

Town of Yucca Valley
Potentially Dangerous Dogs
Release and Waiver of Liability

This Release of All Claims & Waiver of Liability Agreement (the "**Agreement**") is entered into by and between James Lovell and Angela Rivers, two individuals (herein collectively "**Owners**"), and the Town of Yucca Valley, a California general law municipality ("**Town**"), to terminate fully and finally all disputes arising out of, or related to, the dispute defined hereinafter. Owners and Town are occasionally referenced herein collectively as the "Parties" and individually as a "Party".

WHEREAS, the Town by and through its Animal Control Services, is holding in impound, two Dogs named Dakota and Blaze (collectively the "**Dogs**") and four puppies born in impound (the "**Puppies**").

WHEREAS, On August 20, 2012, the Joshua Tree Superior Court affirmed an Independent Hearing Officer's Administrative Ruling, which Ruling deemed the Dogs "potentially dangerous" and required that the Dogs' previous owners come into compliance with the conditions of the Ruling within 14 days. Copies of the Ruling and the Court Order are attached hereto as Exhibit "A" and incorporated herein by this reference.

WHEREAS, the Dogs previous owner is known to be James Lovell ("**Lovell**"), who is currently residing within the Town at 7444 La Honda, Yucca Valley, CA ("**Property**"), which Property is owned by Angela Rivers ("**Rivers**"). Prior to the Town's impounding of the Dogs, the Dogs were maintained at the Property.

WHEREAS, Lovell did not come into compliance with the Ruling during the time period allotted for compliance. Therefore the Dogs are considered "unredeemed" pursuant to the Court Order and Yucca Valley Municipal Code and therefore became, and currently are, the property of the Town.

WHEREAS, Lovell and Rivers (jointly "**Owners**") acknowledges that the Dogs are potentially dangerous and now accept all terms of the Ruling and Court Order in Exhibit "A".

WHEREAS, notwithstanding the fact that these Dogs have become the property of the Town, the Town and Owners have negotiated in good faith to reach compromise and agreement to return the Dogs to Owners. As a result, the Town is willing to transfer ownership of the Dogs to Owners, despite the fact that it is under absolutely no legal obligation to do so, in exchange for Owners' strict compliance with the terms hereof.

WHEREAS, the Owners seek to transfer ownership of the Puppies to "The Stand Foundation", a 501(c)(3) non-profit organization and an animal rescue organization (the "**Foundation**"), once the Puppies are weaned from their mother or on or before they reach the age of four months, December 29, 2012.

NOW, THEREFORE, for full and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and based upon the foregoing recitals and the terms, conditions, covenants, and agreements contained herein, all Parties hereto agree as follows:

1. The foregoing Recitals are acknowledged and accepted by the Parties and incorporated into the terms hereof by this reference.

2. The Town will release the Dogs and Puppies to Lovell upon his compliance with all pre-requisites for release stated in the Ruling and Court Order [Exhibit "A"].

3. Owners shall at all times comply with the conditions of the Ruling and Court Order [Exhibit "A"] including full payment of the Town's outstanding fees, maintenance of the required insurance for at least 3 years and use of a substantial leash no longer than 6 feet at all times either dog is off the Property.

4. If one or both Dog(s) is/are off-leash and off the Property, either (i) bite(s) and/or causes bodily injuries to a person, and/or (ii) seriously bites causing physical injury to or kills, a domesticated animal, and (iv) it is reasonably determined by Animal Control that there is sufficient evidence to demonstrate that such Dog(s) were the aggressors and not acting in self-defense or in response to an aggressive attack by an individual or an animal while off the Property, then the Town shall have the ability to immediately impound and destroy the culpable Dog(s) involved in the incident and the Town shall not be required to hold any administrative hearing. To this end, in the event of an incident triggering this Paragraph 4, Owners hereby release, relinquish and hold the Town harmless from any and all claims and rights they may assert to notice, hearing, or other due process with respect to the Dog(s) culpable of the triggering incident. Further, should an incident occur triggering this paragraph 4, and Owners are in possession of the Dogs, the Owners shall immediately release the offending Dog(s) to Animal Control upon request.

