



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



Bryan P. Hurlburt
Commissioner

860-713-2501
www.CTGrown.gov

July 1, 2020

Elizabeth Blum
Mailed via email: egb@me.com
Mailed USPS/certified mail/return receipt
#7019 2280 0000 6644 0050

Alexander Copp, Cohen and Wolf
Kristopher Zulkuski, Ridgefield Animal Control
Mailed via email: acopp@chohenandwolf.com, rdpaco@ridgefield.com

Dear Ms. Blum:

I am the final decision maker in the matter of the appeal of a Disposal Order for the dog named “Moxey” owned by Elizabeth Blum. The Disposal Order was issued by the Town of Ridgefield and its animal control officer on September 24, 2019.

A Proposed Final Decision of the Hearing Officer, Wayne Kasacek, was served upon the parties on or about January 24, 2020, 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. A first oral argument was held on May 27, 2020, where Ms. Blum did not attend due to technology problems. A second oral argument was held on June 10, 2020, at which all parties attended and were heard.

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 affirm the Disposal Order and I hereby adopt the Proposed Final Decision of the hearing officer in its entirety as the final decision in this matter.

Bryan P. Hurlburt
Commissioner

BPH:dbw

Enclosed: Proposed Final Decision



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



Bryan P. Hurlburt
Commissioner

860-713-2501
www.CTGrown.gov

January 24, 2020

Elizabeth Blum
94 Silver Spring Lane
Ridgefield, CT 06877

Mailed via email: gb@elizabethblum.info

Kristopher Zulkeski, Ridgefield Animal Control
40 South Street
Ridgefield, CT 06877

Mailed via email: rpdaco@ridgefieldct.org

RE: PROPOSED FINAL DECISION IN THE MATTER OF THE APPEAL OF A DISPOSAL ORDER PLACED ON THE DOG "MOXEY" OWNED BY ELIZABETH BLUM

Pursuant to Connecticut General Statutes Section 4-179, enclosed is the Proposed Final Decision of the Hearing Officer, Wayne Kasacek, in the above referenced matter.

Any exception or brief, which you may wish me to consider before I render my Final Decision must be submitted to me, in writing, and be received within fifteen (15) days of your receipt of this Proposed Final Decision.

Any request for the scheduling of oral argument must also be submitted to me, in writing, and be received within fifteen (15) days of your receipt of this Proposed Final Decision.

Sincerely,

Bryan P. Hurlburt,
Commissioner

BPH:dbw

Enclosures: Proposed Final Decision

Cc: Chief Jeffery Kreitz, Ridgefield Police Department

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : **APPEAL OF**
“Moxey” : **DISPOSAL ORDER**
DOG OWNED BY Elizabeth Blum :

PROPOSED DECISION

I

SUMMARY

On September 24, 2019 the Town of Ridgefield Animal Control Officer (ACO), Kris Zulkeski, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(c), issued a Disposal Order to Elizabeth Blum, owner of the dog named Moxey. Ms. Blum timely requested a hearing before the Commissioner of Agriculture pursuant to C.G.S. §22-358.

A formal administrative hearing was held on November 19, 2019 and December 19, 2019, with Wayne Kasacek serving as Hearing Officer pursuant to designation by Bryan P. Hurlburt, the Commissioner of Agriculture.

At the hearing, ACO Kris Zulkeski represented the Town of Ridgefield and presented testimony, exhibits and arguments for the Town. The respondent and dog owner, Elizabeth Blum, represented herself, was present at the hearing and presented testimony, exhibits and argument.

II

FINDINGS OF FACT

1. Commissioner Bryan P. Hurlburt 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 the appeal of a Disposal Order issued by the Town of Ridgefield on the dog named Moxey, owned by Elizabeth Blum (dog owner). Hearing Officer (“HO”) Exhibit (“Ex.”) HO-3

2. The Department of Agriculture gave proper notice of the hearings to both parties Pursuant to Connecticut General Statutes (C.G.S.) §22-358(c), and an administrative hearing was held on November 19, 2019, continued to December 19, 2019 and concluded on December 19, 2019. (Ex. HO-4. HO-7)
3. The dog Moxey, described as a seven year old Dalmatian, is owned by Elizabeth Blum. (11/19/2019 Transcript Page (Tr.-Pg.) 8)
4. Linda Blum testified that Moxey moved into their residence in March 2019. (11/19/2019 Tr. Pg. 48)
5. Moxey was staying with Linda and Michael Blum, parents of Elizabeth Blum in Ridgefield Connecticut while her residence in Stamford was being renovated. (11/19/2019 Tr.- 8, 11)
6. ACO Zulkeski testified that Moxey was involved in two biting incidents on 7/13/2019 and on 9/22/2019. On 7/13/2019, she attacked and bit Linda Blum. On 9/22/2019, Moxey attacked and bit Michael Blum and Elizabeth Blum. (ex. T-1, T2, T-4, T-5, T-7)
7. Elizabeth Blum, during her questioning of ACO Zulkeski and ex. T-4, stated on the record that she was also bitten on 7/13/2019 by Moxey and was transported by ambulance for treatment. (11/19/2019 Tr. Pg. 15, 16, 27, 33)
8. ACO Zulkeski testified that he responded to the 7/13/2019 and 9/22/2019 incidents and investigated both incidents. (11/19/2019 Tr. Pg. 13)
9. ACO Zulkeski testified that in the course of his investigation, based on the aggressive behavior of the dog Moxey, the severity of the injuries caused by the dog Moxey and the

