

Date October 27, 2008

PUBLIC HEARING ON APPEAL OF  
DANGEROUS ANIMAL DECLARATION

WHEREAS, Adrian Wilson, 2508 Williams, owns a dog declared dangerous by Des Moines Chief Humane Officer, Sgt. Scott Raudabaugh; and

WHEREAS, the declaration was upheld by the Administrative Hearing Officer following Mr. Wilson's appeal of this declaration; and

WHEREAS, Mr. Wilson requested an opportunity to address the City Council on the declaration; and

WHEREAS, Mr. Wilson has been provided with the opportunity to address the City Council on the matter of his appeal of the administrative hearing officer; NOW, THEREFORE,

BE IT RESOLVED (Choose one of the two alternatives):

\_\_\_\_\_ Alternative One: That the administrative hearing officer's ruling be upheld.

MOVED BY \_\_\_\_\_ TO UPHOLD DECLARATION.

\_\_\_\_\_ Alternative Two: That the administrative hearing officer's finding be reversed.

MOVED BY \_\_\_\_\_ TO REVERSE DECLARATION.

FORM APPROVED:

\_\_\_\_\_  
Katharine Massier  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**EXHIBITS FOR DANGEROUS ANIMAL****Red**

- EXHIBIT (A)**     **Hearing Officer's Decision  
(City Exhibits A-M)**
- EXHIBIT (B)**     **Appellant Exhibit (1)**
- EXHIBIT (C)**     **Medina-Exhibit 1(A)  
Owner/Records of Injured Dog**
- EXHIBIT (D)**     **Appeal from Mr. Wilson**
- EXHIBIT (E)**     **Letter to Mr. Wilson  
(Setting date for appeal to Council)**
- EXHIBIT (F)**     **Letter and Administrative Hearing Transcript**

October 9, 2008

Adrian Wilson  
2508 Williams Street  
Des Moines IA 50317

RE: Administrative Hearing – Declaration of Dangerous Dog

Dear Mr. Wilson:

At your request, the City of Des Moines scheduled an Administrative Hearing on October 1, 2008, at 1:00 p.m. regarding the declaration of your brindle and male Pit Bull dog named Red, to be a “dangerous dog” by Sergeant Scott Raudabaugh, Chief Humane Officer for the City of Des Moines Animal Control Unit.

Sergeant Raudabaugh entered the following documents into evidence:

- City Exhibit A – Animal Control Service Document dated September 27, 2008
- City Exhibit B – Dangerous Animal Declaration letter dated September 26, 2008
- City Exhibit C – Municipal Code Sec 18.41. Definitions (Vicious Animal)
- City Exhibit D – Municipal Code Sec 18-56. Confinement of Vicious Dog
- City Exhibit E – Municipal Code Sec 18-55. Running At Large
- City Exhibit F – Municipal Code Sec 196. Definitions (Dangerous Animal)
- City Exhibit G – Municipal Code Sec 18-203. Immediate Seizure or Destruction of Animals
- City Exhibit H – Municipal Code Sec 18-202. Seizure, Impoundment and Disposition of Dangerous Animals
- City Exhibit I – Animal Incident Investigation Report, Case #08-35199
- City Exhibit J – Animal History Report on Case #08-35199
- City Exhibit K – Rabies Certificate
- City Exhibit L – Statement from Ray Wilson stating “Red” belongs to Adrian Wilson; copy of Ray Wilson’s Driver’s License
- City Exhibit M – Picture of Adrian Wilson’s dog

Sergeant Raudabaugh testified that part of the initial paperwork showed Ray Wilson as the owner of Red, but it was later determined Adrian Wilson (son of Ray Wilson) is the actual owner. Both Ray and Adrian live at the 2508 Williams Street address.



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CITY CLERK  
CITY HALL-2ND FLOOR  
400 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1891  
(515) 283-4209  
FAX (515) 237-1645  
www.dmgov.org

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Adrian Wilson  
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Sergeant Raudabaugh said that on September 25, 2008, a person was walking a dog on a leash in front of 2508 Williams when Adrian Wilson's dog, Red, jumped the fence and attacked the dog being walked. It took several people to break up the dogs, and it was reported that one person used a rubber mallet to beat on Red to get him to release the victim dog. Mr. Wilson's dog was impounded for quarantine and the City Veterinarian evaluated Red and found him to have the predominate characteristics of a vicious dog. Because Adrian Wilson's dog, Red, is by definition a vicious dog, was not properly confined and was running-at-large when he was involved in an unprovoked bite, Sergeant Raudabaugh declared Red to be a dangerous animal.

Adrian Wilson testified that he was at the Hearing to prove his dog, Red, is not dangerous. Mr. Wilson provided written statements from friends and neighbors, which were entered as Appellant Exhibit 1. Mr. Wilson asked for a second chance with his dog and said he now has renters insurance and will get his dog licensed as soon as he is told he can get Red back. Mr. Wilson said he had gotten items to build a kennel inside the fence, but it has not yet been built.

Don McVey of 204 4<sup>th</sup> Street, said Ray Wilson is like a brother to him, and that he has known Red since they've had him. Mr. McVey said he was in the driveway in the front of the house working on his car when he heard some dogs barking, some females screaming, and someone yelling, "He's going to kill my dog." Later in the Hearing, Mr. McVey said he used a rubber mallet to help break up the dogs and when he got them apart, he put Red in the house. Mr. McVey said he didn't see a leash on the other dog. Mr. McVey said an Animal Control Officer came about five or ten minutes later.

Jennifer Medina said she is the owner of the dog Mr. Wilson's dog attacked. Ms. Medina said at about 7:00 p.m. on September 25, 2008, she and her six-year-old daughter were walking her Australian Shepherd mix dog down to Hoyt Middle School to play. They were walking in the street towards oncoming traffic because there are no sidewalks in the area, which means they were walking near Adrian Wilson's house. A neighbor driving down the road stopped her car and she and Ms. Medina spoke for a minute or so. Ms. Medina said that is probably when the dogs saw each other. Ms. Medina said her dog is about the same size as Mr. Wilson's dog and as they got closer, her dog began pulling her toward the fence. The dogs were barking at each other and Mr. Wilson's dog then jumped the fence and attacked her dog. Ms. Medina said she tried to pull her dog back and at some point her dog got out of the



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leash. Ms. Medina said she tried to pull Red off her dog, but finally let go of the leash. Two kids were driving by and recognized Ms. Medina and stopped. Mr. McVey came out with a rubber mallet and began hitting Red. Ms. Medina said she and her daughter got in the car with the two kids and they drove them home. Ms. Medina said that as soon as her dog got loose, it came right home. Ms. Medina submitted pictures, bills and other items that were entered as Medina Exhibit 1-A.

Joyce Briggs of 2508 Williams Street, is Ray Wilson's cousin and has stayed in their home several times. Ms. Briggs said the dog, Red, has played with her grandchild(ren) several times and has never shown any anger towards her granddaughter.

Ray Wilson was questioning if Ms. Medina was breaking the law because she was walking her unlicensed dog. He also questioned the term "unprovoked," which is referenced in Municipal Code Sec. 18-203 (Immediate Seizure or Destruction of Animals). Mr. Wilson was reading from something he found on the internet, and was told he could submit it into evidence, but he never provided a copy for submittal.

Sergeant Raudabaugh said all cats and dogs are to be licensed when they reach the age of six months. The owner of the dog that was bitten was given ten days to license her dog. After the ten days, if it is not licensed, the owner will be given a citation. Sergeant Raudabaugh said Mr. Wilson's dog is in a special category, and is governed by a special set of ordinances that have been in place for years. The fact Mr. Wilson's dog was not licensed is not key to the dangerous dog declaration. Sergeant Raudabaugh said the reasons for the dangerous dog declaration are that owning a vicious dog requires specific confinement or leashing (which was not the case at the time of the incident), the dog got out and while out, attacked another dog in what Sergeant Raudabaugh feels was an unprovoked bite. According to Sergeant Raudabaugh, the licensing is a secondary issue.