5. The above Paragraph 4 shall not apply where any individual or animal enters the Property without the prior, explicit permission or authorization of Owners. That is, any individual trespassing or any unleashed animal wondering onto the Property or into the dogs' enclosure shall be deemed to have assumed the risk of entering upon a fenced property marked with danger signs.

6. Lovell currently owns and maintains three other canines on the Property. At least one of these dogs currently residing at Lovell's home will be released to the Foundation and placed in the Foundation's custody off the Property; the Foundation may thereafter adopt-out any such animals it receives from Lovell. It is the understanding of the Parties, and intent of this Paragraph, that the terms of this Paragraph 6 will bring the Property into compliance with the Yucca Valley Municipal Code's restriction upon the number of dogs permitted in the Property's zone. Owners shall maintain the number of dogs on the Property in strict compliance with the Municipal Code, which currently sets the limit to four (4) dogs. Owner's compliance with this requirement shall apply notwithstanding the release of Dakota and Blaze to them (meaning that there shall be no more than four (4) dogs, over the age of 4 months old, in custody at the Property upon release of the Dogs). Further, Lovell agrees that in addition to the terms of

Paragraphs 7 and 10, any other animal in his care and control shall be neutered or spayed and that no animal in his care and control shall remain intact such that it is capable of breeding.

7. Once the Puppies are weaned, but in no case later than December 29, 2012, the Owners shall release the Puppies to the Stand Foundation for care and custody off the Property; and the Foundation will thereafter adopt-out the Puppies, once altered, at the sole discretion of Foundation.

8. The Dogs and Puppies are to be kept indoors or within the kennel enclosure pre-approved by Animal Control. However, should Owners install proper fencing enclosing the entire Property, and after Animal Control has approved said fencing in its sole discretion, then the Dogs may be allowed in the fenced yard with a locked gate and warning signs along the perimeter property indicating there are dangerous dogs on the premises.

9. Prior to release of the Dogs to Owners, Lovell will provide to the Town a deposit for licensing and three-years of "potentially dangerous dog" registration and micro chipping.

10. No later than 60 days after their release, both Dogs will be altered, vaccinated against rabies and licensed for three years with the Town of Yucca Valley.

11. So long as Owners comply with the Ruling, Court Order and the terms of this Agreement, the Town will not unreasonably interfere with Owner's quiet enjoyment of the Property or the Dogs. The Parties will not intentionally retaliate against each other as a result of the matters described herein. Parties are aware and acknowledge there is an open Code Enforcement case regarding the maintenance of the Property, and should the Town act to seek compliance, up to and including filing a criminal misdemeanor complaint for failure to comply the YVMC, the Owners' will not allege retaliation. The Town agrees that any Code Enforcement action shall be consistent with the enforcement of any Code Section as it applies to Owners such that the enforcement of any Code Section by the Town shall not differ from enforcement as to all other residents of the Town of Yucca.

12. If the Dogs are found in violation of the Ruling or Court Order [Exhibit "A"], or in violation of Chapter 10.02 of the Yucca Valley Municipal Code, including being off-leash and off the Property, such violation(s) shall result in banishment of one or both Dogs from the Town of Yucca Valley. Further, should said violation occur, the Town will have the ability to immediately impound the Dogs. The Town will then notify Lovell's attorney, Talitha Wegner at talitha@davieswegner.com and 310-481-0300 and the Stand Foundation, either of whom, will have 5 business days from notification by the Town to pick-up the Dogs and remove them from the Town. If the Dog(s) is/are not removed from the Town within 5 days, the Town has the right to destroy the Dog(s) and the Town shall not be required to hold any administrative hearing. To this end, Owners hereby release, relinquish and hold the Town harmless from any and all claims and rights they may assert to notice, hearing, or other due process with respect to the Dog(s).

13. Consistent with the Ruling, should Owners seek to transfer the Dogs, Owners shall provide notice to the Animal Control Department of the Town of Yucca Valley. Only notice is required if the proposed new owner resides outside the Town of Yucca Valley.

However, if the new owner resides within the Town of Yucca Valley, then Owners are required to obtain the written permission of Town prior to transfer of ownership of the Dogs. If one or both Dogs die, Owners shall notify the Town in writing consistent with the Ruling.

