)
11. Ms. Morron also testified that a Golden Retriever similar to Ms. Goodspeed's dog comes by to visit once or twice per month without incident. Ms. Morron went on to assert that Buster's actions mean he just wants to "play" rather than attack Ms. Goodspeed's dog (See Tr. at page 72).
12. Ms. Morron also asserted that there has to be "some physical damage done to a dog" to consider these incidents as an "attack" under C.G.S. §22-358(h) - (See Tr. at page 85).
13. On cross examination, the Town's attorney questioned Ms. Morron about the incidents in which Buster broke free from his keepers. In all three incidents discussed during the hearing, Buster was able to break free of his keepers and they were unable to maintain control of him (See Tr. beginning at page 78).

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 Town of East Haddam Animal Control Officer, Wendy Savino, issued a Restraint Order to Ms. Connor Morron, owner of the dog named Buster. While Ms. Morron argued that C.G.S. §22-358(h) requires “physical damage” to justify a Restraint Order, as hearing officer I find this to be an incorrect application of the statute¹, and not a compelling argument for removal of the order. The statute states only that the complainant’s animal has to “sustain” damage to form the basis for a victim’s complaint. The ACO then investigates and determines what further action may be in order.

¹ The first sentence (which applies to the basis for the complaint) of §22-358(h) reads in part that: *“A person who sustains damage to such person’s poultry, ratite, domestic rabbit, companion animal or livestock.....shall make complaint.....to the animal control officer.”* Upon investigation by the animal control officer, the statute specifies further (in part) 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.....may make any order concerning the restraint or disposal of such attacking dog as the commissioner or such officer deems necessary.”*

In this case, the overriding factor in the issuance of the Restraint Order by ACO Savino was the fact that there were at least two occasions (documented by ACO Savino as June 19, 2018 and July 31, 2018), where Buster broke free of his keepers and attacked Ms. Goodspeed's dog while off Buster's property. While on both occasions the damage to Ms. Goodspeed's dog may have been minimal, neither party disputes that the attacks took place or the general circumstances surrounding the attacks.

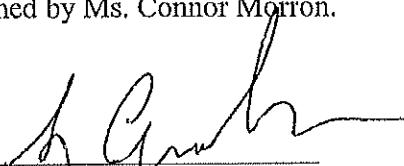
Therefore, it is the opinion of the Hearing Officer that there is a clear public safety issue that is being addressed by the Restraint Order. Upon careful consideration of the testimony and all of the evidence presented in this case, there is a preponderance of evidence in the record to affirm the Restraint Order.

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 Town of East Haddam on the dog named Buster, owned by Ms. Connor Morron.

Dated: February 25, 2019



Stephen Anderson
Hearing Officer

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