I am upholding Sergeant Raudabaugh's declaration of Adrian Wilson's dog, Red, to be a "dangerous dog." The reasons for this determination are as follows:

- Adrian Wilson's dog, Red, is a "vicious" animal as defined by Municipal Code Section 18-41 (1), (2), (3) (7)



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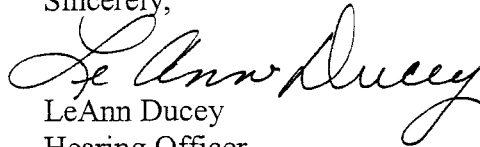
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- In accordance with Municipal Code Section 18-203, Adrian Wilson's dog, Red, may be processed as a "dangerous" animal under Municipal Code Section 18-202
- Adrian Wilson failed to confine his dog, Red, as defined by Municipal Code Section 18-56
- Adrian Wilson's dog, Red, had jumped the fence where it was confined and was running-at-large (Municipal Code Section 18-55) at the time of the incident on September 25, 2008
- Adrian Wilson failed to have proper licensing for his Pit Bull breed dog, Red
- Adrian Wilson failed to have the necessary insurance in order to properly license his dog, Red

Additionally, I am ordering Adrian Wilson's dog, Red, to be destroyed in a humane manner by the Chief Humane Officer of the City of Des Moines. If you disagree with this decision, you have three (3) days to appeal the decision to the City Council. The appeal must be made in writing to the City Clerk's Office, and state the reason for the appeal. If you have any questions regarding the appeal or compliance procedure, please contact Animal Control at 248-6051.

Sincerely,

  
LeAnn Ducey  
Hearing Officer

Enclosures

Cc: Diane Rauh, City Clerk  
Police Chief Bradshaw  
Sergeant Scott Raudabaugh



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A



# Animal Control

## DOCUMENT SERVICE

Case number: 2008-35199

ARL number (If known): AD6102791

Animal owner's name: RAY WELSON

Address: 2508 WILLIAMS ST.

Location of service: SAME

Name of person receiving document (print):

left letter on front door

Their signature: X \_\_\_\_\_

Date and time served: 27 Sept 08 2115/9:15pm

Animal Control Officer serving document (print):

T. Bauer

Animal Control Officer's identification number: 7253

Type of document served:  Vicious dog letter  Dangerous

animal letter  Illegal animal letter  Hearing ruling letter

City Council decision letter  Other: \_\_\_\_\_

KF ACA



ACU  
KT

September 26, 2008

Mr. Ray Wilson  
2508 Williams Street  
Des Moines, Iowa

Mr. Ray Wilson:

On September 25, 2008 your brindle and white colored Pit Bull breed dog, named "Red," was running at-large when it attacked and bit a dog being walked on a leash by its owner, the bite caused injury to that dog. Subsequently your dog was impounded for quarantine at the animal shelter. (2008-35199)

On September 26, 2008 the City Veterinarian evaluated your dog and determined that it exhibits predominate characteristics of a "Vicious Dog," defined by city ordinance as a Staffordshire Terrier or an American Pit Bull Terrier or an American Staffordshire Terrier or a dog which has the appearance and characteristics of being predominately of those breeds.

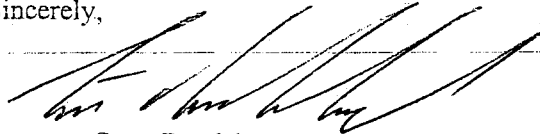
Because your dog is defined as a vicious dog and was not properly confined or leashed, in accordance with the vicious dog ordinance, and was involved in an unprovoked bite it is being declared a "Dangerous Animal," in accordance with the dangerous animal ordinance.

An Administrative Hearing to review the "Dangerous Animal" declaration has been scheduled for 1:00 P.M. on Wednesday, October 1, 2008 in the City Council Chambers in the Des Moines City Hall at 400 Robert D. Ray Drive.

Your dog will remain in impound pending a decision by the Hearing Officer.

If you have any questions please call me at (515) 248-6052 or the animal shelter at (515) 284-6905 or the City Clerk's Office at (515) 283-4209.

Sincerely,



Sergeant Scott Raudabaugh,  
Chief Humane Officer

cc: City Clerk's Office



ANIMAL CONTROL  
POLICE DEPARTMENT  
1615 S.E. 14TH STREET  
DES MOINES, IOWA 50320-1010  
(515) 242-2720

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C

**Sec. 18-41. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Chief of police* means the legally designated chief of the police department or a designated representative.

*Director of public health* means the county health center director or a designated representative acting in behalf of the city.

*Dog* means and includes both male and female animals of the canine species.

*Owner* means any person owning, keeping or harboring a dog.

*Vicious dog* means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation;
- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite;
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;
- (6) Staffordshire terrier breed of dog;
- (7) The American pit bull terrier breed of dog;
- (8) The American Staffordshire terrier breed of dog; or
- (9) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.

(C42, §§ 114-6, 114-9; O.5385, 5506; C54, § 5-19; O.6002; C62, § 5-19; C75, § 7-13; O.9097; C79, § 7-13; O.9828; C85, § 7-13; O.11,095; C91, § 7-13; O.11,914)

**Cross references:** Definitions generally, § 1-2.

D

**Sec. 18-56. Confinement of vicious dogs.**

(a) All vicious dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or, in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure.

(b) All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined dog.

(c) All structures erected to house vicious dogs must comply with all city zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.

(d) No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the dog and the leash are under the actual physical control of a person 18 years of age or older.

(e) Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(f) Violation of this section is a misdemeanor.

(C85, § 7-27.01; O.11,095, 11,558; C91, § 7-27.01)

CITY  
EXHIBIT

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E

**Sec. 18-55. Running at large.**

- (a) A dog, properly licensed as required by law, shall not be deemed at large if:
  - (1) The dog is on the premises of the owner or a person given charge of the dog by the owner and is either:
    - a. Restrained on those premises by an adequate protective fence or by leash, cord, chain or other similar restraint that does not allow a dog to go beyond the owner's real property line; or
    - b. At all times within the actual physical presence of and immediately obedient to the commands of the owner or person given charge of the dog by the owner. At no time shall the dog be more than six feet from such person.
  - (2) The dog is off the premises of the owner and is:
    - a. On a leash, cord, or chain or other similar restraint not more than six feet in length and under the control of a person competent to restrain and control the dog; or
    - b. Properly restrained within a motor vehicle.
  - (3) The dog is properly housed in a veterinary hospital or registered kennel.
  - (4) The owner and the dog are participating in a regularly scheduled competitive or exhibition event sanctioned or sponsored by a nationally recognized organization, local chapter thereof, or other generally recognized local organization.
  - (5) The dog and the owner are actively engaged in a generally recognized dog obedience training program or training for a generally recognized kennel club event, provided:
    - a. The dog is in the actual physical presence of the owner or trainer at all times;
    - b. The owner or trainer is at no time more than 50 feet from the dog;
    - c. The dog is immediately obedient to the commands of the owner or trainer; and
    - d. The owner or trainer has, at all times, on his or her person a leash of sufficient strength to restrain the dog.
- (b) A dog shall be deemed to be at large if it is not properly licensed or if it is not housed, restrained or controlled in one of the methods set forth in subsection (a) of this section.
- (c) Notwithstanding any other section of this article, any dog shall be deemed at large at any time ~~when attacking persons, domestic animals, destroying property, or on a public school ground except when under restraint as set out in subsection (a)(2) of this section.~~ Furthermore, any female dog in heat shall be deemed at large at any time except:
  - (1) When housed in a building which is completely enclosed;
  - (2) When housed in a veterinary hospital or registered kennel; or
  - (3) When on the premises of the owner, provided the area on which such dog is located is:
    - a. Completely enclosed in a locked, enclosed fence, pen or other structure having a height of at least six feet; such fence, pen or structure must have secure sides which are imbedded into the ground, if the bottom of the structure is not integrally connected to the structure; or

b. If the fence, pen or structure is less than six feet in height, it must have a secure top in addition to securely imbedded sides as described in subsection (c) (3)a of this section.

Nothing in this subsection, however, shall be construed as prohibiting any owner of a female dog in heat from walking such dog with a leash, cord, chain or other similar restraint not more than six feet in length or from transporting such dog within a motor vehicle.

(d) No owner of any dog shall permit such dog to be at large at any time.

(C42, §§ 114-5, 114-6, 114-9; O.5385, 5506; C54, §§ 5-19, 5-20; O.6002, 6234; C62, §§ 5-19, 5-20; O.7499; C75, § 7-27; O.9098, 9376; C79, C85, § 7-27; O.10,855, 10,867, 10,886, 11,095; C91, § 7-27; O.11,807)

**Sec. 18-196. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dangerous animal* means any animal, including a dog, except for an illegal animal per se, as listed in the definition of illegal animal, that has bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that the animal:

- (1) Has bitten or clawed a person on two separate occasions within a 12-month period;
- (2) Did bite or claw once causing injuries above the shoulders of a person;
- (3) Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or
- (4) Has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

*Illegal animal* means:

- (1) Any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so.
- (2) Any animal declared to be illegal by the board of health or the city manager or his or her designee.
- (3) Any nondomesticated member of the order Carnivora which as an adult exceeds the weight of 20 pounds.
- (4) The following animals, which shall be deemed to be illegal animals per se:
  - a. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats.
  - b. Wolves, coyotes and foxes.
  - c. Badgers, wolverines, weasels, skunks and mink.
  - d. Raccoons.
  - e. Bears.
  - f. Monkeys and chimpanzees.
  - g. Bats.
  - h. Alligators, crocodiles and caimans.
  - i. Scorpions.
  - j. Snakes and reptiles that are venomous.
  - k. Snakes that are constrictors over six feet in length.
  - l. Gila monsters.
  - m. Opossums.
  - n. All apes, baboons and macaques.
  - o. Piranhas.