14. **Release.** In exchange for release of the Dogs, Owners hereby forever release, acquit, and discharge Town, including but not limited to its Animal Control Services, and each and every agent, assign, employee, elected or appointed official, vendor, insurer hearing officer, and independent contractor of Town (hereinafter "Releasees") from any and all liability whether in law or equity, contract, tort, strict liability or otherwise, that Owners now have or which they may hereafter accrue against the Releasees including without limitation, claims or liabilities for or in any manner arising out of or connected with the Dogs and/or Puppies

15. **Waiver and Indemnification.** Owners hereby waive, and indemnify the Town, for all claims of every kind and nature, past, present and future, known or unknown, suspected or unsuspected, and all actions (legal, equitable, strict liability or declaratory in nature), proceedings (whether in courts or administrative bodies), alternative dispute resolutions procedures (arbitration, mediation or otherwise) demands, claims and causes of action and other means of recovery, for injuries to person (including without limitation death, disability, dismemberment and emotional distress), or damages (to person, property or business) and including without limitation all forms of monetary recovery (including recovery for general, special, compensatory or punitive damages, loss of earnings, loss of property or other destruction, loss of earning capacity, loss of profits or other damages of any nature), arising from the actions of or in any way related to the Dogs and/or Puppies and the matters described in this Agreement.

Owners expressly acknowledge that they are familiar with Section 1542 of the California Civil Code, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Owners, expressly waive and relinquish any right and benefit which they may have under section 1542 of the California Civil Code, or any state or federal statute or common law principle to similar effect, to the full extent that such rights and benefits may be lawfully waived pertaining to the subject matter of the waiver and release set forth in this Agreement. Owners understand and acknowledge the significance and consequences of this specific waiver of Section 1542 of the California Civil Code.

Owners, expressly waive all rights to any hearing, re-hearing or other Town process for challenging the Town's determinations with regard to the Dogs. Owners, waive all rights to challenge the fines, determinations or any other actions of the Town or Releasees as it relates to the Dogs. Owners, hereby release and relinquish any claims or causes of action, whether presently known or unknown, they may have now or as may arise in the future relating to, or

arising from, the Town's administrative hearing process at which it was found that Dogs qualify as "potentially dangerous" or the Petition for Writ filed by Lovell, case number CIVMS1200185. The waiver of claims stated in this Paragraph 13 shall further apply to any actions taken consistent with the terms of this Agreement for enforcement hereof, including without limitation the Town's enforcement of Paragraphs 4 and 11, unless the condition as articulated renders those paragraphs inapplicable.

16. **No Assignment of Claims.** Each of the undersigned persons warrants that they have made no assignment, and will make no assignment, of any claim, chose in action, right of action or any right of any kind whatsoever, embodied in any of the claims and allegations referred to herein, and that no other person or entity of any kind had or has any interest in any of the demands, obligations, actions, causes of action, debts, liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses or claims referred to herein.

17. **Assignment of Foundation's Duties.** The Stand Foundation's duties, roles, or obligations under this Agreement may be assigned to any qualified non-profit 501(c)(3) rescue facility or sanctuary, established and operational for more than one year prior to the date of the execution of this agreement, with prior written agreement by the Town, if located in the town of Yucca Valley. Otherwise, the Foundation will notify the Town in writing of said assignment to a qualified facility as defined above if located outside the town of Yucca Valley.

18. **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the undersigned persons and their respective heirs, legal representatives, successors and assigns.

19. **No Other Pending Actions.** The undersigned persons represent and warrant that they have not filed any complaint(s), cross-complaint(s) and/or charge(s) against each other or the Parties, arising out of or relating to the matters herein with any state or federal agency or court; and that if any such agency or court assumes jurisdiction of any complaint or charge against any party, or its predecessors, successors, heirs, assigns, employees, members, officers, directors, agents, attorneys, subsidiaries, divisions or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner, on behalf of the undersigned or any other Party, whenever filed, that Party will request such agency or court to withdraw and dismiss the matter forthwith.

