



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK
915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5426

CITY MANAGER'S OFFICE
RECEIVED
JUL 7 1981

LORRAINE MAGANA
CITY CLERK

July 7, 1981

Honorable Mayor and City Council
City Hall
Sacramento, California

APPROVED
BY THE CITY COUNCIL
REC. "A"
JUL - 7 1981
Adopted
OFFICE OF THE
CITY CLERK

Members in Session:

SUBJECT: Appeal of Jerrald L. Thomas from the decision of the
Animal Control Officer.

SUMMARY:

Attached is the appeal of Jerrald L. Thomas from the decision of the Animal Control Officer to deem his dog, a black and white pit bull, a vicious animal, as required by Section 6.104 of the City Code.

Under Sections 2.323 and 2.324 of the City Code, the Council may appoint a hearing examiner to hear the appeal if it finds that "the appeal may involve a lengthy factfinding process which would be more appropriately accommodated by a formal hearing before a hearing examiner."

FINANCIAL DATA

The estimated cost would be \$130.00 and would be available from the Animal Control budget.

RECOMMENDATIONS

1. If the Council should decide to appoint a hearing examiner, it is recommended that the following motion be adopted: The Council hereby determines pursuant to Section 2.324 of the City Code, that this appeal will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner. Therefore, the Council appoints Steven Bair as hearing examiner to hear the appeal on

City Council
Appeal of Jerrald Thomas
July 7, 1981
Page 2

Friday, July 31, 1981, at the hour of 10:00 a.m. in the Council Chamber, City Hall, 915 "I" Street, Sacramento, California.

2. If the Council should decide to consider the appeal itself, it is recommended that the hearing be set for July 28, 1981.

Respectfully submitted,

Anne Mason

Anne Mason
Assistant City Clerk

AM/mm
Attachment

cc: Steven Bair
Jerrald Thomas
Tom Hoover, Animal Control

RECOMMENDATION APPROVED:

Walter J. Slipe

Walter J. Slipe
City Manager

July 7, 1981
All Districts

NOTICE OF APPEAL

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JUL 6 2 14 PM '81

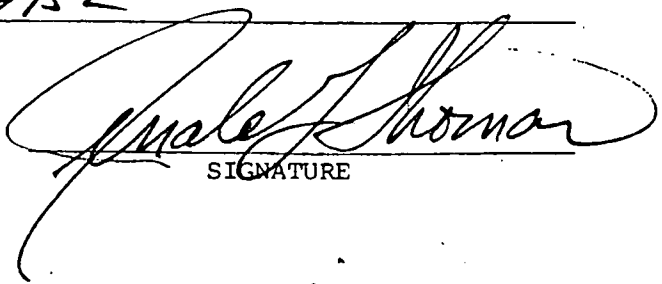
DATE: 6 July 81

Pursuant to Section 2.320, City Code, I wish to appeal the decision of the
Dept of Animal Control (SAC) made on 18 June 1981
regarding my dog, a black & white Pit Bull,
which was deemed to be a vicious animal
for the biting of a 10 year old boy.
as required by section 6.104, City Code.

In accordance with City Code Section 6.104
My reason for appealing is as follows: The animal in question was
purchased by me as a pet for my children. On
many occasions the neighborhood children play
around the house and at times have played
with the dog. Often times the dog will
jump on their (kids) in playing & sometime
ing them, however, there are never any
complaints. When my children allow the dog
out of the yard thru negligence the dog
See Reverse

PLEASE PRINT:

NAME: TERRAL H. THOMAS
ADDRESS: 7643 LAURIE WAY
CITY: SACRAMENTO STATE: CA ZIP CODE: 95832
TELEPHONE NUMBER: 393-0619 — 364-2952