(C79, § 7-44; O.10,541; C85, § 7-44; O.10,886, 11,095; C91, § 7-44)

**Cross references:** Definitions generally, § 1-2.

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G

**Sec. 18-203. Immediate seizure or destruction of animals.**

Any animal found at large which displays dangerous tendencies, or which is an illegal animal, or which has been previously declared vicious or is vicious by breed according to article II, section 18-41 (6), (7), (8), or (9) of this chapter and has bitten without provocation a person or a domestic animal while such vicious dog was not properly confined or leashed may be processed as a dangerous animal under section 18-202 of this article, and the animal may be immediately seized anywhere within the city unless the animal is so dangerous that it cannot safely be apprehended, in which case the chief humane officer, his or her designee, or any police officer is authorized to destroy it immediately.

(C85, § 7-51; O.11,095; C91, § 7-51; O.14,415, 14,462)



**Sec. 18-202. Seizure, impoundment and disposition of dangerous animals.**

- (a) The chief humane officer or his or her designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined in this article, may initiate proceedings to declare such animal a dangerous animal. A hearing on the matter shall be conducted by the city manager or his or her designee. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of the hearing. The notice shall set forth the description of the animal in question and the basis for the allegation of dangerousness. The notice shall also set forth that if the animal is determined to be dangerous it may be ordered destroyed or the owner may be given the option to cause it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service. A notice that a dog is a dangerous animal may include as an alternative an allegation that a dog is a vicious dog under sections 18-41 and 18-59 of this chapter, and the hearings shall proceed together under this section.
- (b) If, after hearing, the city manager or his or her designee determines that an animal is dangerous, the city manager or his or her designee shall either order the animal destroyed in a humane manner by the chief humane officer, or order the person owning, sheltering, harboring or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the animal is ordered to be destroyed by the chief humane officer such order shall be carried out after the appeal period in subsection (c) of this section has expired. If the animal is ordered to be destroyed by the owner, such order must be complied with within three days of its issuance, otherwise the city manager or his or her designee is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the order of the city manager or his or her designee was issued has not appealed such order to the city council, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.
- (c) The order to destroy a dangerous animal issued by the city manager or his or her designee may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three days after receipt of the order to destroy the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the city manager or his or her designee.
- (d) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. The hearing may be continued for good cause. The hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. ~~After such hearing the city council may affirm or reverse the order of the city manager or his or her designee.~~ Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing or any continued session thereof.
- (e) If the city council affirms the action of the city manager or his or her designee, the city council shall either order the animal destroyed by the chief humane officer, or order that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal shall cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the order to destroy. If the animal is ordered to be destroyed by the chief humane officer the order shall be effective on the fourth day after receipt of the order by the owner unless the county district court has been petitioned to review the order within the first three days after receipt. If the animal is ordered to be destroyed by the owner and such order is not appealed to the county district court and is not

complied with within three days after receipt of the order by the owner, the chief humane officer or his or her designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the county district court for a review of the order, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.

(f) Failure to comply with an order of the city manager or his or her designee issued pursuant to this section and not appealed or of the city council after appeal shall constitute a misdemeanor offense.

(g) Any animal which is alleged to be dangerous and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be dangerous. If the animal is not determined to be dangerous and was found at large, the owner shall only pay those costs attributable to the initial confinement and any required quarantine. If the animal is not determined to be dangerous and was not at large at the time of confinement, the owner shall only pay those costs attributable to any required quarantine.

(C79, § 7-50; O.10,541; C85, § 7-50; O.11,095; C91, § 7-50; O.13,854, 13,977, 14,462, 14,677)

Animal Incident Investigation Report  
Des Moines, Iowa Police Department

32. District: <u>2</u>		33. Beat: <u>26</u>		1. Impounded animal AHR/ARL number:		2. DMPP case number: <u>08-35199</u>									
34. Animal type: Cat <input type="checkbox"/> Dog <input checked="" type="checkbox"/> Other <input type="checkbox"/>				3. Victim's name (Last, First M.I.):				3. Victim's name (Last, First M.I.): (Human victim or society)							
35. Animal breed: <u>PITBULL</u>				4. Race:		5. Sex:		6. Age:		Date of birth:		8. Ethnicity: <input type="checkbox"/> H <input type="checkbox"/> NH <input type="checkbox"/>		9. Sobriety: <input type="checkbox"/> Sob. <input type="checkbox"/> H.B.D. <input type="checkbox"/>	
36. Animal color: <u>RED BROWN / WHITE</u>				10. Residence address: (City and/or state if not Des Moines or Iowa)											
37. Animal fur length: Short <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/> : <u>Med</u>				11. Residence phone number:				12. Business or cellular phone number:							
38. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>				13. Place of employment or school:											
39. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> (Records Personnel: Enter M/C# as a serial number)				14. Type and location of injury:											
M/C#:				15. Medical treatment:				16. Reporting person's name (Last, First M.I.): <u>MEDINA JENNIFER</u>							
40. Rabies tag: No <input type="checkbox"/> Yes <input type="checkbox"/> RT#:				17. Race: <u>W F</u>		18. Sex: <u>F</u>		19. Age: <u>36</u>		20. Date of birth: <u>12/29/71</u>		21. Ethnicity: <input type="checkbox"/> H <input checked="" type="checkbox"/> NH <input type="checkbox"/>		22. Sobriety: <input type="checkbox"/> Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>	
40A. Date of vaccination:				40B. Date of vaccination expiration:				23. Residence address: (City and/or state if not Des Moines or Iowa)							
40C. Veterinarian:				24. Residence phone number: <u>766-7110</u>				25. Business or cellular phone number: <u>554-9700</u>							
41. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:				26. Location of incident (address): <u>2500 B Williams</u>											
42. Other identifiers (Collar, tattoo, etc.): <u>NA</u>				27. Location type: <u>RESIDENTIAL</u>											
43. Confinement/quarantine location: <u>1615 SE KERR</u>				28. Date and time incident occurred: <u>25 SEPT 08 1910</u>				29. Date and time incident reported: <u>25 SEPT 08 1910</u>							
44. Impounded or bite animal owner's name (Last, First M.I.): <u>WILLSON, ADRIAN</u>				30. Crime/incident type: <u>ANIMAL BITE DEUS DOG</u>				31. Classification:							
45. Residence address: (City and/or state if not Des Moines or Iowa)				46. Residence phone number: <u>762-8723</u>				47. Place of employment or school:							
48. Business or cellular phone number:				49. Animal owner notification: No <input type="checkbox"/> Yes <input type="checkbox"/>				49A. Date and time of notification:							
49B. Person making notification:				49C. Means of notification:				50. Witness' name (Last, first): <u>MEDINA AUSSA</u>							
51. Residence address: (City and/or state if not Des Moines or Iowa)				52. Daytime or cellular phone number: <u>766-7110</u>				53. Witness' name (Last, First): <u>BENIS SEAN</u>							
54. Residence address: (City and/or state if not Des Moines or Iowa)				55. Daytime or cellular phone number: <u>261-7539</u>				56. Investigative notifications and/or photographs taken: Detective: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Ident. Technician: No <input type="checkbox"/> Yes <input type="checkbox"/> ACO Supervisor: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Photographs taken by ACO or PO: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>							
57. Victim animal AHR/ARL number: Impounded: No <input type="checkbox"/> Yes <input type="checkbox"/> AHR/ARL#:				58. Animal type: Cat <input type="checkbox"/> Dog <input type="checkbox"/> Other <input type="checkbox"/>				59. Animal breed: <u>Australian Shepherd mix</u>							
60. Animal color: <u>Black Tan</u>				61. Animal fur length: Short <input type="checkbox"/> Medium <input checked="" type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>				62. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input type="checkbox"/> Neutered <input checked="" type="checkbox"/> Unknown <input type="checkbox"/>							
63. Rabies tag: No <input type="checkbox"/> Yes <input type="checkbox"/> RT#:				64. Microchip: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> M/C#:				63A. Date of vaccination: <u>8.16.08</u>							
65. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:				63B. Date of vaccination expiration: <u>8.16.11</u>				63C. Veterinarian: <u>HUBBELL VOT CLINIC</u>							
66. Type and location of injury: <u>LACERATION - BACK OF HEAD</u>				67. Medical treatment: <u>ANIMAL EMERGENCY CLINIC</u>											
68. Confinement/quarantine location: <u>2413 WILLIAMS</u>				69. Victim animal owner's name (Last, First M.I.): <u>MEDINA CARLOS</u>											
70. Residence address: (City and/or state if not Des Moines or Iowa)				71. Residence phone number:				72. Business or cellular phone number:							
73. Reporting officer: <u>[Signature]</u> I.D. No. <u>7235</u>				74. Status: <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed				75. Copy/copies made by:							
77. Second officer: <u>[Signature]</u> I.D. No.:				76. Referred to: <input checked="" type="checkbox"/> Animal Control <input type="checkbox"/> PIO <input type="checkbox"/> Detectives <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:				78. Supervisor approving report: <u>[Signature]</u> I.D. No.:							
79. Reviewed by: <u>[Signature]</u>															