20. **Knowing and Voluntary.** This Agreement is an important legal document and in all respects has been voluntarily and knowingly executed by the Parties hereto. The Parties specifically represent that prior to signing this Agreement they have been provided a reasonable period of time within which to consider whether to accept this Agreement. The Parties further represent that they have each carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, knowingly, and without coercion entering into this Agreement based upon their own judgment. The Parties further specifically represent that prior to signing this Agreement they have conferred with their counsel to the extent desired concerning the legal effect of this Agreement.

21. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

22. **Enforcement Costs.** Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

23. **Judicial Enforcement of Agreement.** In the event that Owners breach this Agreement, the Town may immediately pursue an action, with proper notice to Owners and Owners' counsel, for Owner's breach of the Ruling and Court Order [Exhibit "A"], seeking any remedy permitted by law including, without limitation, enforcement of the Ruling and Court Order [Exhibit "A"]. This Agreement constitutes Owner's acknowledgement that the failure to abide by the terms stated herein represent a breach of the Ruling and Court Order [Exhibit "A"] by Lovell and/or Rivers. The Town may use this Agreement to demonstrate a default of the Ruling and Court Order [Exhibit "A"].

24. **Severability.** Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

25. **Ambiguity.** The Parties acknowledge this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the Parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

26. **Waiver.** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

27. **Governing Law.** This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles.

28. **Jurisdiction and Venue.** The Parties (a) agree that any suit action or other legal proceeding arising out of or relating to this Agreement shall be brought in state or local court in the County of San Bernardino or in the Courts of the United States of America in the district in which the Town is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the Parties agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

29. **Entire Agreement and Conflicts.** This Agreement constitutes the entire agreement between the Parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or

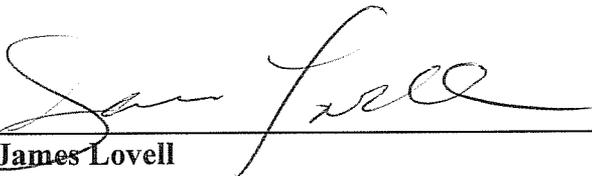
implied between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement. Further, to the extent this Agreement conflicts with the Administrative Ruling (at Exhibit "A") this Agreement shall prevail.

30. **Authority To Sign.** The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party and to bind that party, including its members, agents and assigns, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

31. **Modifications.** Any alteration, change, or modification of or to this Agreement shall be made by written instrument executed by each party hereto in order to become effective.

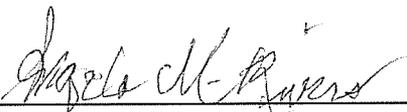
Dated: October 10, 2012

"Lovell"


By: James Lovell

Dated: October 10, 2012

"Rivers"


By: Angela Rivers

Dated: October 10, 2012

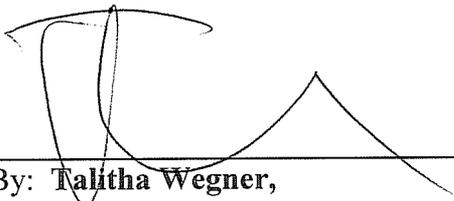
"Town"


Signature

SHANE R. STUCKE Deputy Town Manager
Print Name and Title

APPROVED AS TO FORM:

Dated: October 12, 2012



**By: Talitha Wegner,
Attorney to Lovell and Rivers**

APPROVED AS TO FORM:

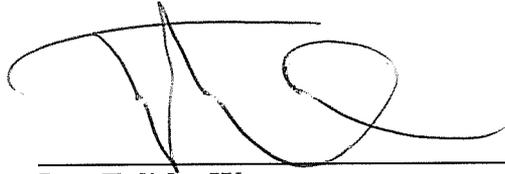


Dated: October _____, 2012

**By: Lona N. Laymon
Town Attorney for the Town of Yucca Valley**

APPROVED AS TO FORM:

Dated: October 10, 2012



**By: Talitha Wegner,
Attorney to Lovell and Rivers**

Error by TDW

APPROVED ~~AS TO FORM:~~

Dated: October _____, 2012

**By: Lona N. Laymon
Town Attorney for the Town of Yucca Valley**

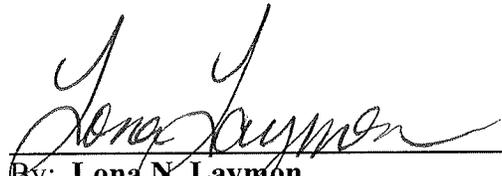
APPROVED AS TO FORM:

Dated: October _____, 2012

**By: Talitha Wegner,
Attorney to Lovell and Rivers**

APPROVED AS TO FORM:

Dated: October 19, 2012



**By: Lona N. Laymon
Town Attorney for the Town of Yucca Valley**

1 San Bernardino County Superior Court
6527 White Feather Rd, Joshua Tree, CA 92252

2
3 FILED
4 AUG 22 2012
5 By Bessler Dep. Clerk
6 SAN BERNARDINO COUNTY
7 SUPERIOR COURT, JOSHUA TREE DISTRICT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 SAN BERNARDINO COUNTY, JOSHUA TREE COURTHOUSE
10 UNLIMITED CIVIL JURISDICTION

11 JAMES LOVELL, the guardian of Dakota and) Case No.: CIVMS 1200185
12 Blaze,)
13 vs.) Petitioner,)
14 TOWN of YUCCA VALLEY)
15 Respondent.)

16
17 PREAMBLE

18
19 Per Town of Yucca Ordinance 138, Sec. 10.02.120 a hearing was conducted on February
20 28, 2012, in the Town of Yucca Valley, California, to determine if there was sufficient evidence,
21 to support a finding that the dogs, Blaze and Dakota, owned by James Lovell, Petitioner, were
22 potentially dangerous, and thus, required imposition of conditions to their further maintenance and
23 care.

24
25 The court has reviewed the administrative record filed and all the pleadings submitted by
26 the parties.

27
28 The court is required to exercise its independent judgment and review the administrating

1 hearing to determine whether jurisdiction was properly exercised, whether the hearing was
2 conducted fairly, conducted without prejudice, and whether the Findings of the Hearing Officer
3 were supported by the evidence.

4 5 SUMMARY OF FACTS PRESENTED AT THE HEARING

6
7 On February 8, 2012, Animal Control Officer Kim Casey investigated the circumstances of
8 an alleged attack by two dogs, that day, upon a local resident of a mobile park as she was walking
9 along a public way near her home. The location was a public way for cars and pedestrians,
10 adjacent to a row of mobile homes, bordering and opposite an open area (or, abandoned golf
11 course as described by Mr. Lovell).

12
13 On the date of the incident, Officer Casey interviewed the victim and witnesses and Mr.
14 Lovell. Afterwards, Officer Casey took two dogs owned by Mr. Lovell for quarantine, Blaze-a
15 mixed breed male and Dakota-a mixed breed female, and cited Mr. Lovell for failure to license the
16 dogs, a violation of Yucca Valley Ordinance 138, which initiated this proceeding.

17
18 At the hearing, Hearing Officer Mahoney heard testimony from Ms. Evelyn Chester, age
19 83, the subject of the incident, was walking along the roadway near her home when she was
20 allegedly set upon by two dogs, one of which jumped upon her and caused her to fall to the ground
21 and thereafter she received dog bites to her buttocks and ankles; Ms. Sheryl Mandeville, a witness,
22 was alerted to dogs barking on the roadway and saw dogs jumping on a woman (Ms. Chester) and
23 she also saw a man running to assist Ms. Chester while she went to call 911. After this call, Ms.
24 Mandeville went to where Ms. Chester was still located and saw Ms. Chester's broken skin and
25 she looked like she had been bitten. The man who Ms. Mandeville saw and come to Ms. Chester's
26 assistance to help fend off the dogs and help Ms. Chester get up was not named nor did he testify.
27 Mr. Lovell was also soon on the scene and took control of the dogs, removing them from the area.
28

1 Ms. Mandeville took Ms. Chester immediately to a doctor who treated the bites and bruises and
2 gave her a tetanus shot.

3
4 Mr. Lovell testified that on that day, just before the incident, that he had planned to leave
5 with one of the animals, he noticed that a small door to the garage was open and the male dog went
6 through it and took off without his knowledge. Meanwhile the female dog was in his truck and
7 never got out. Then he heard sounds (apparently) from the lady and he went out of his property to
8 the roadway and saw the lady standing up; that he saw his first dog and attempted to get it under
9 control. That's when the second dog ran up to the scene; that he took control of both dogs and
10 returned them to his property nearby.

