

IN THE MATTER OF:

DeAnn R. Harrison
7303 School Avenue

10th Election District
3rd Councilmatic District

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. CBA-14-008

* * * * *

OPINION

This matter comes before the Board of Appeals as a “de novo” appeal of the July 16, 2013 decision of the Baltimore County Animal Hearing Board. The Animal Hearing Board (AHB) after an evidentiary hearing held that the three dogs owned by the Appellant Ms. Harrison (Roxy, Princess and Diamond) were dangerous animals and animals at large as defined in Article 12 Section 3-110 and 8-107 of the Baltimore County Code. The AHB imposed fines of Five Hundred Dollars for each of the dogs for the dangerous animal violations and Twenty-five Dollars for each of the dogs for the animal at large violations. The dogs were each ordered to be euthanized.

BACKGROUND

The Appellant is the owner of three (3) “pit bull” breed dogs that resided with the owner at 7303 School Avenue in Baltimore County. On or about May 12, 2013 the three dogs owned by the Appellant allegedly attacked and killed a dog owned by a neighbor of the Appellant while that neighbor was walking his dog in a public area in the neighborhood.

Thereafter Appellant's dogs were identified as the perpetrators of the killing and were taken into the custody of the County after the issuance of an administrative search warrant by the Circuit Court for Baltimore County.

Thereafter a hearing was held before the Animal Control Board. The facts found below were as follows;

1. On May 12, 2013 the complainant Brian Manning was walking his two dogs on leashes, a Collie Mix "Hanna" and a Poodle Bichon mix "Tucker". As he was walking by the Respondent's house he saw the respondent's three dogs running down the hill toward him and his dogs. The three dogs surrounded him and his dogs. The complainant yelled for the respondent. The respondent's large white female dog "Diamond" bit and held "Tucker" by his neck. The respondent's other two dogs "Roxy" and "Princess" also began biting and pulling on the complainant's dog Tucker. The respondent did not respond to the complainant's cries for help. Three neighbor's from the area came to the complainant's aid and gained control of the dogs.

2. The complainant's dog Tucker died as the result of the attack.

The AHB concluded that the respondents three dogs were each animals at large and dangerous animals as defined in Sections 12-8-102(a)(1) and (2), and Sections 12-1-101(c)(1)(ii) and 12-3-110 of the Baltimore County Code. Fines were imposed in the in the amount of \$500.00 for each dog as a dangerous animal and \$75.00 for each dog as an animal at large. The AHB further order that each of the respondent's dogs would become the property of Baltimore County.

BOARD HEARING

The Board of Appeals conducted a de novo appeal in this matter pursuant to Title 8 of the Baltimore County Code. At the hearing the Respondent Ms. Deanne Harrison was represent by

Timothy Knepp, Esquire. The Baltimore County Division of Animal Control was represented by Ashley Hofmeister, Assistant County Attorney.

The complainant Mr. Brian Manning was not present at the hearing. The AHB offered the case file from the hearing below into evidence. Respondent's counsel objected to the admission of the case file on the theory that this was a de novo hearing and the contents of the file from the AHB would be prejudicial to the instant hearing. The objection was overruled and the file was admitted into evidence. The AHB offered the affidavit of Mr. Manning into evidence by way of the testimony of Mr. Scollins, the assistant Chief of Animal Control for Baltimore County. The affidavit and testimony were accepted over the objection of respondent's counsel. The affidavit averred that the complainant and his two dogs were accosted by the respondent's three pit bull breed dogs while the complainant was on public property whereupon each of the three dogs attacked complainant's dog named "Tucker". Shortly after the attack the dog "Tucker" was pronounced as dead by a local veterinarian.

Mr. Scollins testified as to the events surrounding the attack which form the basis of this case and further testified as to a subsequent attack by two of respondent's impounded dogs in which another impounded dog was killed allegedly by respondent's dogs.

Mr. Scollins testified under cross examination that it is the general practice of his department to charge that an animal is a "dangerous animal" wherever two or more dogs are involved in a fight and one of the dogs is fatally injured.

