

IN THE MATTER OF
CATHERINE GRASSO - APPELLANT
8218 North Boundary Road
Dundalk, MD 21222

RE: Citation Nos. (1) E45939A --- License Require
(2) E45939B --- Animal At Large
(3) E45939C --- Dangerous Animal
AHD Case No. DD4430

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-18-014

* * * * *

OPINION

This case comes to the Board of Appeals of Baltimore County for the second time on appeal of the final decision of the Animal Hearing Board (“AHB”) in which the AHB upheld Citation E45939B (Animal At Large) and E45939C (Dangerous Animal). Citation E45939A (License Required) was dismissed by the AHB. The AHB dismissed the fines originally imposed, but ordered that the animal at issue, “Readi”, a female pit bull, become the property of Baltimore County and be humanely euthanized. No monetary penalties were imposed, but Ms. Grasso was required to pay the daily boarding fees of \$15.00 per day with a two-month payment in advance. In the first appeal, the Board upheld the finding of Animal at Large and Dangerous Animal. We reversed as to the remedy of euthanasia because the AHB failed consider the Respondents’ witnesses and failed to articulate explicitly the factual basis used to justify euthanasia – which is the most extreme remedy available.

Upon remand, the AHB considered all the witnesses that Respondents offered and listened to Respondents’ plan for an alternative living situation which Respondents believed would properly safeguard other people and pets. Upon considering the matter anew and taking into account all of Respondents’ evidence, the AHB reached the same conclusion and again ordered that Readi be humanely euthanized.

This record appeal was heard on May 22, 2018. Once again, Respondent, Catherine Grasso appeared *pro se* with her daughter, Heather Robinette. The County was again represented by Jonny Akchin, Assistant County Attorney. Unlike the first AHB hearing, the AHB upon remand acted as a competent and neutral factfinder after providing an appropriate opportunity for Respondents to present their case. The AHB again decided that the remedy of euthanasia was necessary. Because the record demonstrates that the AHB resolved the matter with substantive and procedural fairness, and because there are facts in the record which support the AHB finding, we affirm.

Background

The factual background of this matter was stated fully in our prior opinion, dated February 16, 2018. For these purposes, it is enough to say that on September 28, 2017, Readi broke through a loose screen window in the Grasso home, attacked a neighbor's dog on an adjoining lot, and severely injured the other dog. The fight ended only when Ms. Grasso came out and managed to separate Readi from the other dog. In addition, Readi had been the subject of two prior complaints, one on or about September 14, 2013, and one on August 9, 2014. In the former incident, Readi escaped from Ms. Grasso's yard and attacked a dog across the street and bit three people while being separated from the other dog. In the latter incident, Readi jumped the fence at her own yard and bit a neighbor.

In the AHB hearing upon remand, Ms. Grasso testified that she, her daughter, her daughter's husband, and her daughter's newborn child had moved from the residence on North Boundary Road to another Baltimore County residence. This new residence has a backyard with high fences on three sides. The fourth side is the house itself. Thus, the yard appeared secure. They also indicated that when Readi was in that yard, she would be secured with an elaborate chain tether and muzzle. Ms. Grasso was also properly given a full opportunity to present witnesses.

Her witnesses generally stated that they had been around Readi when Readi was placid and friendly and that Readi was a source of great comfort and support not only to Ms. Grasso, but also to family and friends and their children. The AHB determined (and this Board certainly agrees) that there is no doubt about the sincerity of these assurances and that, **for the most part**, Readi is a good, loving, and friendly pet.

The problem in this matter, as the AHB decision indicates, is twofold. First, Readi is unpredictable. It is not clear what will trigger a violent outburst, but there can be no denying that Readi is capable of such outbursts. While Readi may not be able to easily escape the rear yard, Readi may well pose an explosive and impulsive danger while inside the house. She is a potential threat to Ms. Robinette's child and to visitors who could unintentionally set her off.

Secondly, the AHB indicated that it lacked confidence that Readi would not escape out the front door. Again, in the incident that underlies this matter, Readi broke through a screened window. While we do not doubt Ms. Grasso's good faith, there is a real danger that Readi could escape out of the front door. Further, the Board was dissatisfied with Ms. Grasso's efforts to find a trainer. The evidence on this point reduced to Ms. Robinette saying that she had contacted a friend of a friend whose name she could not then remember. And, the information from that friend about Readi's trainability was at best ambiguous.