temperament of the dog Moxey he determined that to protect public safety and the safety of the Blum family a disposal order against Moxey was necessary. (11/19/2019 Tr. 9, 24, 25, 39 T-1, T-3, T-13 through T-21 inclusive)

10. Upon questioning by the hearing officer, ACO Zulkeski testified as to the process and his qualifications to conduct a temperament assessment of the dog Moxey. ACO Zulkeski testified that he has been an Animal Control Officer for almost 8 years. Prior to be an Animal Control officer he trained dogs professionally. He has done numerous temperament examinations. (11/19/2019 Tr. Pg. 34, 35)
11. Elizabeth Blum testified that Moxey was experiencing emotional trauma at the loss of a companion dog in November 2018. (11/19/2019 Tr. 10, 42, 43)
12. Elizabeth Blum testified that an argument between her and her father Michael Blum and mother Linda Blum triggered the attacks by Moxey on 7/13/2019 and 9/22/2019. (11/19/2019 Tr. Pg. 43, 62)
13. Elizabeth Blum testified that on 8/3/2019 an alarm at the residence of Linda and Michael Blum resulted in the Ridgefield Fire department responding. In the course of their response they had to break a door to make entry to the residence due to smoke being in the home. At this time Moxey was loose in the home and Fire Department personnel were able to secure her in the basement of the residence without incident. Elizabeth Blum testified that it was her belief that if Moxey were dangerous, something would have happened between Moxey and fire personnel. (11/19/2019 Tr. 58, 60, 61, 63 D-2)
14. Michael Blum testified that he was shocked at Moxey's reaction in the 7/13/2019 and 9/22/2019 incidents, and that he took responsibility for losing his temper. Michael Blum referred to Elizabeth Blum's traumatic brain injury. He would love to see Moxey be rehabilitated and come back if an arrangement could be made. (11/19/2019 Tr. Pg. 68)

15. Michael Blum testified that Moxey was fine with fire personnel on 8/3/2019. (11/19/2019 Tr. Pg. 70)
16. During cross examination by ACO Zulkeski, Michael Blum stated that the 9/22/2019 incident resulted in him getting 5 or 6 stiches due to Moxey, and his other wounds healed by themselves. (11/19/2019 Tr. Pg. 71)
17. Michael Blum testified that he had bitten Moxey's ear in an attempt to get him to release his daughter Elizabeth Blum. During questioning by Elizabeth Blum of Michael Blum, she stated that Michael Blum was on the floor and being bitten by Moxey and she got Moxey off him by saying "let's play with your ball". Michael Blum then testified that he was wrong and that when Moxey bit him, he bit the dog's ear. (11/19/2019 Tr. 72 – 74 inclusive)
18. Elizabeth Blum testified that she has a traumatic brain injury which is heightened emotion and that the loss of Moxey will traumatize her "really bad". (11/19/2019 Tr. 46, 83, 84)
19. This Hearing Officer, having heard testimony that Elizabeth Blum has a disability and that the loss of Moxey, in her words, would traumatize her, ruled that the dog Moxey was to undergo an evaluation by an independent expert in dog behavior. The ruling required all parties to cooperate with the expert and for the expert to prepare a report regarding the temperament of Moxey for the hearing officer. (11/19/2019 Tr. Pg. 84, 85 HO-5)
20. The hearing was continued until the dog Moxey was evaluated and the expert report provided to all parties.
21. On 12/19/2019 the hearing concerning the disposal order issued by the Town of Ridgefield to Elizabeth Blum on her dog Moxey was resumed and concluded. The hearing officer entered into the record HO-5 through HO-7. HO-5 is a written order

concerning the evaluation of the dog Moxey, by a Donna Gleason. HO-6 is a report and video of Donna Gleason's evaluation of Moxey. HO-7 is the notice of hearing scheduled for 12/19/2019. (12/19/2019 Tr. pg. 1-5 HO-5, HO-6, HO-7)

22. Concerning exhibit HO-6, the correct spelling of the dog's name is "Moxey".
(12/19/2019 Tr. pg. 5)

23. Donna Gleason testified that she was retained by the Connecticut Department of Agriculture to perform an evaluation of the dog Moxey. (12/19/2019 Tr. pg. 5)

