



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



Bryan P. Hurlburt
Commissioner

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July 6, 2022
Via email and certified mail

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**RE: FINAL DECISION IN THE MATTER OF THE APPEAL OF A DISPOSAL ORDER
ISSUED BY THE TOWN OF ENFIELD PLACED ON THE DOG NAMED CHARLIE
OWNED BY BEATRIZ GARCIA**

I am the final decision maker in the matter of the appeal of a disposal order for the dog named Charlie owned by Ms. Beatriz Garcia ("Dog Owner" or "Owner"). The disposal order was issued by a Town of Enfield municipal animal control officer ("the Town") on July 7, 2021.

A Proposed Final Decision of the Hearing Officer was served upon the parties on or about May 19, 2022. The Proposed Final Decision was accompanied with notice that each party had the opportunity to present exceptions or briefs and make requests for oral argument to the final decision maker. The Town submitted an exception to the Proposed Final Decision by way of a Brief dated June 10, 2022. The Dog Owner did not file a brief. Neither party requested oral argument.

In its Brief to the Proposed Final Decision the Town avers that the Proposed Final Decision disregarded relevant evidence, is based on uncorroborated testimony and "blames the victims" for the biting incident. More specifically, the Town argues that the record does not support that the victims of the dog bite incidents were threatening or posed a threat to the Dog Owner or members of her household, that the dog was provoked or that the dog was an emotional support animal. Moreover, the Town argues that the Proposed Order does not address questions such as what, if

any, conditions are imposed on the dog upon its return to the Dog Owner, as well as issues associated with the Dog Owner engaging a dog behaviorist as directed by the Proposed Final Decision.

I have reviewed the entire record in this matter. Upon due consideration of the entire record, I concur with the hearing officer that the Town has not met its burden of establishing by a preponderance of the evidence that a Disposal Order is necessary under the facts and circumstances presented in the record and agree that the Disposal Order should be modified as a Restraint Order. However, I have also determined that under the facts and circumstances presented in the record, that in light of the three on-property bites imposed by Charlie, that there is a preponderance of evidence in the record that a Restraint Order that can properly prevent Charlie from further biting is necessary for the protection of the public. Therefore, I modify the Disposal Order by adopting the attached Proposed Final Decision, which is enclosed and incorporated herewith, along with the following modifications established in this Final Decision. For complete clarity, I want to reiterate that the restraint order conditions in this Final Decision control:

Connecticut General Statute §22-358(c) provides that “the Commissioner, the Chief Animal Control Officer, any municipal animal control officer... may make any Order concerning the restraint or disposal of any biting dog or other animal as the Commissioner or such officer deems necessary.” It further provides that following a hearing on such Order the Commissioner may affirm, modify or revoke such Order as the Commissioner deems proper.”

The dog Charlie attacked and bit two minor females and an adult male in or at the doorstep of the owner(s) residence. In each instance the bite victims were not invited guests of Ms. Garcia or the other adult resident Mr. Felipe Razon. The 14-year-old female bite victim essentially forced her way into the apartment against the will of Ms. Garcia’s minor child, who told the victim that the cat the victim was looking for was not in their residence, but unfortunately, she did not listen.

The 7-year-old female bite victim ran up the stairs behind the Ms. Garcia’s minor son and then into the residence without permission from Ms. Garcia who was home at the time, and also without the permission of the young bite victim’s mother. Ms. Garcia testified that she had previously instructed her children never to let anyone in the apartment because they first need to put the dogs, which included the dog Charlie, in another room.

Although it is not entirely clear, the two minor bite victims do appear to have been trespassing in the owner’s residence during their respective bite incidents with Charlie.

The landlord is an adult male who was specifically told on more than one occasion not to enter the residence until the owner(s) were able to secure their dogs (which included the dog Charlie) into another room. If the landlord had heeded such requests, the owner(s) would have had the opportunity to put Charlie into another room prior to the time that the landlord appeared on their doorstep. A sign on the front door also provided the landlord advance warning of the danger of the dog(s).