Finally, in the same tenor, the AHB expressed deep reservations about Ms. Grasso's skills as the owner of a dog with Readi's issues. This Board has seen Ms. Grasso on two occasions and recognizes that she is a decent and sincere individual who is devoted to Readi. As indicated above, no one who has interacted with Ms. Grasso can fail to recognize that she cares deeply for Readi. At the same time, Ms. Grasso's devotion seems to cloud her judgment. She continues to either deny or rationalize away the three known incidents involving Readi. Her testimony about the two

prior occurrences is confusing and somewhat self-contradictory. The bottom line for the AHB, and with which this Board agrees, is that Ms. Grasso – for all of her emotional commitment to Readi – is simply not the type of owner equipped to handle a dog as potentially dangerous as Readi.

Standard of Review

We described the Standard of Review in our first Opinion and, again, we need not repeat it in detail. Under the Baltimore County Code (BCC) §12-1-114 (f) and (g), our review is on the record. Upon review of the recording of the hearing, and the written decision of the AHB, along with the arguments of the parties, this Board 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 as submitted; or
5. Is arbitrary and capricious.

Where there is substantial evidence from the record as a whole and where a reasonable mind could reach the same conclusion as did the AHB, we have no power to reject the AHB conclusion. *Eller Media Co. v. Mayor of Baltimore*, 141 Md. App. 76, 84 (2001); *Columbia Road Citizens' Ass'n v. Montgomery Cnty.*, 98 Md. App. 695, 698 (1994). Our review is limited to determining whether there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law. *United Parcel Serv., Inc. v. People's Counsel for Baltimore Cnty.*, 336 Md. 569 577 (1994). Where there are facts in the record which support the AHB's findings,

we cannot substitute our judgment for that of the AHB. *People's Counsel for Baltimore Cnty. v. Prosser Co.*, 119 Md. App. 150, 168 (1998).

Decision

The remand was limited to the issue of remedy. The AHB issued an eight-page, single spaced decision. That decision fairly details all of the evidence presented at the remand. Decision at p. 1-4. The Board then outlined its findings in a thorough and thoughtful fashion. Decision at p. 4-8. The portion of the Decision labeled "Discussion", fully particularizes the evidence upon which it based its decision. Much of the thought process in the AHB decision is recited above in this Opinion. Thus, ". . . there is substantial evidence in the record as a whole to support the [AHB's] findings and conclusions.", *Columbia Road Citizens' Ass'n v. Montgomery Cnty.*, *supra.* at 698. There also was no error of law.

Based on the evidence presented at the AHB, this Board unanimously affirms the AHB decision that Readie should be humanely euthanized. As indicated above, the record certainly supports the conclusion that Readie is a dangerous animal and that there is no lesser remedy that will reasonably provide for the security and safety of other animals and people.

For these reasons, the Animal Hearing Board decision that Readie should become the property of Baltimore County and be humanely euthanized is AFFIRMED.

ORDER

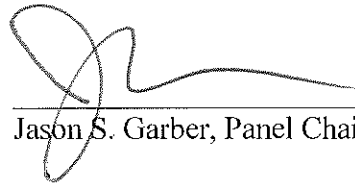
THEREFORE, IT IS THIS 28th day of June, 2018, by the Board of Appeals of Baltimore County:

ORDERED that the decision of the Animal Hearing Board dated April 6, 2018, that Rendi become the property of Baltimore County and be humanely euthanized is **AFFIRMED**; and it is further

ORDERED that this Board's prior Order of February 16, 2018, affirming Citations E45939B (Animal At Large) and E45939C (Dangerous Animal) and affirming the absence of a civil monetary penalty, remains in full force and effect to the extent not inconsistent with 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*.

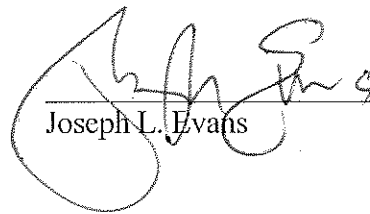
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Jason S. Garber, Panel Chairman



Deborah C. Dopkin



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Board of Appeals of Baltimore County

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June 28, 2018

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Catherine Grasso
8218 North Boundary Road
Baltimore, Maryland 21222

RE: In the Matter of: *Catherine Grasso*
Case No.: CBA-18-014

Dear Messrs. Akchin and Grasso:

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

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Shannon Lee Swayney
Bernard J. Smith, Chairman / AHB
April Naill / Animal Control Division
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law