Animal Incident Investigation Report  
Des Moines, Iowa Police Department

82. Suspect or offender gns (1) name (Last, first Middle):					83. Arrested: No <input type="checkbox"/> Yes <input type="checkbox"/>		84. Warrant needed: No <input type="checkbox"/> Yes <input type="checkbox"/>		85. Charges filed: No <input type="checkbox"/> Yes <input type="checkbox"/>	
86. Race:	87. Sex:	88. Age:	89. Date of birth:	90. Ethnicity: H <input type="checkbox"/> NH <input type="checkbox"/>	91. Height:	92. Weight:	93. Hair color:	94. Eye color:		

95. Residence address: (City and/or state if not Des Moines or Iowa)

96. Residence or alternate phone number:			97. Driver license number or social security number:			97A. State:		98. Sobriety: Sob. <input type="checkbox"/> H.B.D. <input type="checkbox"/>	
--	--	--	--	--	--	-------------	--	--	--

99. Citation number and crime: 100. Citation number and crime:

101. Suspect or offender two (2) name (Last, First Middle):					102. Arrested: No <input type="checkbox"/> Yes <input type="checkbox"/>		103. Warrant needed: No <input type="checkbox"/> Yes <input type="checkbox"/>		104. Charges filed: No <input type="checkbox"/> Yes <input type="checkbox"/>	
---	--	--	--	--	--	--	--	--	---	--

105. Race:	106. Sex:	107. Age:	108. Date of birth:	109. Ethnicity: H <input type="checkbox"/> NH <input type="checkbox"/>	110. Height:	111. Weight:	112. Hair color:	113. Eye color:		
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114. Residence address: (City and/or state if not Des Moines or Iowa)

115. Residence or alternate phone number:			116. Driver license number or social security number:			116A. State:		117. Sobriety: Sob. <input type="checkbox"/> H.B.D. <input type="checkbox"/>	
---	--	--	---	--	--	--------------	--	---	--

118. Citation number and crime: 119. Citation number and crime:

120. Narrative:

TRIPPED TO 2413 WILLIAMS ON A DOG VS DOG BITE. UPON ARRIVAL I SPOKE WITH JENNIFER MEDINA WHO STATED SHE AND HER DAUGHTER AYLSSA WERE WALKING THEIR AUSTRALIAN SHEPHERD MIX BEAR SOUTH EAST 2508 WILLIAMS WHEN BEAR AND THE PITBULL AT 2508 WILLIAMS STARTED BARKING AT EACH OTHER. MRS. MEDINA CONTINUED TO PULL BEAR PAST THE PITBULL WHEN IT JUMPED ITS FENCE AND ATTACKED BEAR. AS MRS. MEDINA WAS ATTEMPTING TO BREAK THE DOGS APART AND PROTECT HER DAUGHTER, SEAN BOMIS AND MICHAEL KUBERK WHO SAW THE PITBULL JUMP THE FENCE AS THEY TURNED SOUTHBOUND ONTO WILLIAMS STOPPED TO ASSIST. DON MCVIEY, WHO WAS AT 2508 WILLIAMS FIXING HIS CAR, ALSO RAN OUT TO ASSIST IN BREAKING UP THE DOGS. MR. MCVIEY HAD A HAMMER OF SOME SORT POSSIBLY A

SUPPLEMENTAL REPORT  
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee <b>MEDINA, SONIA PER</b>	2. Arrest No.	3. Case No. <b>0835199</b>
--	---------------	-------------------------------

<input checked="" type="checkbox"/> Form used as Continuation Sheet for Current Report		4. Date this Report <b>25 SEPT 08</b>	5. Date Original Occurrence <b>25 SEPT 08</b>
<input type="checkbox"/> Form used to Report Follow up Investigation or Supplemental Information		6. Correct offense or Incident Classification Changed <input type="checkbox"/> Yes	
Officer Case Invest. Photos Yes <input type="checkbox"/> No <input type="checkbox"/>		7. Kind of Report Continued <input checked="" type="checkbox"/> Witness Statement	
Taken by		8. Multiple Clear Up? <input checked="" type="checkbox"/> No	
7. Kind of Report Continued <input type="checkbox"/> Follow up or Supplemental or Prosecution <input type="checkbox"/> Traffic Accident		<input type="checkbox"/> Offense <input type="checkbox"/> Arrest	
9. Page No. <b>3 of 4</b>		10. Traffic Citation No. <b>NR</b>	
		11. Value of Property Recovered and Type <b>\$ NR</b>	

INSTRUCTIONS FOR FOLLOWUP OR SUPPLEMENTAL USAGE Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory number. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at left, if any.

ITEM NO.	<p><b>RUBBER Mallet PER MRS MEDINA, AND HAD TO HIT THE PITBULL WITH IT TO GET HIM TO LET GO OF THE MEDINA'S DOG.</b></p> <p><b>BEAR, THE MEDINA'S DOG, SUFFERED A LACERATION ABOUT THREE INCHES LONG TO THE BACK OF HIS HEAD.</b></p> <p><b>ROD, THE PITBULL, HAS A SMALL LACERATION TO THE TOP OF HIS HEAD AND APPEARS TO BE VERY SCARED FROM GETTING HIT WITH THE HAMMER.</b></p> <p><b>MR. MCVAY STATED HE LIVES AT THE RANDOLPH HOTEL PM 517 PHOENIX NUMBER 204-2271, AND THE OWNER OF THE DOG WAS NOT HOME. ADRIAN WILSON IS THE OWNER OF THE PITBULL I IMPOUNDED THE DOG AND GAVE MR. MCVAY A CALL WITH THE CASE NUMBER FOR MR. WILSON</b></p>
----------	--

14. Reporting Officer <b>[Signature]</b>		15. Status (check one) <input type="checkbox"/> Suspended <input checked="" type="checkbox"/> Open		13. Date/Time Typed No.		Reproduced No.	
No. <b>7285</b>		<input type="checkbox"/> Ex. Closed <input type="checkbox"/> Closed		17. Unit Referred To: <b>ACU</b>		18. UCR Disposition	
Second Officer		Supervisor Approving <b>[Signature]</b>		19. Reviewer		No.	

**SUPPLEMENTAL REPORT**  
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee

MEDINA, JENNIFER

2. Arrest No.

3. Case No.

08-35199

Form used as Continuation Sheet for Current Report

4. Date this Report

25 SEPT 08

5. Date Original Occurrence

25 SEPT 08

Form used to Report Follow up Investigation or Supplemental Information

Officer Case Invest.  
Photos Yes  No

6. Correct offense or incident Classification

Changed  Yes

Taken by

ANIMAC BITE DOG US DOG

7. Kind of Report Continued

Witness Statement

Follow up or Supplemental or Prosecution

Offense

8. Multiple Clear Up?

No

Yes (list other case numbers in narrative)

9. Page No.

4 of 4

10. Traffic Citation No.

NA

11. Value of Property Recovered and Type

\$ NA

**INSTRUCTIONS FOR FOLLOWUP OR SUPPLEMENTAL USAGE**

Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory number. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at left, if any.

ITEM NO.

1 QUANTINED THE VICTIM DOG AT HOME AND GAVE A COPY OF HOME QUANTINE RULES AND ADVISED ON PURCHASING A CITY LICENSE.

PLEASE ISSUE CITATIONS TO MR WILSON OF

18-56 IMPROPER CONFINEMENT OF A VICIOUS DOG

18-57 VICIOUS DOG AT LARGE

18-10 DAMAGE DOGS

WITNESS FOR VICIOUS DOG AT LARGE ARE  
JENNIFER MEDINA, 2413 WILLIAMS, 766-7110  
SEAN BOMIS, 3884 HULL, 261-7339  
MICHAEL KUSTICE, 3907 RICHMOND, 210-3806

OFFICE USE ONLY

14. Reporting Officer

No.

7235

15. Status (check one)  Suspended  Open

Ex. Closed  Closed

13. Date/Time Typed No.

Reproduced No.

17. Unit Referred To:

ACU

18. UCR Disposition

Second Officer

No.