SIGNATURE

then not realizing by own roughness does the same thing. If the dog was truly vicious she certainly is capable of doing greater harm than she has. I have in the past restricted the dog to the yard or the Garage. During my absence from home however, my children like most of them are not always cognizant of their behaviours and in playing open the garage door and the dog thinking they're playing naturally runs out. I have recently purchased a muzzle and affixed a lock (out of reach of the children to prevent a recurrence of this situation. I am not myself a great animal lover, however, my kids are. As a member of the U.S. Armed forces there are many things I cannot afford, so the dog was one of the few things I provided for my kids. Although the dog has been impounded 5 times, I have only been approached by one (1) of the children parents in 2 years. I apologized and paid the doctor bill which was nominal. I am currently being projected for a new duty station in the State of Texas and would like the dog to accompany my kids, since they are very fond of the dog. Therefore I respectfully request that the decision of the BAC be reversed and the dog returned to my custody.



CITY OF SACRAMENTO

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JUN 19 3 50 PM '81

DEPARTMENT OF ANIMAL CONTROL
2127 FRONT STREET SACRAMENTO, CALIFORNIA 95818
TELEPHONE (916) 449-5623

Anne

TOM HOOVER
CHIEF ANIMAL CONTROL OFFICER
RUBEN MORA
SENIOR ANIMAL CONTROL OFFICER

June 18, 1981

Gerald Thomas
7643 Laurie Way
Sacramento, California
95832

Dear Mr. Thomas,

Your dog has been deemed a (Vicious Animal) under Sacramento City Animal Control Ordinance Section 6.101.

On June 16, 1981, your dog, a black and white female Pit Bull bit a 10 year old boy. This is the fifth reported bite we have on file. We have also left a warning notice at your home, about your dog running loose.

You are hereby notified that your animal is to be put to sleep on July 3, 1981.

If you would like to appeal this determination of the Chief of Animal Control to a hearing officer, please file a notice of such appeal with the City Clerk's office before July 3, 1981.

Very truly yours,

Tom Hoover

Tom Hoover,
Chief of Animal Control

CC: City Clerk's Office
City Attorney's Office



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

July 8, 1981

Mr. Jerrald L. Thomas
7643 Laurie Way
Sacramento, CA 95832

Dear Mr. Thomas:

On July 7, 1981, the City Council determined that pursuant to Section 2.324, City Code, your appeal from the decision of the Animal Control Officer, will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner.

Therefore, the Council appointed Steven Bair as Hearing Examiner to hear your appeal on July 31, 1981, at the hour of 10:00 a.m., in the Council Chamber of the Uity Hall, 915 I Street, Sacramento, California.

Sincerely,


Lorraine Magana
City Clerk

LM:sj

cc: Steven Bair
Tom Hoover, Animal Control

Encl.

42

BEFORE THE CITY COUNCIL

AUG 21 2 12 PM '81

CITY OF SACRAMENTO, STATE OF CALIFORNIA

IN RE APPEAL OF

JERRALD L. THOMAS

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

The above-entitled matter came on regularly for hearing on Friday, July 31, 1981, at 10:00 a.m., at City Hall, Sacramento, California, before STEVEN R. BAIR, duly appointed Hearing Examiner.

Parties present at the hearing were:

JERRALD L. THOMAS, Appellant

TOM HOOVER, Chief Animal Control Officer

RUBEN MORA, Senior Animal Control Officer

Appellant filed a Notice of Appeal contesting the finding made by the City of Sacramento, Department of Animal Control, that his female Pit Bull was a "vicious animal" under Section 6.101 of the Sacramento City Code, and that said animal would be destroyed. On July 7, 1981, the Sacramento City Council determined that pursuant to Section 2.323, a Hearing Examiner would be appointed to hear the Appeal.

Documents were submitted, witnesses were sworn, and after completion of testimony, the hearing record was left open for submission of an evaluation by MR. TOM HOOVER, Chief Animal Control Officer for the City of Sacramento, relating to dog training programs in which Appellant was willing to enroll his Pit Bull. MR. HOOVER submitted his evaluation, and forwarded a copy thereof to Appellant. The record remained open until August 17, 1981, in order to allow Appellant to submit a reply to

1 this evaluation, but Appellant declined to do so.