In each of the bite incidents, the bites occurred in or at the doorstep of the owner(s)’ residence and there is testimony in the record that Charlie was protecting its home and inhabitants. The three dog bite victims were uninvited, and they were not guests of the residence. The evidence presented establishes that at least two of the three bite victims were specifically directed not to enter the residence premises.

Given the totality of the circumstances in the record, the Town has failed to establish by a preponderance of the evidence that a disposal order is necessary, however, the Town has established by a preponderance of evidence in the record that given the dog Charlie's propensity to bite as established by the three bites here, that restrictive Restraint Order conditions are necessary to protect the public from further bites by Charlie.

The Town has established that the dog Charlie is dangerous to people of any age who enter its home or are even in the doorway. A more robust restraint order is clearly necessary in order to prevent further bites by Charlie, whether Charlie is in or outside his residence. As such, the Disposal Order for the dog Charlie is therefore modified and the dog Charlie is subject to the following Restraint Order conditions:

1. The dog Charlie must be kept in a secure room and/or kennel when there is anyone present in the residence other than those who live in the residence.
2. The dog Charlie must be kept in a secure room and/or kennel when there is anyone present on the doorstep or doorway of the residence, other than those who live in the residence.
3. There shall be one or more signs near to the entrance of the residence which is clearly visible and warns anyone entering the residence that there is a dangerous and/or biting dog within.
4. There shall be one or more signs near to the entrance of the residence which is clearly visible and indicates "No Trespassing" or "Do Not Enter" or words to that effect.
5. When the dog Charlie is outside the residence, he shall be on a leash not longer than six feet in length, muzzled at all times, and under the continuous control of an adult owner or adult keeper.
6. If the dog Charlie is kept in a residence with a yard, he can be unleashed in the yard only if there is a secure fence of a height of at least six feet with a locked gate, or an outside kennel, either of which must be approved in advance by the animal control officer of the town of the residence.
7. Within fourteen (14) days of Charlie's return to the owner(s), the owner(s) is required to hire a professional dog trainer licensed by the Connecticut Department of Agriculture, who shall be hired to train Charlie to address his aggressive behavior and his biting. Unless a different time-frame is established in writing by such trainer (and presented to the Town of Enfield ACO), the training shall be completed with Charlie within sixty (60) days of his return to the owner(s). A certificate of completion of such training or other similar documentation from the licensed trainer shall be provided to the Town of Enfield ACO within fourteen (14) days of training completion.
8. The terms of this Restraint Order apply regardless of what town the dog Charlie resides in. Moreover, if the dog Charlie is relocated to another town, the animal control officer of that town must be notified of the dog Charlie's relocation within seven days of the same. Additionally, the notice to that animal control officer shall include a copy of this Final Decision.



Cody N. Guarnieri,
Final Decision Maker

Proposed Final Decision, attached and incorporated as part of this Final Decision.

450 Columbus Boulevard, Hartford, CT 06103
Affirmative Action/Equal Employment Opportunity Employer

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

**IN THE MATTER OF: APPEAL OF DISPOSAL ORDER
ISSUED BY TOWN OF ENFIELD
FOR THE DOG CHARLIE
OWNED BY BEATRIZ GARCIA**

PROPOSED FINAL DECISION

I, Edward C. Taiman, Jr., the designated Hearing Officer in the Appeal of a Disposal Order issued by the Town of Enfield Animal Control Officer (the “Town”), in the matter of a dog named “Charlie” owned by Beatriz Garcia (“Owner” or “Ms. Garcia”), hereby issue the Proposed Final Decision in this matter. I have thoroughly reviewed the entire record, all the admitted exhibits, and all other related submissions of the parties. The Proposed Final Decision recommends modifying the Disposal Order to a Restraint Order as follows:

FINDINGS OF FACT:

1. Commissioner Brian P. Hurlburt appointed me as Hearing Officer in this matter to issue to him a Proposed Final Decision. Connecticut General Statute § 4 – 179. Hearing Officer (“HO”) Ex. 3. On February 25, 2022, the Notice of Hearing was sent by email to the Town, its attorney, and to Ms. Beatriz, for a hearing that was scheduled for March 17, 2022. Ex. HO 8.
2. The hearing commenced March 17, 2022, and was concluded on April 25, 2022, after the Town and Ms. Beatriz each called all of their respective witnesses, put in all of their exhibits, and stated that they did not have any other evidence to be submitted into the record.
3. The hearing was conducted in accordance with the Uniform Administrative Procedures Act, and the Department’s Rules of Practice pertaining to contested cases, which regulations were provided to the parties. Ex. HO 8.
4. At issue is the appeal of the Disposal Order issued by the Town on July 7, 2021, to owner Beatriz Garcia concerning a dog named Charlie. Ex. T 15.
5. The impounded dog, Charlie, is owned by Beatriz Garcia, now of 59 Spring Street, Enfield, CT 06082. Ms. Garcia owns another dog, Luna, which is not the subject of this appeal.
6. On April 13, 2021, Animal Control Officer (“ACO”) Eric Boucher appeared at the dog owner’s residence at 30 Cottage Green, Enfield, CT regarding a dog bite involving a 14-year-old female. According to his testimony, “The child was in the residence of the dog

owner and standing there, from what I understand, and the dog went up and bit her.”
March 17, 2022 Transcript at pgs. 20 – 21.

7. On April 13, 2021, a quarantine order was issued, and the dog Charlie was quarantined for a period of 10 days. Exhibit T 3.
8. On April 26, 2021, shortly after the dog Charlie had been released from quarantine, Enfield ACO Ashley McMahon issued a bite report for a second incident involving a dog named Charlie. Ex. T 5. This second incident involved a 6-year-old female who was bitten on the face and arm. Id. See also, Ex. T 12.
9. On April 26, 2021, a quarantine order was issued, and the dog Charlie was again quarantined for a period of 10 days. Ex. T 6.
10. According to the Owner, Ms. Garcia, “these children enter[ed] into my property, into my house, without my permission or their parents’ permission.” March 17, 2022 Transcript at pg. 22.
11. On May 1, 2021, an Animal Restraint Order was entered by ACO David Yoho. Ex. T 9. That order was not appealed and is not the subject of these proceedings.
12. On July 7, 2021, ACO David Yoho issued a Report entitled “Animal Bite/Attack On A Person” for a third incident involving the dog Charlie owned by Ms. Garcia. Ex. T 14. This third incident took place on July 6, 2021. Ex. T 13. The victim was the Owner’s landlord, Girpaul Jaisingh (hereinafter “landlord”) who had been bitten on his upper arm. Ex. T 13 & 14.
13. On July 6, 2021, Ms. Garcia was issued an infraction for the dog bite involving her landlord and the dog Charlie was again placed in quarantine. See, Exhibits T 16 & T 13, respectively.
14. On July 7, 2021, ACO David Yoho issued an Animal Disposal Order for the dog Charlie. Ex. T 15. When asked what the reason was for issuing the disposal order, he responded “Three separate attacks.” April 25, 2022 Transcript at pg. 15.
15. At the April 25, 2022 hearing, Felipe Razon was called to testify by Ms. Garcia. He is Ms. Garcia’s boyfriend and at all relevant times has lived with her at 30 Cottage Green, Enfield. He was present when the landlord was attacked by the dog Charlie. According to his testimony, he specifically informed the landlord not to come inside but to wait outside. April 25, 2022 Transcript at pgs. 18-19. The landlord did not listen and went upstairs to the second-floor apartment where Mr. Razon and Ms. Garcia lived with their children. The landlord stood in the doorway, that is, the threshold of the apartment, when he was attacked. See generally, April 25, 2022 Transcript at pgs. 19-20.
16. During cross-examination by the Town’s attorney, Mr. Razon was asked whether either of the two minor females who had been previously attacked were a guest in their home to which he responded “No, neither.” April 25, 2022 Transcript at pg. 22.
17. During Ms. Garcia’s direct examination, she stated that with respect to the 14-year-old female victim, she imagined her lost cat was in Ms. Garcia’s apartment but was told by her children that the cat was not in their apartment. Nonetheless, the victim argued with the younger children and opened the door and entered the apartment without their