11
12 The Hearing Officer asked Mr. Lovell if he had any witnesses. He said that he did but that
13 the person was unavailable.

14
15 The court notes that the transcript does not show any request to continue the hearing by Mr.
16 Lovell or any cross-examination by Mr. Lovell of any witness.

17
18 After the hearing, the Hearing Officer prepared Findings which are part of the
19 administrative prepared and filed in this case. In his findings of facts and recommendations,
20 March 6, 2012, the hearing officer made the following orders:

21
22
23 1) Blaze and Dakota shall be properly licensed, vaccinated, and designated as
24 potentially dangerous in registration records;

25
26 2) The owner shall have them micro-chipped or tattooed at his expense;

27
28 3) While on the owner's property they shall be provided adequate exercise area and

1 properly restrained. The fencing shall be pre-approved by Animal Control.

2
3 4) Blaze and Dakota must be restrained by leash if off the owner's property.

4 5) Owner must obtain a policy of insurance and proof given to Animal Control
5 Services.

6
7 6) If either animal dies or is sold, written notice must be given to Animal Control
8 Services in writing.

9
10 7) Blaze and Dakota shall be removed from the list of potentially dangerous dogs if no
11 incident occur within 36 months. They may be removed earlier for sufficient changed
12 circumstances.

13
14 8) Prior to release Mr. Lovell shall reimburse the Town of Yucca Valley for all
15 expenses incurred.

16
17 9) If the above orders are not complied with within 14 days Blaze and Dakota shall be
18 considered unredeemed.

19 FINDINGS

20
21 The court conducted a hearing in open court on August 20, 2012, and heard the arguments
22 of Petitioner and Respondent with regards to issues before the court.

23
24 The court, having exercised its independent judgment, makes the following findings:

25 1. Jurisdiction was properly exercised;

26
27 2. The hearing was conducted fairly and without prejudice;

28

TOWN OF YUCCA VALLEY
ANIMAL CONTROL ADMINISTRATIVE HEARING

CASE # 12-020812-AC

RE: DOGS KNOWN AS BLAZER AND DAKOTA

FACTUAL FINDINGS

This matter came regularly for hearing on February 28, 2012, in the Town of Yucca Valley, California, for violation of Town Ordinance No. 138 regarding dogs that are potentially dangerous.

The dogs that are the subject of this hearing are known as Blazer, a male mixed breed, and Dakota, a female mixed breed.

Animal Control Officer Kim Casey testified that she was dispatched on February 12, 2012, to investigate an incident regarding an attack by two dogs upon an 83-year-old woman that same day. Officer Casey testified that she had interviewed two witnesses on that same day regarding the incident: Mr. Gerard Van Der Veen and Ms. Shiryl Mandeville. Both of these witnesses also testified at this Administrative Hearing and corroborated their prior testimony to Officer Casey.

The victim, Ms. Evelyn Chester, gave her age as 83 years old. Ms. Chester testified that she was walking near her home at a mobile home park near the abandoned Blue Skies Golf Course in Yucca Valley when she heard dogs barking behind her. Ms. Chester testified that she was knocked down from behind and was bitten on her hips, buttocks, and ankles. Ms. Chester further testified that she did not see the dogs prior to the attack, nor did she see them during the attack because she was covering her head in defense. Photographs of the bite marks, which punctured the ankle and injured the hip area, as well as of bruises to the elbows and knees were verified by the victim, and entered into evidence after their review by the owner Mr. James Lovell.

The victim further testified that she obtained medical treatment, which included a tetanus vaccination, and that she continues to suffer emotional effects from the incident.

Ms. Shiryl Mandeville testified that she was working at the office in the clubhouse at the mobile home park where the victim resides when she heard dogs

barking. She then saw two dogs on top of the victim, who was lying down. This witness stated that she observed an individual, whom she identified as Mr. Tim Woodard, attempt to get the two dogs off the victim. Ms. Mandeville's testimony included her observation of blood on the victim's arms and ankles, as well as bite marks on the victim's right side. This witness concluded her testimony with her observations that she had seen the two dogs running off leash ten to eleven times and that they had not been aggressive toward other people.