24. Donna Gleason testified as to her education, training and experience as a dog behavior consultant. She is certified professional dog trainer and behavior consultant with 15 year's experience. She has a Master's degree in behavior modification. (12/19/2019 Tr. pg. 6)

25. At the time of her test of Moxey, Elizabeth Blum, Linda Blum, Michael Blum, ACO Zulkeski, and a Ridgefield Police Officer were present at the Ridgefield Dog Pound where the evaluation took place. (12/19/2019 Tr. pg. 6)

26. Donna Gleason testified that she tested Moxey using a template. Her test included observation of Moxey's reaction to her alone as compared and contrasted to Moxey's reaction to Elizabeth Blum. (12/19/2019 Tr. pg. 7, 42)

27. Donna Gleason testified that she prepared a report which included a video recording of the evaluation, HO-6, which was entered into the record as a full exhibit. (12/19/2019 Tr. pg. 9, 11)

28. Donna Gleason testified as to her findings. Donna Gleason testified that there were similarities between Moxey with her and with Elizabeth Blum. Moxey appeared to have some sort of neurological dysfunction. Moxey displayed rhythmic vocal intakes in

expelling of air appearing to be in a hypnotic state and presented exaggerated calming signals. She testified this was highly unusual. (12/19/2019 Tr. pg. 12, 13)

29. Donna Gleason testified that Moxey displayed a heightened state of arousal where the eyes dilate and one can actually see to the back of the eyes. She testified that she never had seen the eyes of a dog change back and forth black to red to black to red, and found that highly unusual and extremely important. (12/19/2019 Tr. pg. 13)

30. Donna Gleason testified there were absolutely no differences between the way "Moxey" presented himself to her and to Elizabeth Blum. Donna Gleason testified that she expected "Moxey" to recognize his owner, that as it was an extended absence, he would be happy to see her. (12/19/2019 Tr. pg. 13, 14)

31. Donna Gleason testified as to how dog bites are categorized using the Dunbar scale. Donna Gleason testified that on the Dunbar scale bites go from level one to level six. Level one would be like an air snap, level six would be the person or victim being dead. Donna Gleason testified that the bites Moxey made were significant bites, and would be categorized as level four, level five and level five plus. (12/19/2019 Tr. pg. 14, 15)

32. Donna Gleason testified that, using the Dunbar scale level, five and level six bites indicate that the dog is extremely dangerous and mutilates. She also testified that Dr. Dunbar who created the scale believes a dog who has bitten to a level 5 and 6 is simply not safe to be around people. Dr. Dunbar recommends euthanasia because the quality of life is so poor for dogs that have to live out their lives in solitary confinement. (12/19/2019 Tr. pg. 15)

33. Donna Gleason testified that it is her opinion that Moxey has little or no bite inhibition. (12/19/2019 Tr. pg. 17)

34. Donna Gleason testified that in order for a dog of this type to be rehabilitated the owner has to have 100 percent compliance to what the trainer says. She testified as to her concern that Elizabeth Blum would not be able to comply. (12/19/2019 Tr. pg. 17, 25, 26)
35. During cross-examination by Elizabeth Blum, Donna Gleason testified that her opinions are based upon fact and research. (12/19/2019 Tr. pg. 21)

III

APPLICABLE LAW AND DISCUSSION

Connecticut General Statute § 22-358(c) provides, in pertinent part, that "... any municipal animal control officer . . . may make any order concerning the restraint or disposal of any biting dog . . . as . . . such officer deems necessary."

This statute further provides "Any person aggrieved by an order of any municipal animal control officer... may request a hearing before the commissioner... After such hearing, the commissioner may affirm, modify or revoke such order as the commissioner deems proper."

Acting under the authority of C.G.S. §22-358(c), the Town of Ridgefield ACO Zulkeski, issued a Disposal Order to Elizabeth Blum owner of the dog named Moxey. This order was issued after ACO Zulkeski, documented two occasions where Moxey attacked and injured Elizabeth Blum, Linda Blum and Michael Blum. On both occasions the injuries were severe and required medical attention. Expert witness Donna Gleason testified that her evaluation of bites using the Dunbar scale lead her to believe the bites where at a level that indicates the dog is extremely dangerous. ACO Zulkeski's conclusions and the expert testimony of Donna Gleason establish that Moxey is a dog of dangerous propensity and that the Disposal Order is necessary to protect public safety. Upon careful consideration of the testimony and all the evidence presented in this case, this Hearing Officer finds there is a preponderance of evidence in the record to

affirm the Disposal Order.

IV

PROPOSED FINAL DECISION

Upon much reflection and 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 safety, *affirm* the Disposal Order issued by the Town of Ridgefield on the dog named Moxey, owned by Elizabeth Blum.

Dated: January 17, 2020


Wayne Kasacek
Hearing Officer