

BOARD OF HEALTH FOR MADISON AND DANE COUNTY
ADMINISTRATIVE HEARINGS COMMITTEE

In the Matter of Allan David Arfa
(Owner of) Beryl

FINAL DECISION

Case No. 14-04976

Dangerous Animal Determination
Pursuant to sec. 25.22 of the Madison General Ordinances.

TO: ALLAN DAVID ARFA
1501 Chandler St.
Madison, WI 53711

ACA MARCI PAULSEN
Assistant City Attorney
Madison City Attorney's Office
210 Martin Luther King, Jr. Blvd.
Madison, WI 53710

DATE OF HEARING: January 28, 2015

HEARING PANEL: Pat Lasky (chair), Judith Wilcox, Mark Edgar

APPEARANCES: Appellant Allan David Arfa appeared in person and the Department of Public Health for Madison and Dane County appeared by Assistant City Attorney, Marci Paulsen. Also present were John Hausbeck, Administrator for the Board of Health, Clerk for this hearing, Patrick Comfert with Animal Services of the Public Health Department.

EXHIBITS: Public Health of Madison and Dane County:
No. 1 Photograph
No. 2 Photograph
No. 3 Photograph
No. 4 Dangerous Animal Warning letter, dated
January 14, 2013
No. 5 Dangerous Animal Investigation letter, dated
October 8, 2013
No. 6 Dangerous Animal Investigation Meeting
letter, dated October 14, 2013
No. 7 Meet the Dog summary with 2 photographs
No. 8 Dangers Animal Determination letter, dated
October 31, 2013

No. 9 Dangerous Animal Redetermination
Investigation letter, dated November 4, 2014
No. 10 Dangerous Animal Redetermination letter,
dated December 4, 2014
No. 11 Arfa Timeline
No. 12 Dangerous Animal Determination, dated
December 5, 2014

Allan David Arfa
No exhibits

FINDINGS OF FACT:

Having been called to order at 1:14 p.m. on January 28, 2015 in Room 357 of the City-County Building, located at 210 Martin Luther King, Jr., Blvd, in Madison, Wisconsin, the Board of Health for Madison and Dane County – Administrative Hearing Committee (herein “Committee”) heard testimony concerning Public Health of Madison and Dane County’s (herein “Department”) redetermination of Allan David Arfa’s dog Beryl as a Dangerous Animal pursuant to sec. 25.22 of the Madison Code of Ordinances. The Committee heard testimony from Sarah Kerrpersing, Margaret Kelly, Lauren Braun, Rachel Klaven, Eileen Thompson, Elizabeth Rice, Animal Services Officer Tim Frank, Animal Services Lead Worker Patrick Comfort, and Allan David Arfa. Having considered the testimony and the exhibits received into the record, the Committee makes the following findings of facts:

On October 31, 2013, Beryl was declared to be a dangerous animal pursuant to sec. 25.22 of the Madison General Ordinances. That determination was made based on an incident on November 13, 2012 where Beryl attacked and acted aggressively toward a smaller dog while off leash at Verona Dog Park, an incident on December 14, 2012 where Beryl grabbed a smaller dog and shook its neck while off leash at Quann Dog Park, an incident on September 19, 2013 where Beryl bit a neighbor on both legs causing injury that required professional medical attention.

Arfa was mailed a Dangerous Animal Determination letter, dated October 31, 2013. In that letter, Arfa was informed that he must abide by a number of restrictions. The restrictions most relevant to the instant appeal are as follows:

- e. The dangerous animal while off property where kept, shall be muzzled and leashed at all times. The muzzle should be a basket type muzzle that will allow the dangerous animal to pant and drink water but that will prevent it from biting any person or animal. The leash shall be attached to a secure collar that is of sufficient strength to restrain the animal. The leash shall be no longer than four (4) feet in length and must be secured by and under the direct control and supervision of a competent adult.

- f. When outside but still on the property of the owner or caretaker, the dangerous animal must be supervised by a competent adult and physically restrained at all times to prevent the animal from leaving the property.

In the same letter Arfa was also required to abide by two Additional Restrictions:

1. Owner shall contact canine behaviorist with Dog's Best Friend and set up a consultation to see if Beryl would benefit from their Feisty Fido's Class in which aggressive dogs and their owners learn training methods to cope with dog/dog meetings that may occur. Owner shall make Public Health aware of the findings of the behaviorist.
2. Beryl shall not be allowed in off leash dog parks in the City of Madison or Dane County.

Arafa acknowledged receiving and reviewing the determination letter and its contained restrictions.