Mr. James Lovell, the owner of Blazer and Dakota, testified at the Hearing. He admitted that Blazer and Dakota were involved in the incident and that he was the owner. He testified that he had been letting the dogs run for exercise at the golf course for the past two years without incident. He stated that the two dogs were "not fixed" and that they were "not licensed".

Officer Casey gave concluding testimony with her opinion that the male dog, Blazer, exhibited "territorial behavior" at the quarantine shelter, and further opined that dogs allowed to run free over a large area will exhibit territorial behavior over a larger geographical area.

It must be stressed that Mr. Lovell was most remorseful regarding the incident and that he apologized profusely to the victim.

Nevertheless these dogs were running free and attacked an 83-year-old woman. A human tragedy was narrowly averted.

RULING

After review of all evidence and testimony, it is Ordered as follows:

1. Blazer and Dakota shall be properly licensed with a *conspicuously colored tag*, *vaccinated*, and *designated potentially dangerous in the registration records*. The owner or keeper shall pay an *additional annual registration fee* to be determined by resolution of the Town Council.
2. The owner shall, at his own expense, have Blazer and Dakota micro-chipped or tattooed with an identifying mark or number by a licensed veterinarian, and

provide Blazer and Dakota's micro-chip numbers or tattoo numbers/marks and appropriate paperwork to Animal Control Services.

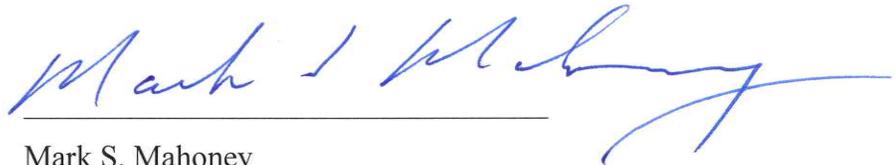
3. While on the owner's or keeper's property, Blazer and Dakota shall be provided with an adequate exercise area, and shall be kept indoors or in a securely fenced and locked yard from which the dogs cannot escape and into which children cannot enter. The adequacy of a secured fenced area shall be pre-approved by Animal Control.
4. Blazer and Dakota may be off the owner's or keeper's property only if the dogs are restrained by a substantial leash, no more than six (6) feet in length and under the control of a responsible, competent and capable adult.
5. Any person *keeping* or *harboring* any potentially dangerous dog within the Town must provide proof of his/her ability to respond in damages to and including the amount of *One Hundred Thousand Dollars (\$100,000.00)* by *obtaining a policy of insurance coverage in said amount* for bodily injury to or death of any person or persons or for damage to property owned by any other person which may result from the ownership, keeping or maintenance of such animal. Proof of liability shall be given by filing with Animal Control Services, in a form approved by the Town Attorney, a certificate of insurance issued by a solvent corporation authorized to issue bonds under the laws of the state. Such certificate of insurance or bond shall provide that no cancellation of the insurance or bonds will be made unless thirty (30) days written notice is first given to Animal Control Services.
6. If Blazer or Dakota dies, or is sold, transferred or permanently removed from the Town of Yucca Valley, the owner or keeper shall notify the Town's Animal Control Services in writing of the changed circumstances and new location, if applicable, of the dog(s) within two working days of the change.
7. Blazer and Dakota shall be removed from the list of potentially dangerous dogs if there are no additional instances of behavior as defined in section 10.02.010(q) within *thirty-six months* after designation. Blazer and Dakota may be removed earlier from the list of potentially dangerous dogs if Animal Control Services

determines that there have been sufficient changed circumstances so that the risk to public safety has been mitigated.

8. Prior to Blazer and Dakota's release from Animal Control, Mr. James Lovell shall reimburse the Town of Yucca Valley for all expenses incurred by the Town of Yucca Valley, including fees for boarding, registration, and the micro-chip or tattooed markings.
9. If, within fourteen (14) days, the foregoing ruling is not complied with, Blazer and Dakota shall be considered unredeemed by their owner.

IT IS SO ORDERED.

Dated: March 6, 2012



Mark S. Mahoney
Administrative Hearing Officer