

IN THE MATTER OF
DEONESEOS NTAVOS - APPELLANT
7603 Knollwood Road
Baltimore, MD 21236

RE: AHB Decision/Case No. 3469

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-10-031

* * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Animal Hearing Board of Baltimore County where the following Violations of the Baltimore County Code were upheld namely: Violation E 35609; E 35610 /Animal at large; menacing animal "Romeo"; Violation E 35611; E 35612 /Animal at large; menacing animal "Pee Wee"; and Violation E 35613; E 35614 /Animal at large; menacing animal "Buster". A fine in the amount of \$375.00 was imposed by the Animal Hearing Board ("AHB") and ordered to be paid by Appellant Deoneseos Ntavos ("Mr. Ntavos") within thirty (30) days of March 2, 2010.

This case comes before the Board as a Record Appeal. The Board's review of the Hearing Officer's decision is based on the information provided and argument at the March 2, 2010 Animal Hearing Board hearing, and the oral argument presented before this Board at the hearing held on Tuesday, June 22, 2010. Mr. Ntavos represented himself. The County was represented by Michael Field, Assistant County Attorney. The hearing concluded and the matter was deliberated by the Board's Panel.

Factual Background

At the Animal Hearing Board hearing, on March 2, 2010, Mrs. Fay Citerone of 909 Rappaix Court appeared and testified as the Complainant in this case. Mrs. Citerone testified that on Sunday, October 18, 2009 she was lease walking her small dog on Aigburth Road when three (3) loose dogs ran off the Appellant's property and proceeded to try to attack her dog. Mrs. Citerone had to pick up her dog and hold it out of reach of the three dogs, and backed into a doorway to protect herself. One dog did make physical contact with her and jumped up on her.

Appellant, who lives at 7603 Knollwood Road, called the dogs and eventually got them to back away.

Mr. Paul Sambuco of 31 Aigburth Road appeared and testified as a witness for the Complainant. Mr. Sambuco testified that on October 18, 2009, he looked outside and saw Mrs. Citerone with her dog. He saw dogs jumping on Mrs. Citerone, saw her holding her dog up in the air, and position herself between the storm door and main door of a neighborhood home.

Appellant, Mr. Ntavos, testified and admitted that his dogs were loose and confronted Mrs. Citerone and her dog.

DECISION

This case comes before the Board as a Record Appeal, therefore it is the charge of this Board to review the information presented before the Animal Hearing Board and make an independent determination of the merits of the case. To uphold the decision of the Animal Hearing Board this Board must merely find that the decision was not arbitrary in its findings and the decision in this matter was supported by competent, material and substantial evidence. The Animal Hearing Board heard the testimony of the witness and viewed the exhibits that were admitted. By doing so it had the opportunity to competently assess the strength and credibility of each party's case.

During the hearing of this matter before this Board, Mr. Ntavos confirmed that his dogs had run loose as testified to below. His primary objection was that the Animal Control Officer has originally only issued a "warning" to him. He questioned why he was later issued the citations in this case.

Counsel for Baltimore County noted that there is no formal procedure for a "warning". The initiated action was taken on the information received from the Complaining Witness, Mr. Sambuco and the Appellant himself. Subsequently, upon the Affidavit of Complaint by Ms. Citerone, the actual citations in this matter were issued.

Pursuant to § 6-9.2(h) (1) of the Baltimore County Code, the County Board of Appeals may:

- (i) remand the case to the Animal Hearing Board
- (ii) affirm the decision of the Animal Hearing Board
- (iii) reverse or modify the decision of the Animal Hearing Board if a finding, conclusion, or decision of the Animal Hearing Board:
 1. exceeds the statutory authority or jurisdiction of the Animal Hearing Board;
 2. results from an unlawful procedure;
 3. is affected by any other error of law;
 4. subject to paragraph (2) of this subsection, is unsupported by competent, material and substantial evidence in light of the entire record submitted; or
 5. is arbitrary or capricious.

Having reviewed the record below, and after hearing detailed arguments from both the Appellant and the Assistant County Attorney, it is clear that each party had the opportunity to present its case in detail at the hearing below. We find that the Animal Hearing Board acted lawfully and within its authority and jurisdiction. The Board is persuaded that the evidence presented below and the arguments presented before the Board, support the findings of fact and conclusions of law cited in the opinion of the Animal Hearing Board; and that its decision was neither arbitrary nor capricious.

Consequently, based on the evidence originally heard by the Animal Hearing Board, this Board is satisfied that the March 2, 2010 decision was supported by competent, material and substantial evidence and therefore is upheld.

The Board of Appeals affirms the decision of the Animal Hearing Board. However, we have determined to reduce Appellants fine by One Hundred (\$100.00) Dollars, for a total assessed fine of Two Hundred Seventy Five (\$275.00) Dollars.

ORDER

THEREFORE, IT IS THIS 23rd day of July, 2010 by the Board of Appeals of Baltimore County

ORDERED that, for the reasons stated above, the decision of the Animal Hearing Board regarding Violation E 35609; E 35610 /Animal at large; menacing animal "Romeo"; Violation E 35611; E 35612 /Animal at large; menacing animal "Pce Wee"; and Violation E 35613; E 35614 /Animal at large; menacing animal "Buster, are hereby **AFFIRMED**; and it is further

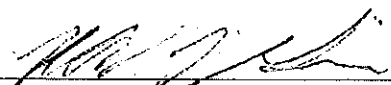
ORDERED that the civil monetary penalty in the amount of amount of \$275.00, be paid within 30 days from the date of this Order.

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*.

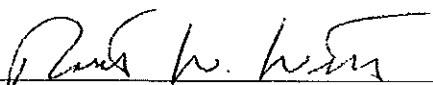
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chairman



Wendell H. Grier



Robert W. Witt