On March 30, 2014, Eileen Thompson, neighbor to Arfa, witnessed Beryl running at large in the neighborhood. She observed Beryl run up to and circle a young male jogger running through the neighborhood. A short time later, Thompson observed a red mark on the leg of jogger that looked like blood. The mark was not present before the jogger's confrontation with Beryl. ASO Frank responded to the incident and canvassed the neighborhood for more information. He talked with three neighbors who witnessed the incident, all of whom saw blood on the jogger's leg after he was confronted by Beryl. ASO Frank issued citations to Arfa for animal *running at large* and *dangerous animal restriction* violations.

On October 24, 2014 Beryl was off Arfa's property at large when he attacked another dog being walked on-leash and on the public sidewalk by its owner, Rachel Klaven. Beryl was not on a leash or muzzled. During the attack, Arfa attempted to intervene but was unable to control or restrain Beryl before he injured Klaven's dog. ASO Frank responded to the incident but was unable to make contact with Arfa. ASO Frank posted notice on Arfa's door asking him to contact ASO Frank regarding the incident.

On October 29, 2014, having received no contact from Arfa regarding the October 24 incident, ASO Frank attempted to make contact with Arfa at his home. Upon his arrival ASO Frank witnessed Arfa leash-walking Beryl around the 1400 block of Chandler street. ASO Frank observed that Beryl was not wearing a muzzle and was on a leash that was six to eight feet long.

On December 4, 2014, the Department redetermined Beryl to be a Dangerous Animal and ordered that he be humanely euthanized. Arfa now appeals the redetermination of the Department.

DISCUSSION:

Pursuant to sec. 25.22(5) of the Madison General Ordinances, the Department may declare any Animal to be a dangerous animal if it meets certain proscribed criteria. See MGO § 25.22(4). Upon such a determination, the animal may be humanely destroyed, removed from the city, or placed under restrictions designed to keep the animal from being involved in future incidents and to keep the public safe. MGO § 25.22(6)(b). If an owner fails to abide the Dangerous Animal Restrictions set forth by the Department, then the Department may make a new determination. MGO § 25.22(9)(a).

The owner may appeal any determination or redetermination by the Department. MGO § 25.22(10). Upon such a request, the Committee shall conduct a hearing on whether to affirm, conditional affirm or reject the Department's determination.

Before this Committee is Arfa's appeal of the Department's redetermination and order of December 4, 2015. In that redetermination, Beryl was redeclared to be Dangerous Animal and ordered to be humanely euthanized.

On October 31, 2013, Beryl was determined to be a Dangerous Animal pursuant sec. 25.22(5) of the Madison General Ordinances. Arfa, Beryl's owner, was mailed a notice of the Department's determination which also contained notice of the Dangerous Animal Restrictions to which, Beryl was subject to. Arfa acknowledged receiving this letter and reviewing it. Review of the Department's initial Dangerous Animal Determination is not before this Committee.

Subsequent to the Department's October 31 determination, there have been several incidents in which Beryl was not maintaining in accordance with the Dangerous Animal Restrictions to which he was subject. Under Dangerous Animal Restriction "d." anytime Beryl is off of Arfa's property he is required to be muzzled and on a leash that is no longer than four feet long. Under Dangerous Animal Restriction "e." anytime Beryl is outside, but on Arfa's property, he is required to be supervised by a competent adult and physical restrained at all times to prevent him from leaving the property.

On March 30, 2014, Beryl was permitted to run at large, unrestrained, off-leash and without a muzzle. This incident resulted in Beryl biting a jogger who was running through the neighborhood.

On October 24, 2014, Beryl was again permitted to run at large, unrestrained, off-leash and without a muzzle. This time, Beryl attacked another dog being leash-walked by its owner on a public sidewalk, causing injury to the dog.

On October 29, 2014, Beryl was observed by ASO Frank while being leash-walked by Arfa. Beryl was not wearing a muzzle and ASO Frank observed the leash to

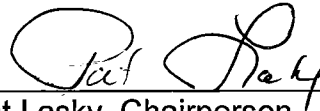
be six to eight feet long. Beryl's Dangerous Animal restrictions require the leash to be no longer than four feet.

Based upon the above incidents, the Committee finds that Arfa has not abided by the Dangerous Animal Restrictions "d." or "e." as set forth in the Dangerous Animal Determination letter of October 31, 2013. Accordingly, pursuant to sec. 25.22(9) the Committee finds an adequate basis to redetermine Beryl to be a Dangerous Animal.

ORDER:

The Committee unanimously affirms the redetermination by the Department to declare Beryl a Dangerous Animal and orders that Beryl be humanly euthanized as a result of this Dangerous Animal Declaration.

Dated: 2-17-15



Pat Lasky, Chairperson
Administrative Hearings Committee
Board of Health for Madison and Dane County

NOTICE OF APPEAL RIGHTS

Any interested party may appeal this final decision by filing a petition for certiorari with the Dane County Circuit Court. The petition for certiorari must be filed with the court within 10 days of the date upon which this final determination is mailed. See Madison General Ordinances sec. 25.22(11)