2 FINDINGS OF FACT

3 After evaluation of all evidence submitted at the above
4 hearing, the Hearing Examiner makes the following findings:

5 1. That Appellant, JERRALD L. THOMAS, residing at 7643
6 Laurie Way, Sacramento, California, is the owner of ONE (1)
7 female Pit Bull dog, weighing approximately 50 lbs., known as
8 BOOGER.

9 2. That on or about April 8, 1980, said Pit Bull did jump,
10 bark at, and bite RUTH CRUDO, age 31, and VERONICA CRUDO, age 7,
11 who reside at 7663 Laurie Way, Sacramento; and did bite TERRY
12 POWE, age 6, who resides at 7643 Detroit Boulevard, Sacramento,
13 California. The attack occurred when said Pit Bull was attracted
14 to a group of children playing in the rear of a parked pick-up
15 truck, and became excited as a result of their shouting and
16 jumping. MRS. RUTH CRUDO, mother of VERONICA CRUDO, observed the
17 Pit Bull jumping and barking at the children, and was herself
18 bitten while attempting to protect the children. TERRY POWE,
19 who was not in the back of the pick-up at the time but was in the
20 general area of this occurrence was chased and bitten by said
21 Pit Bull. MRS. CRUDO testified that TERRY POWE did not in any way
22 provoke this attack. These individuals were very frightened,
23 and received bites which did break the skin surface. At the time
24 of this occurrence, said Pit Bull was unsupervised and not in the
25 presence of Appellant or any other capable and responsible adult.

26 3. That Animal Bite Reports indicate that on April 16, 1980,
27 said Pit Bull did bite VALYNIA JOHNSON, age 10, while she was
28 skating on the sidewalk near her home; and on July 31, 1980, said

1 Pit Bull did bite ROBERT DEARSON, age 9. No evidence was presented
2 to indicate the circumstances under which these attacks occurred,
3 although it was apparent that said Pit Bull was unsupervised and
4 not in the presence of Appellant or any other responsible adult
5 at the time.

6 4. That on or about June 16, 1981, said Pit Bull did bite
7 RODNEY SCOTT, age 10, breaking the skin on his right hand. This
8 attack occurred in the presence of MRS. BEVERLY TONEY, RODNEY
9 SCOTT'S Mother, who testified that the attack was totally un-
10 provoked.

11 5. That on June 18, 1981, TOM HOOVER, Chief Animal Control
12 Officer for the City of Sacramento, gave notice to Appellant
13 that his Pit Bull had been deemed a "vicious animal" and would be
14 destroyed. Said notice was legally adequate and served in a
15 timely fashion.

16 6. That Appellant was unaware of any of the above described
17 attacks, at the time they occurred, and has recently contacted the
18 West Coast K-9 Training Company to arrange for obedience training
19 to prevent a recurrence of this situation. Appellant expressed
20 remorse, and did apologize to the victims who appeared at the
21 hearing, indicating that he was unaware of the number of occurrences
22 and severity of the situation. Appellant believes that his Pit
23 Bull does not intend to hurt people, but has been allowed to play
24 with Appellant's children in a very rough fashion. Appellant
25 testified that he believed proper training and his own responsible
26 supervision would prevent any recurrence of this situation.
27 He indicated that if the training were unsuccessful he would
28 destroy the animal. Appellant is a member of the United States

1 Armed Forces, and will be transferred to the State of Texas
2 effective August 31, 1981.

3 CONCLUSIONS OF LAW

4 Based on the foregoing Findings of Fact, the
5 Hearing Examiner concludes as follows:

6 1. Section 6.101 of the Sacramento City Code
7 defines a vicious animal as follows:

8 "For the purposes of this article, the
9 term 'vicious animal' shall mean any
10 animal which has, on one or more oc-
11 casions, attacked, bitten, mauled or
otherwise injured any person or other
animal without provocation by such
person or other animal."

