

IN RE VICIOUS AND DANGEROUS DOG HEARING

of Canary Dog, Female, Brindle, "HERA", A131733

Owned by Robert Noel and Marjorie Knoeller

Hearing Conducted on February 13, 2001 at 2:00 p.m.

Rm. 400, City Hall

San Francisco, California

DECISION OF HEARING OFFICER SGT. WILLIAM M. HERNDON

Dated February 22, 2001

## FINDINGS

1. Animal Care & Control introduced a letter from a veterinarian, Dr. Martin. Mr. Noel testified that Dr. Martin had examined the dogs shortly before they were moved in Spring 2000. The letter indicates that the dogs were difficult to control and were untrained and undisciplined. In warning the owners about the consequences of owning the dogs, Dr. Martin referred to an incident where dogs attacked a boy. Dr. Martin believed that the dogs would be a "liability in any household." Mr. Noel did not deny that Mr. Noel and Ms. Knoeller had received this letter.
2. Mr. Bosia, a dog walker, testified that Hera was involved in a dog fight with Bogie. When Bogie approached Hera, Hera instantly bit the back of Bogie's head and would not release. Mr. Bosia testified that although Bogie could be a pushy dog, he had never been involved in a dog fight before. The medical records submitted indicates that this incident occurred on May 31, 2000.
3. Mr. David Moser, a former tenant in the dog owner's building, testified that in June 2000, Hera bit him on the buttocks as he exited an elevator. Noel admitted that Mr. Moeser claimed at the time that Hera bit him, but claimed that Mr. Moeser injured himself on the elevator door. Mr. Noel denied that Hera bit Mr. Moser.
4. Mr. Neil Bardack, a neighbor, testified that on September 11, 2000, he was walking his sheltie dog Meryl. Ms. Knoeller was walking Hera on a leash. Hera went after Mr. Bardack's dog. Hera knocked Ms. Knoeller down while going after Meryl. Hera locked onto Meryl's back, inflicting a deep puncture wound. During the hearing, Mr. Bardack identified Ms. Knoeller as the woman that was knocked down, who he helped up. Additionally, Mr. Bardack examined photographs of Bane and Hera, and identified Hera as the dog who attacked his dog. Mr. Noel's only comment regarding this incident was that it could not have occurred on September 11, 2000, because Ms. Knoeller was visiting him in the hospital that day. Mr. Noel did not provide any documentation or independent evidence indicating that he was in the hospital that

day, nor that Ms. Knoeller was with him. Moreover, Mr. Noel testified that no one other than he or Ms. Knoeller walked the dogs.

5. Abe Taylor, a neighbor, testified that in mid-January, 2001, in the early morning Hera was aggressive toward a dog that he was walking, and that Ms. Knoeller was unable to control the dog. Mr. Noel did not deny that the incident occurred.
6. Mr. John Watanabe, a mail carrier, testified that in mid-January 2001, Hera and Bane approached him in an aggressive manner. Mr. Watanabe put his mail cart between himself and the dogs in a defensive motion. Mr. Watanabe stated that the dogs came at him in a vicious manner. He was terrified. The dogs broke off their attack shortly thereafter. Mr. Watanabe identified Mr. Noel and Ms. Knoeller as the persons in charge of the dogs. Mr. Noel admitted that an incident occurred, but that the mail carrier was not near the mail cart when Hera approached it while barking and growling. Mr. Noel also testified that another mail carrier from across the street called to Mr. Watanabe to make sure that he was OK.
7. Ms. Irmgard Ballin, a tenant in the dog owner's building, testified through a written statement that she had observed Mr. Noel having difficulty controlling the dogs, and that she had seen the dogs in the hallway of the apartment building with Ms. Knoeller without leashes. Ms. Ballin was afraid of Hera, although Ms. Knoeller had told that the dogs would not harm her.
8. A number of witnesses testified regarding the events of January 26, 2001. Ms. Knoeller testified that while she was bringing Bane in from a walk, Ms. Diane Whipple, a neighbor, was in the hallway. When Ms. Knoeller opened her apartment door, Hera barked. Bane then attacked Ms. Whipple. Ms. Knoeller testified that during the incident Hera was barking hysterically in the hallway. Ms. Knoeller testified that while she was lying on top of Ms. Whipple, Hera pulled at Ms. Knoeller's pant leg. Ms. Knoeller had tears in her pant legs. Hera was also pulling at

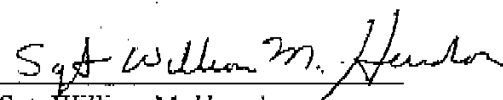
- Ms. Whipple's clothing. Ms. Whipple's clothing was entirely ripped off during the incident. Ms. Whipple died from the wounds that she received during the incident.
9. When the Animal Care officers arrived at the scene shortly after the incident, Hera was in the owner's bedroom. Hera was not wearing a harness or collar. Ms. Knoeller believed that Bane ripped Hera's harness during the incident with his teeth.
  10. While in the bedroom, Hera was barking, growling and banging on the door of the bedroom. Hera was very agitated. Animal Control Officer Andrea Runge testified that Hera was acting in a vicious manner. Animal Control Officer Michael Scott testified that when he entered the bedroom to put the come-along on Hera, that Hera acted aggressively. He believed that Hera placed herself in a position to attack him.
  11. Jean Donaldson, an animal behaviorist employed by the SPCA, testified that she did not believe that Hera is a good subject for rehabilitation.
  12. Carl Friedman, the director of Animal Care and Control, testified that he believes that Hera poses a significant threat to the community, and that the dog should be destroyed.
  13. Ms. Knoeller did not testify regarding any of the incidents other than the incident involving Ms. Whipple on January 26, 2001.
  14. The owners of the dog failed to present any independent evidence to support their conclusions that the dogs were docile.
  15. Mr. Noel testified that he believed that the attack was uncharacteristic of the dogs. I believe that this indicates that the owners of the dogs ignored the danger that the dogs posed to the safety of other persons and domestic animals.
  16. I do not believe Ms. Knoeller's testimony regarding the incident on January 26, 2001, described a complete picture of the incident. Ms. Knoeller's statement indicated that she was not aware at all times as to the exact involvement of the dogs during the incident. I do not believe that Ms. Knoeller testified completely and truthfully during the hearing, and gave contradictory statements:

## CONCLUSIONS

Based on the testimony at the hearing, the documents presented, and these findings, I conclude that:

- a. Hera is vicious and dangerous under the definitions in the San Francisco Health Code 42(a);
- b. That the restrictions set forth in the health code would be insufficient to protect the health, safety and welfare of the community; and
- c. Therefore I order the dog to be humanely destroyed.
- d. I believe that this dog is a dangerous animal, and that it poses a significant risk, an ongoing threat and an unreasonable danger to the employees of the Department of Animal Care & Control. I order that the dog be destroyed immediately.
- e. Additionally, I find that ownership of a dog/dogs by Mr. Noel and/or Ms. Knoeller would create a significant risk to the public health welfare and safety, and therefore I order that pursuant to California Food & Agriculture Code Section 31646 that Mr. Noel and Ms. Knoeller both be prohibited from owning, possessing, controlling or having custody of any dog for a period of three years.

DATED: Feb. 22, 2001

  
Sgt. William M. Herndon  
Hearing Officer