permission in an effort to find the cat. It was at that time she was attacked by the dog Charlie. April 25, 2022 Transcript at pg. 23.

18. Ms. Garcia also testified as to the 6-year-old female victim, sometimes incorrectly characterized throughout the hearing as being 7 years of age. According to Ms. Garcia, the 6-year-old ran into their apartment behind her son even though Ms. Garcia had told her children that nobody is allowed into the apartment without her being first notified so that she can put the dogs into another room. She also testified to having a “Warning Dog” sign on their front door.

LEGAL DISCUSSION:

Connecticut General Statute §22–358(c) provides that “the Commissioner, the Chief Animal Control Officer, any municipal animal control officer... may make any Order concerning the restraint or disposal of any biting dog or other animal as the Commissioner or such officer deems necessary.” It further provides that following a hearing on such Order the Commissioner may affirm, modify or revoke such Order as the Commissioner deems proper.”

Turning to the case at hand, the dog Charlie attacked and bit two minor females and an adult male. In each instance they were not guests of Ms. Garcia. The 14-year-old female essentially forced her way into the apartment against the will of Ms. Garcia’s minor child who told the victim that her cat was not in their apartment. Unfortunately, she did not listen.

The 7-year-old female ran up the stairs behind the Ms. Garcia’s son and into the apartment without permission from Ms. Garcia who was home at the time, and also without the permission of the young victim’s mother. Ms. Garcia testified that she had previously instructed her children never to let anyone in the apartment because they first need to put the dogs in another room.

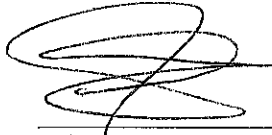
The landlord is an adult male who was specifically told on more than one occasion not to enter the apartment until they were able to secure their dogs in another room. He ignored that advice, as well as the sign on the front door giving him advance warning of the dog(s) and was subsequently bitten by the dog Charlie.

Here, the dog Charlie was protecting its home and inhabitants. The three dog bite victims were not guests, and the evidence presented establishes that at least two of them were specifically told not to enter the premises. Charlie is a family dog that provides emotional support to Ms. Garcia and Mr. Razon and their children and protects them from dangerous elements in the neighborhood. He has been previously taken for walks on a leash without incident and given the totality of the circumstances a disposal order is not warranted. Instead, because the attacks occurred over such a short period of time, a Restraint Order involving the evaluation of the dog Charlie by a dog behaviorist followed by training would appear to be more appropriate.

RULING RE: DISPOSAL ORDER:

Having carefully reviewed all the evidence in the record, including testimony presented, I find the Town has not satisfied its burden that by a preponderance of the evidence the Disposal Order issued by the Enfield Animal Control Officer should be upheld. Instead, the Disposal Order is hereby vacated, and the following Restraint Order shall enter. The dog Charlie is to be returned to Ms. Garcia who, within 60 days thereafter, is to retain the services of a dog behaviorist as approved by an Enfield ACO for an at-home evaluation of the dog, followed by training as recommended by the behaviorist. Proof of successful completion of the recommended training is to be provided to the Enfield ACO within 10 days thereafter. Upon the successful completion of the recommended training with notice to the Enfield ACO, the Restraint Order shall be deemed complied with in all respects.

Dated May 16, 2022



Edward C. Taiman, Jr.,
Hearing officer