Supervisor Approving

No.

19. Reviewer

No.

Wilson, Ray 51

ARL# A06102791

"Red"

CITY OF DES MOINES  
ANIMAL CONTROL UNIT

CITY  
EXHIBIT

J

DATE: 9-26-08

REFERENCE: ANIMAL HISTORY REPORT # 08-35199

TO WHOM IT MAY CONCERN:

I have examined this dog and found it to have the predominant characteristics of the American Staffordshire Terrier breed. This decision is based on the following physical features of the dog:

HEAD:  MEDIUM LENGTH  
 DEEP TROUGH  
 BROAD SKULL  
 PRONOUNCED CHEEK MUSCLES

SHOULDERS:  STRONG  
 MUSCULAR

NECK:  HEAVY  
 SLIGHTLY ARCHED  
 TAPERS FROM BACK OF SKULL TO SHOULDERS

MUZZLE:  MEDIUM LENGTH  
 JAWS WELL DEFINED  
 BLACK NOSE - brown

TAIL:  LOW SET  
 TAPERS TO FINE POINT  
 NOT CURLED OVER BACK

BACK:  FAIRLY SHORT  
 SLIGHT SLOPING FROM WITHERS TO RUMP

COAT:  SHORT  
 CLOSE  
 GLOSSY

BODY:  WELL SPRUNG RIBS  
 FORELEGS SET RATHER FAR APART  
 CHEST DEEP AND BROAD

EYES:  DARK AND ROUND  
 LOW DOWN IN SKULL  
 SET FAR APART

LEGS:  STRAIGHT FRONT LEGS  
 HINDQUARTERS WELL MUSCLED  
 MODERATE SIZE FEET

SIZE: 21 INCHES AT SHOULDERS  
45.5 LBS.

COLOR: brindle with white

COMMENTS: - lesion on dorsal head  
- bilateral otitis externa  
- some lesions on ventral skin (pyoderma)  
- male  
- over 6 mos old  
*Ray W Berry DVM*

KF ACU

**Anderson Animal Hospital**

Michael R. Anderson, DVM

2008-  
35199

**Rabies Certificate**

**Owner Name:** Adrian Wilson  
**Street Address:** 3938 E. 23<sup>rd</sup> St. #3  
**City:** Des Moines  
**State:** IA  
**Zip:** 50317  
**Telephone:** 865-4005

**Rabies Tag #** 852822  
**Pet Name:** Red  
**Species:** Canine  
**Sex:** M  
**Spayed/Neutered:** No  
**Breed:** Pitbull  
**Color:** Brindle red  
**Date of Birth:** 2005  
**Weight:** 55.0lbs

**Anderson Animal Hospital**  
2560 Hubbell Ave.  
Des Moines, IA 50317  
(515) 299-5401

**Vaccine:**  
**Manufacturer:** Fort Dodge  
**Serial Number:** 873149A  
**Product expiration:** 07/12/08  
**1 year:** X  
**3 year:**  
**Date Administered:** 5/16/08  
**Date Due:** 5/16/09

Veterinarian's License #: 5462

CITY  
EXHIBIT  
K

Signature: Michael R. Anderson, DVM CR

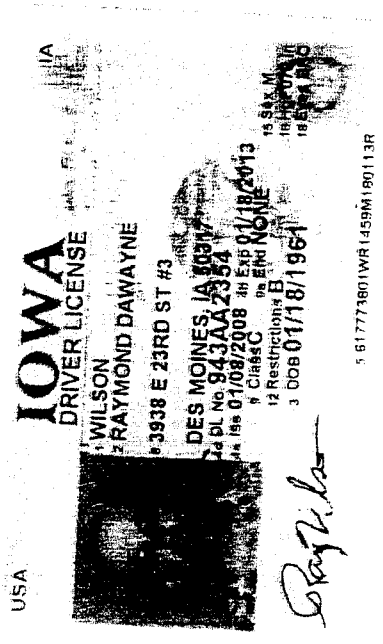
Michael R. Anderson, DVM



Sept 29, 2008

Dog involved in incident "Red" is not mine but Admin's.  
We live @ same address. Admin is 18 yrs. old & is owner as stated on Vet. Bill.

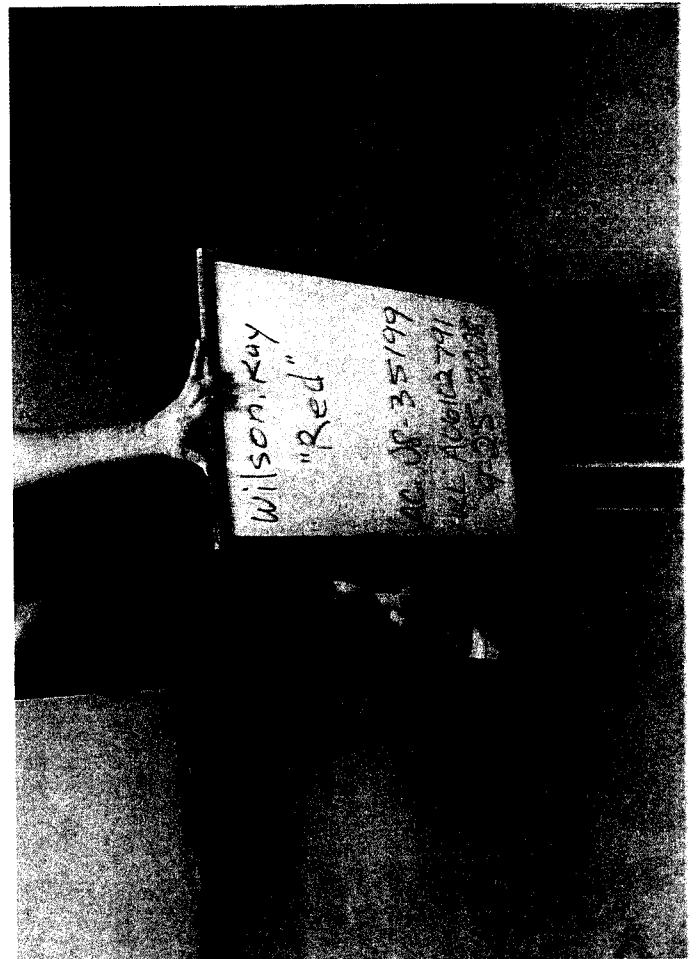
Ray Wilson



2008 -  
35199

CITY EXHIBIT  
L

M





Red has been brought up with love & care. Never have we had to use force or strike him. He is a Good Dog. He sleeps with us in our beds because he's one of us, part of my/our family.

Red has never? I mean never even growled at a person, but rather only be so happy - he will not ever be "Bad", and this incident is just that, <sup>(1)</sup> an incident.

Under When in all his Years, Days, & moments a (1) times event or bad choice on Part of Red shouldn't be <sup>the</sup> end of such a Wonderful Animal.

On this particular day Adrian nor I were at home and a friend of mine was left alone to work on a car. This friend has seen a docile, happy & playful dog, so he never imagined Red could act ~~like~~ like a dog who was protecting "Territory" & "His Family or Pack" - when he saw Strange Dog - out of control, who's owners let their dog harass these (2) little dogs by approaching fence & allowing a confrontation of her Big Dog against 2 little dogs; Red's instincts to protect triggered him to for 1st time "Ever" climb fence out of our fenced Yrd;

Adrian's procrastinating on the legal aspects of getting license, Tags, ins. & registering etc. are Adrian's mistake, and "Red" could not do anything about that. So, as Judge over Red's living or so "Dangerous" he must die; I ask to give "Red" the chance he deserves.

Adrian's Letter - Ray Wilcox 1 Oct 08

provoked

To Whom it may concern,  
My name is Jayce Briggs. I  
am Adrians fathers cousin. I've  
stayed at their home several times  
Red was the kind of dog I thought  
I should be afraid of because of  
their reputation. Supposedly you  
call him dangerous. Red is the  
opposite of these things. I cannot  
believe that I fell in love with  
this big gentle pup. I have  
never seen him act out in any way.  
I've never heard him growl or  
ever play rough. Adrian and his  
father care for him more than  
anything else. He is their child.  
It would be a catastrophe if  
you kill him. Please believe  
those that tell you he has never  
acted out. Adrian is very  
remorseful. He knows now how  
important it is to be responsible.  
He wants and is going to ~~the~~ school  
to become a police officer. I  
beg of you to consider the outcome  
of Red being put to sleep.

Thank You,

Jayce Briggs  
10-1-08

To whom this may concern,

My name is Raymond Victor Wilson and I'm Adrian Darius' Wilson's brother. I've known their dog Red since they have had him, he's a very good dog, and I've never seen him be aggressive towards anyone. I have a 5 year old son and he gets along great with Red, he really is a great dog and we all love him, please find it in your heart to give Red a second chance.