12 Inasmuch as the evidence establishes that on three
13 (3) occasions said Pit Bull did attack and bite children and
14 adults, the Hearing Examiner finds Pit Bull to be a vicious
15 animal within the meaning of Section 6.101 of the Sacramento
16 City Code.

17 2. Section 6.105 of the Sacramento City Code sets forth the
18 alternatives available to the City Council regarding disposition
19 of this matter as follows:

20 "After hearing testimony from all in-
21 terested parties as it may deem proper,
22 the City Council may: (a) Uphold the
23 decision of the Chief Animal Control
24 Officer and order animal destroyed.
25 (b) Order the return the animal to its
26 owner and impose such conditions upon
27 such return as may be reasonably neces-
28 sary to insure the public safety. (c)
Take such other action as it may reason-
ably find necessary to protect the public
safety, including a continuation of the
impoundment of such animal for a period
not to exceed thirty days from the date
of the hearing."

///

1 The evidences establishes that although said Pit Bull has
2 bitten several individuals and the Department of Animal Control
3 is justified in proposing to put this animal to sleep, there is a
4 reasonable likelihood that with proper training and adequate
5 supervision this dog's propensities can be appropriately
6 modified. However, protection of the public requires that any
7 return of said Pit Bull to its owner be under strict conditions
8 which give maximum assurance that there will be no reoccurrence
9 of this conduct. If Appellant is unwilling or unable to agree to
10 such conditions, said Pit Bull must be destroyed in order to insure
11 public safety.

12 ORDER

13 In accord with the above Findings of Fact and Conclusions
14 of Law, it is hereby ordered:

15 1. That on or before August 31, 1981, Appellant shall
16 contact the Department of Animal Control, City of Sacramento,
17 and shall agree in writing to abide by all of the following
18 terms and conditions for release of said Pit Bull:

19 a. Upon release of said Pit Bull to Appellant, he shall
20 immediately and directly transport such animal to the West Coast
21 K-9 Training Company located in the County of Santa Clara, or to
22 another qualified animal training company located outside of the
23 County of Sacramento, and shall enroll said animal in a training
24 program designed to prevent her from engaging in acts of un-
25 provoked biting.

26 b. When said Pit Bull has completed the above training
27 program, Appellant shall immediately and directly transport said
28 animal to the State of Texas or other location outside of the

1 State of California, and shall confine her in a kennel or other
2 secure facility adequate to prevent her escape.

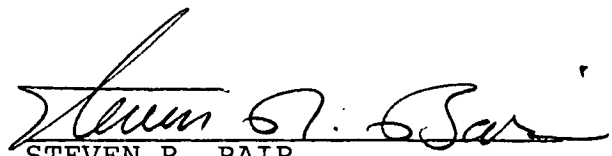
3 c. Appellant shall not allow said Pit Bull to be outside
4 of her kennel or secure facility unless she is on a leash and under
5 the immediate control and supervision of a capable adult.

6 d. If, after said animal has completed the above
7 training program, there is another unprovoked biting of a human
8 being, or Appellant believes that said animal is likely to again
9 engage in such unprovoked biting, Appellant agrees to immediately
10 destroy said animal.

11 e. Upon Appellant's relocation in the State of Texas, he
12 shall immediately provide the local Animal Control Department,
13 or its equivalent in that county, with a copy of this Hearing
14 Decision, and Appellant's agreement to abide by its specified
15 terms and conditions.

16 2. If on or before August 31, 1981, Appellant fails to agree
17 in writing to all of the above specified terms and conditions,
18 said Pit Bull shall be destroyed. However, such action shall be
19 stayed until September 15, 1981, in order to afford Appellant an
20 opportunity to seek judicial review of this order if he so
21 desires.

22
23 DATED: August 19, 1981

24
25 
26 STEVEN R. BAIR
27 Hearing Examiner
28