The AHB called Ms. Anne Thiessen an animal shelter assistant at the County animal shelter to testify concerning her eyewitness accounts of the July 26, 2013 event at the shelter in which a Pomerian breed dog was allegedly attacked and killed by two of the respondent's impounded dogs. According to Ms. Thiessen the pomerian breed dog had gotten out of its cage

into an open area in the shelter whereupon it was attacked by the respondent's dogs. The dogs were identified as "Diamond and Princess". The pomerian dog died as the result of its injuries.

Counsel for the respondent objected to the introduction into evidence of the events of July 26, 2013 on the theory of that the event was not a part of the instant case and that there was no negligence of the part of the respondent given that her animals were in the custody of Baltimore County. The objection was overruled.

The respondent Ms. Harrison testified as to her acquisition and ownership of the three dogs. According to Ms. Harrison her three dogs were kept in her house and allowed outside into her back yard which is surrounded by a chain link fence. However she admitted that she discovered that her three dogs were not in her yard but were instead out in the street at the time of the May 12, 2013 attack. Ms. Harrison further testified that she believes that her dogs pushed open the gate on the fence in her rear yard and thereby escaped into the street. She added that she offered to pay for the cremation of the complainant's dog and that her tender of payment was returned to her by the complainant. Ms. Harrison testified that she did not witness the attack. She testified that she has replaced her chain link fence with an 8 foot security fence in her rear yard. Ms. Harrison claimed the deceased dog on the day of the event and on numerous prior occasions came to Ms. Harrison front yard and barked at her dogs. She went on to indicate that the barking event may have been the reason that her dogs escape their enclosure and attacked the complainant's dog.

DECISION

The Board finds that each of the dogs was an animal at large at the time of the May 12, 2013 attack and that each of the respondent's dogs are dangerous animals. The events of July 26, 2013 are not before the Board as a separate complaint or citation but have been considered by

this Board as additional evidence of the dangerous propensities of the animals. The Board in this order will direct the euthanasia of the dogs known as “Diamond and Princess”. The dog known as “Roxy” will be returned to the respondent with the proviso that dog not be returned until the Baltimore County Division of Animal Control is satisfied that the respondent’s improvements to her rear yard and other protective measures are sufficient in nature and quality to assure that the canine shall not escape and menace the public.

ORDER

THEREFORE, IT IS THIS 17th day of December, 2013 by the Board of Appeals of Baltimore County

ORDERED that the Respondent’s dogs identified as “Diamond” and “Princess” shall be humanely euthanized; and it is further

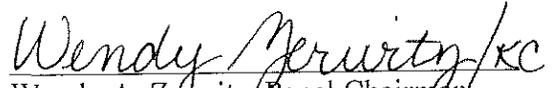
ORDERED that the Respondent’s dogs “Diamond”, “Princess” and “Roxy” were each animals at large and the Respondent shall pay a fine in the amount of Twenty-five (\$25.00) dollars for each dog. For an aggregate fine of Seventy-five dollars (\$75.00); and it is further

ORDERED that the Respondent’s dogs “Diamond”, “Princess” and “Roxy” are each dangerous animals and the Respondent shall pay a fine in the amount of Five Hundred Dollars (\$500.00) for the dogs “Diamond” and “Princess” for an aggregate fine of One Thousand Dollars (\$1,000.00). The fine for the dog “Roxy” shall be waived; and it is further

ORDERED that the dog known as “Roxy” shall remain in the custody of Baltimore County until such time as the Baltimore County Division of Animal Control shall determine that the Respondent has put into place adequate safeguards for the protection of the public from the possibility of another escape of the said canine. Upon such an affirmative finding the dog shall be returned to the Respondent.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
FOR BALTIMORE COUNTY**


Wendy A. Zerwitz, Panel Chairman


Wendell H. Grier


Wayne R. Gioioso, Jr.



Board of Appeals of Baltimore County

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December 17, 2013

Timothy P. Knepp, Esquire
P.O. Box 34019
Baltimore, MD 21221

Michael Field, County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: DeAnn Harrison – Owner/Appellant*
Case No.: CBA-14-008

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

Enclosure
Duplicate Original Cover Letter

c: DeAnn Harrison
Brian Manning
Bernard J. Smith, Chairman/Animal Hearing Board
Tom Scollins/Animal Control Division
John Markley/Animal Control
April Naill/Animal Control
Jonny Akchin, Assistant County Attorney