Sincerely,  
Raymond Wilson

To Whom it may concern:

51

my ~~name~~ name is Wendy Lee I work for DART  
and live at 2532 Williams St. I have  
3 Basset Hounds they have gotten loose  
a few times and have gone down the  
my neighbors House where his dog was taken  
for fighting another dog however his dog has  
never fought with or acted angry to my 3  
at any time that they got loose,  
if you have any questions or concerns  
you may contact me @ 265-0966

Thank You

Wendy Lee

To Whom This may Concern,

The watch the dog sense he moved in and he seems like such a good dog. I've seen loose dogs go up to his fence while he has been out and the dog never reacted. I have a dog myself that has been in my front yard barking at this dog and he has never reacted in a reactive way. The day of the fight the dog that got attacked was at a neighbor's fence barking at the 3 little dogs that live there. The three of them were barking viciously at each other through the fence. That's when the dog climbed his fence and attacked the big black one. I believe he jumped the fence to protect the little dogs.

I'm writing this because the dog needs another chance. I don't think he is a mean dog because I've NEVER seen him react to any other dog or this one before. Please give this dog another chance.

Thank You

Bessie Koyen  
515-262-8082





## INVOICE

MEDINA  
EXHIBIT

1-A

**Hubbell Animal Hospital, P.C.**3415 Hubbell Avenue  
Des Moines, IA 50317  
515-265-4239

Printed: 09-27-08 at 8:42a

Date: 09-27-08

Account: 6692

Invoice: 19775

FOR: Carlos Medina  
2413 Williams St  
Des Moines, IA 50317  
(515) 266-7110

Date	For	Qty Description	Net Price
09-27-08	Bear	1 Animal Emerg. Clinic Recheck	25.95
09-27-08		40 Cephalexin Capsules 500mg*	21.85
Total charges, this invoice...			47.80
*Tax...			1.31
Total, this invoice...			49.11
Your old balance...			0.00
Total payment(s) received...			49.11
09-27-08 Check payment #3030			49.11
Your new balance...			0.00

Reminders for: <b>Smokey</b> (Weight: 9.2 lbs - 7y)	Last done
<b>05-22-08 Fecal Float- Annual</b>	
<b>12-01-07 FVRCP Vacc - Annual</b>	<b>12-01-06</b>
<b>12-01-07 Rabies Vacc Feline 1 Year</b>	<b>12-01-06</b>

Reminders for: <b>Bear</b> (Weight: 79.2 lbs - 5y)	Last done
08-16-11 Rabies Vacc Canine 3 Year	08-16-08
08-16-09 Heartworm Test	08-16-08
10-11-08 Interceptor 51-100#	09-11-08
10-11-08 Frontline Plus 45-88 Dog	09-11-08
<b>12-30-07 Bordetella Vacc</b>	<b>12-30-06</b>
<b>12-30-07 DHPP Vacc- Annual</b>	<b>12-30-06</b>
<b>12-30-07 Fecal Float- Annual</b>	<b>12-30-06</b>

**Smokey's weight history (in lbs)**

05-15-08 9.20

**Bear's weight history (in lbs)**09-27-08 79.20  
08-16-08 82.20  
01-06-07 85.20  
01-04-07 84.40

---

Thank You!

For after hours emergency care, please contact the Animal Emergency Clinic at 280-3051. They are located at 6110 Creston Ave Des Moines, IA.

# INVOICE

## Hubbell Animal Hospital, P.C.

3415 Hubbell Avenue  
Des Moines, IA 50317  
515-265-4239

**FOR:** Carlos Medina  
2413 Williams St  
Des Moines, IA 50317  
(515) 266-7110

**Printed:** 09-27-08 at 8:42a  
**Date:** 09-27-08  
**Account:** 6692  
**Invoice:** 19775

Date	For	Qty	Description	Net Price
09-27-08	Bear	1	Animal Emerg. Clinic Recheck	25.95
09-27-08		40	Cephalexin Capsules 500mg*	21.85
Total charges, this invoice...				47.80
*Tax...				1.31
Total, this invoice...				49.11
Your old balance...				0.00
Total payment(s) received...				49.11
09-27-08 Check payment #3030				49.11
Your new balance...				0.00

Reminders for: <b>Bear</b> (Weight: 79.2 lbs - 5y)		Last done
08-16-11	Rabies Vacc Canine 3 Year	08-16-08
08-16-09	Heartworm Test	08-16-08
10-11-08	Interceptor 51-100#	09-11-08
10-11-08	Frontline Plus 45-88 Dog	09-11-08

## PROCEDURE ESTIMATE

Hubbell Animal Hospital, P.C.  
3415 Hubbell Avenue  
515-265-4239

09-27-08

Mr./Ms. Medina

This document lists procedures to be performed on Bear. This estimate only approximates the cost of this visit. It does not include any treatments that may be deemed necessary upon examination and commencement of the included treatments. You are responsible for all fees incurred during this visit included or not on this estimate.

The following is a list of the treatments and/or supplies expected to be required during this visit and their approximate cost.

If you have any questions concerning this estimate please do not hesitate to ask.

Procedure or Dispensed Item	Qty	Charge
Medical Progress Exam	2	68.20
Wound Treatment		150.00
Cephalexin Capsules 500mg	40	21.85
Tax...		1.31
Total estimate charges...		\$241.36

Created: 09-27-08

Be assured that the health of Bear is our highest concern and we will do everything possible to maintain that health. Understand, too, that your signature below indicates that you have reviewed and agree to the terms of this estimate.

We accept cash, checks, Master Charge, Visa, Discover, and Care Credit in payment of services. We cannot extend the privilege of charging services as this puts us in the position of becoming a lending institution.

It is the policy of our Hospital to require a minimum deposit of 50% of this estimate. Please leave this payment with the receptionist when signing your pet into the hospital.

Amount \$ \_\_\_\_\_

I accept and agree to the terms of this estimate:

**CERTIFICATE OF VACCINATION**

**VETERINARY CLINIC**

Hubbell Animal Hospital, P.C.  
3415 Hubbell Avenue  
Des Moines, IA 50317  
515-265-4239

**OWNER OF ANIMAL**

Carlos Medina  
2413 Williams St  
Des Moines, IA 50317  
County:

This is to certify...

**THAT I HAVE VACCINATED AGAINST RABIES THE ANIMAL DESCRIBED BELOW.**

**Patient information...**

**PATIENT:** Bear

**TAG NO:** 880216-08

**SPECIES:** Canine

**WEIGHT:** 82.20

**SEX:** N

**AGE:** 5 years

**Breed:** Australian Shepherd

**Color and markings...** Black/Brown

Signed Sarah B Lagan DVM 8/16/08

Sarah Lagan, DVM

**License:** 5685

**Rabies Vaccine Information...**

**MFG BY:** SCH-P

**SER.NO:** S723029D

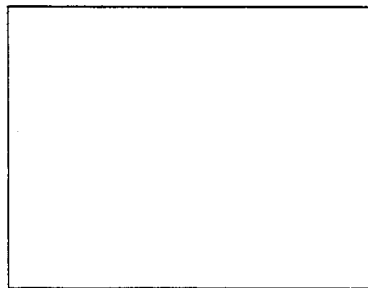
**LOT EXP:** 06/05/09

**ADM:** SQ

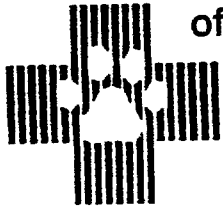
**TYPE:** KIL

**Date Given:** 08-16-08

**Next Immunization Due** 08-16-11



**Animal Emergency & Referral Center  
of Central Iowa**



**Karl Bolser D.V.M.**

**Primary Specialties**  
Serving the Public for 25 Years

6110 Creston Avenue  
Des Moines, IA 50321

Phone (515) 280-3051  
Fax (515) 280-3718

**Carlos Medina or Jennifer Medina (# 39340)**

2413 Williams St Home Phone: 266-7110 (515)  
Des Moines, IA 50317 Work Phone: 698-7586 (515) ext:

**Sep 25, 2008**

**Invoice Number  
38704**

**Bear (# A)**

Species: Canine Sex: Male Neutered

Age: 6 years old.

Breed: Australian Shep Mix

Coat Color: Blk & Brown

Weight: 78 lbs.

Rabies Tag Number:

Date	Code	Description	Qty	Price
09/25/2008	6025	Hubbell Animal Hospital	1	\$ 0.00
	1	Emergency Fee	1	\$ 35.00
	2	Exam Fee	1	\$ 40.00
	705	*IV Anesthetic	1	\$ 57.65
	703	Iso Anesthetic 1st 15 min	1	\$ 48.85
	704	Iso Anesthetic add 15min	1	\$ 39.25
	248	Capnography	1	\$ 48.04
	285	*SQ Injection Naxcel	1	\$ 35.70
	285	*SQ Injection Metacam	1	\$ 35.70
	1026	Laceration (minor)	1	\$ 144.00
	4017	Cephalexin Caps 500mg	12 CAP	\$ 21.50 <sup>+tx</sup>
	4194	Metacam Oral 10ml	1 EA	\$ 40.95 <sup>+tx</sup>

**Total for Bear: \$ 546.64**

**Total Products: \$ 546.64**

State Sales Tax: \$ 3.75

**Total Invoice: \$ 550.39**

**Previous Balance: \$ (400.00)**

**Total Amount Due: \$ 150.39**

Credit Balance \$ 400.00

VISA \$ 150.39

**Total Payments - Thank you: \$ 550.39**

**New Balance Due: \$ 0.00**

OTC \*Sales - OTC  
Dr. Karl Bolser

Iowa Veterinary Specialties  
 6110 Creston Avenue  
 Des Moines, IA 50321  
 Emergency Department: (515) 280-3051  
 Internal Medicine & Surgical Services: (515) 280-3100  
 09/25/2008

Carlos Medina  
 2413 Williams St  
 Des Moines IA 50317

Acct No. : 39340

Bear  
 Species: Canine  
 Breed : Australian Shep Mix  
 D.O.B. : 09/25/2002

Sex: MN

Color: Blk & Brown  
 Weight: 78 lbs.

10/25/2009	10/25/2009	Give 78 drops orally once daily for 5 days. Start this medication Friday morning.	1	\$ 40.95
Sep 25, 2008	Metacam Oral 10ml		12	\$ 21.50
Sep 25, 2008	Cephalexin Caps 500mg			
10/25/2008	10/25/2008	Give two (2) capsules orally twice daily (every 12 hours) until gone. Start this medication Friday morning.	1	\$ 144.00
Sep 25, 2008	Laceration (minor)		1	\$ 35.70
Sep 25, 2008	*SQ Injection Metacam		1	\$ 35.70
Sep 25, 2008	*SQ Injection Naxcel		1	\$ 48.04
Sep 25, 2008	Capnography		1	\$ 39.25
Sep 25, 2008	Iso Anesthetic add 15min		1	\$ 48.85
Sep 25, 2008	Iso Anesthetic 1st 15 min		1	\$ 57.65
Sep 25, 2008	*IV Anesthetic		1	\$ 40.00
Sep 25, 2008	Exam Fee		1	\$ 35.00
Sep 25, 2008	Emergency Fee			



Iowa Veterinary Specialties  
6110 Creston Avenue  
Des Moines, IA 50321  
Emergency Department: (515) 280-3051  
Internal Medicine Services: (515) 280-3100  
Surgical Referral Services: (515) 280-3100



"Bear"  
Account ID: 39340A  
Age: 6 years old.  
Species: Canine  
Breed: Australian Shep  
Mix

Owner: Carlos Medina  
Home: 266-7110 (515)  
Cell: 554-9700 (515)  
2413 Williams St  
Des Moines, IA 50317

## PHYSICAL EXAMINATION RECORD

Date: 09/25/2008

Time: 20:17:23

WEIGHT  HR:

MM:

TEMP  RR:

CRT:

Tech Comments

Bit by dog, large laceration on top of head, side of face, possible leg injury. JM

Doctor Comments

PE: mm pink<2. Alert. Not clinically dehydrated. Thorax auscults normal. Abdomen palpates normal. Overweight. Puncture wounds along the left antebrachium. ~9cm laceration across the dorsum of the skull. Puncture wounds on the right side of the face.

Plan: Anesth, Sx, Abx, Metacam, etc.

Anesth: 4cc XBG iv and isoflurane, partially reversed with 1cc yohimbine iv.  
Inj 80mg Naxcel SQ. Inj 7mg Metacam SQ.  
Dispensed Metacam and cephalexin (refill at rDVM).  
Clipped and cleaned the lesions. There were 3 significant puncture wounds along the dorsum of the left antebrachium - left open for drainage and second intention healing. Clipped and cleaned two minor puncture wounds on the right face. Trimmed thw wound margins of the large laceration. Placed a penrose drain. Sutured the skin with 4-0 Steel.

The drain needs to be removed in 3 to 5 days. The sutures need to be removed in 2 weeks.

Bolser DVM.











Adrian Wilson 51

I wish to appeal the decision made by  
the administrative hearing officer.

EXHIBIT

D

Adrian Wilson

Oct 10, 2008

FILED

2008 OCT 10 PM 4:08

CITY CLERK  
DES MOINES, IOWA

MOTION FOR PETITION

The Judicial examination of the proceedings of a lower court "Administrative Hearing " reason " Declaration of Dangerous Animal " in accordance with the dangerous animal ordinance.

The dogs both were involved in the dog vs dog bite. Only ours has been taken and Declared Dangerous and shall be put to death . This is first incident ever FOR OUR DOG .

If a review of record is Granted , to be in The Polk County Court House, and an immediate Stay of Euthanization Ordered . We surrender the rights to the next process that we believe is only furthering the needless suffering of our beloved pet and family member, Red Dog....While being confined in a cage, and medically not being cared for as thier documents indicate.

We would ask your Honor to examine the ( 3 ) elements listed as reason for declaration of dangerous animal ,

and is if affirmed, cause for his being put to death.

- 1 - Our dog is defined ( because of breed or at birth ) to be a Vicious Dog and
- 2 - Our dog was not properly confined or leashed, in accordance with vicious dog ordinance, and
- 3 - Our dog was involved in an UNPROVOKED BITE....dog vs dog incident....

FILED  
OCT 10 PM 4:05  
CITY CLERK  
DES MOINES, IOWA

Records will show that both dogs were invoved in the fight, both dogs did bite the other in that fight .

- A. The fight can be determined to be provocation causing one to bite the other.....PROVOCATION 1
- B. Testimonies by other dogs owner, Jennifer Medina , also affirm that
- C. Mrs Medina said" that her dog is about the same size as Mr. Wilson's dog." That is not true ....RED 45LBS vs BEAR 78LBS.. PROVOCATION # 2
- D. As They got closer , 1st- HER DOG PULLS HER TOWARDS THE FENCE. PROV. # 3 & # 4 ( APPROACHING ANOTHER DOGS YARD ( RED'S)... IN A THREATENING MANNER)
- E. " THE DOGS WERE BARKING AT EACH OTHER " PROVOCATION # 5

ALSO HER TESTIMONY STATED THAT SHE STOPPED TO TALK AND DURING THAT TIME COULD NOT REALLY SAY WHAT HER DOG HAD BEEN DOING BUT SHE BELIEVES "THAT IS PROBABLY WHEN THE DOGS SAW EACH OTHER."

STATEMENT WRITTEN BY A INDEPENDANT EYE WITNESS STATES THAT PRIOR THE INCIDENT , BEAR , the other dog had been seen barking viciously at 2 other dogs who were in thier yard, behind thier fence. Just across the street, before coming further-towards our yard.

We believe that during this time of not being aware of her own dogs actions that BEAR did show aggression "towards those dogs, as witnessed by BESSIE KOZMA. (we just moved hear and know no



body ) PROVOCATION # 5 # 6 ( 2 dogs )

This statement or observation was not mentioned in the Administrative Rulings nor used by Sgt. Raudabaugh, in declaring our dog to be dangerous.

**Provoked Attack or Provoked Bite** - An attack is considered to be "provoked" if a domestic animal is in a situation or environment such that an expected reaction, from a veterinary perspective, would be to bite or attack. This includes, but is not limited to: invasion of an animal's territory; attempting to pet or handle an unfamiliar animal; startling an animal; running or bicycling past an animal; assisting an injured or sick animal; trying to capture an animal; or removing food, water, or other objects in the animal's possession or acting in an aggressive manner toward an animal.

CITY ORDINANCEE:

Sec.. 3-25. NUISANCE DOGS

(a) It shall be unlawful for an owner of a dog to allow or permit such dog to pass upon the premises of another , there by causing damage to or interference with, the premises....

(b) It shall be unlawful for an owner to permit dog to cause serious annoyance or disturbance.....  
by howling, yelping, barking or otherwise running after or chasing

"RED" DOG OWNED BY ADRIAN WILSON, HAS BEEN DECLARED "A DANGEROUS ANIMAL",  
BY SGT. SCOTT RAUDABAUGH OF THE DES MOINES POLICE DEPT.

NO DOG SHALL BE DEAMED A " DANGEROUS DOG" UNLESS SHOWN TO BE A  
DANGEROUS DOG  
BY THE PERPONDERANCE OF THE EVIDENCE.

THE 3 ELEMENTS NEEDED TO DETERMINE "RED" AS "DANGEROUS DOG" ARE:

- 1- VICIOUS DOG ( in this case by breed not by actions)
- 2- AND NOT PROPERLY CONFINED OR LEASHED
- 3- AND INVOLVED IN AN UNPROVOKED BITE

IN THIS CLAIM AGAINST "RED" THE STATE FAILS TO PROVE # (3) THAT  
BITE( to a dog) WAS UNPROVOKED

WITNESS for the State "Jennifer Medina" gave account and clearly Demonstrates

FACT'S INCLUDE ;

1-SHE HAD NOT PROPERLY BEEN AWARE OF HER DOG'S ACTIONS, AND FAILED  
TO MAINTAIN CONTROL OVER HER OWN DOG

WHILE SHE HAD BE TALKING TO A FRIEND

2-HER DOG WAS SEEN (see statement by Bessie) BARKING VICIOUSLY AT ( 2 )  
OTHER DOGS, IN THIER FENCED YARD ,

PRIOR TO BARKING AT "RED" DOG , WHO AT THE TIME WAS STILL IN HIS OWN  
FENCED YARD.

3-THAT AS SHE BEGAN TO WALK IN THE DIRECTION TOWARDS OUR YARD,  
WHILE STILL IN THE STREET,

HER DOG PULLED HER HARD ENOUGH TO MOVE HER AGAINST HER WILL

,TOWARDS "RED" DOG.

4-THAT BOTH DOGS WERE INVOLVED WITH BARKING PRIOR TO "REDS  
JUMPING OVER OUR FENCE

TO CONFRONT A LARGE , AGRESSIVE ,UNFAMILIAR DOG, PULLING HARD ON  
LEASH WHILE VICIOUSLY BARKING AT MY DOG.

PRIOR TO THIS DOGS ACTIONS INSTIGATING OR OTHERWISE  
PROVOKING AGRESSION,

RED HAD NEVER BEEN INVOLVED IN AGGRESSIVE BEHAVIOR AS  
SUCH.



October 13, 2008

Adrian Wilson  
2508 Williams Street  
Des Moines, IA 50317

RE: Appeal of Dangerous Animal Declaration

This is to acknowledge your appeal of the Hearing Officer's decision regarding declaration of Red as a "dangerous animal."

Your hearing before the City Council has been scheduled for Monday, October 27, 2008. The meeting starts at 4:30 p.m. **Failure to appear at the scheduled hearing will be deemed as a waiver of your rights to a hearing.** Parking is available on the streets surrounding City Hall. A copy of the Administrative Hearing transcript will be sent under separate cover.

If you have any questions regarding this matter, please contact me at 283-4209.

Sincerely,



Diane Rauh  
City Clerk

DR:kh

cc: Hearing Officer  
Legal  
Assistant City Attorney  
Sgt Raudabaugh



DIANE RAUH  
CITY CLERK  
CITY HALL-2ND FLOOR  
400 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1891  
(515) 283-4209  
FAX (515) 237-1645  
www.dmgov.org

PARKING TICKETS  
PET LICENSES  
BUSINESS LICENSES

ALL-AMERICAN CITY  
1949, 1976, 1981,  
2003



October 21, 2008

Adrian Wilson  
2508 Williams Street  
Des Moines, IA 50317



RE: Administrative Hearing Transcript

Per the letter sent to you on October 13, 2008, enclosed is a copy of the administrative hearing transcript that was held on October 1, 2008 at 1:00 p.m.

If you have any questions regarding this matter, please contact me at 283-4209.

Sincerely,

A handwritten signature in cursive script that reads 'Diane Rauh'.

Diane Rauh  
City Clerk

DR:kh  
Enc.

cc: Hearing Officer  
Assistant City Attorney  
Sgt. Raudabaugh

DIANE RAUH  
CITY CLERK  
CITY HALL-2ND FLOOR  
400 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1891  
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1949, 1976, 1981,  
2003

ADMINISTRATIVE HEARING TRANSCRIPT

October 1, 2008

City v. Wilson

Dangerous Dog

HEARING OFFICER LEANN DUCEY: Good afternoon. My name is LeAnn Ducey and I am an Administrative Hearing Officer. It is 1:05 p.m. on October 1, 2008 and we are conducting an administrative hearing on a dangerous dog declaration. The appellant is Ray Williams. When I call you to give testimony today please come up to the podium, speak into the microphone and state your full name and address for the record. You will then be sworn in. This is an informal hearing and to that matter the hearing is now open. Would the representative from the City please come forward, identify yourself and present any information you have pertaining to this hearing.

SERGEANT SCOTT RAUDABAUGH: My name is Scott Raudabaugh. I'm a Police Sergeant with the Des Moines Police Department and assigned to the Animal Control Unit as the supervisor and in that position I, by City ordinance, I'm the Chief Humane Officer for the City of Des Moines, Iowa.

HEARING OFFICER LEANN DUCEY: Please raise your right hand. Do you Sergeant Raudabaugh, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

SERGEANT SCOTT RAUDABAUGH: Yes ma'am.

HEARING OFFICER LEANN DUCEY: Go ahead.

SERGEANT SCOTT RAUDABAUGH: I'd like to start out by submitting some documents for the record.

HEARING OFFICER LEANN DUCEY: I'll mark these City Exhibits beginning with A going on through the exhibits.

SERGEANT SCOTT RAUDABAUGH: I'll just kinda briefly describe what I submitted. Uhm, the individual piece of paper is a photograph taken of, a, Mr. Wilson's dog. And, a, the other documents, I'll just kinda briefly go through them. Uh, City Ordinance 18-41 defines what a vicious dog is. 18-56, uh, provides the requirements for confinement or leashing of a vicious dog. City Ordinance 18-55 defines running at large and as far as dogs. City Ordinance 18-196 defines dangerous animal. City Ordinance 18-203 talks about immediate seizure or destruction of animals. It also, uh, provides for when a vicious dog is running at large and involved in an unprovoked bite. That it can be processed as a dangerous animal. 18-202 talks about seizure impoundment and disposition of dangerous animals. I'll leave a copy of this, everything that I've provided to the, to the Hearing Officer, to you ma'am, I'll leave here for Mr. Wilson to look at if he chooses.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: Uh, I first need to start out with, uh, it's come to my attention that the dog actually belongs to Adrian Wilson. Uh, but part of the paperwork provided to me showed Ray Wilson as an owner and so that's why he's identified in the letter. Uhm, as it turns out Ray Wilson is the father of Adrian Wilson and I believe they live at the same address. Maybe they can clarify that just for the record. On September 25, 2008, a person was walking their dog on a leash in front of 2508 Williams when Mr. Wilson's brindle and white color Pit Bull breed dog named Red jumped the fence and attacked the dog that was being walked on a leash. The attack was so significant that ultimately there were a variety of people helping to break the dogs up and it has been reported to me that one person in fact used a hammer, possibly a rubber mallet, to beat on the Pit Bull breed dog named Red to get him to loosen his grip or stop biting the other dog. The dog subsequently, named Red, was impounded for quarantine and taken to the animal shelter. There the City veterinarian evaluated the dog and found that it had predominant characteristics of a vicious dog as defined by City ordinance. Because of the fact that the dog was, is defined as a vicious dog and it was not properly confined and it was running at large when it was involved in an unprovoked bite and attack, the dog is being declared a dangerous animal. Some of the rest of the paperwork, I'll kinda go through it here. The letter, the dangerous animal letter that was served on Mr. Wilson and then behind that is a document service letter that was posted at the property at 2508 Williams. Behind that is a copy of the animal bite report and supplemental reports. An evaluation sheet completed by the City veterinarian, Dr. Greg Barry, who is employed by the Animal Rescue League but serves in the capacity of City Veterinarian. Behind that is a rabies certificate that Adrian Wilson provided. And then behind that is a copy of a driver's license belonging to Raymond Wilson in which he wrote out explaining that the dog actually belongs to his son Adrian Wilson. He also at that time provided a rabies certificate as well that shows Adrian Wilson as the owner when the dog was taken into, for a rabies vaccination at the, I believe it's Anderson Animal Hospital on Hubbell Avenue in Des Moines. And that's all I have at this time.

HEARING OFFICER LEANN DUCEY: Okay. Thank you.

SERGEANT SCOTT RAUDABAUGH: And I'll leave this paperwork up here for Mr. Wilson to look at if he chooses.

HEARING OFFICER LEANN DUCEY: Okay. I'm not sure who all is here to speak today. Who would like to go first? Okay. Please come up to the podium. I need you to state your full name and address.

ADRIAN WILSON: My name is Adrian Darius Wilson and I live at 2508 Williams Street, Des Moines, Iowa, 50317.

HEARING OFFICER LEANN DUCEY: Okay. Please raise your right hand. Do you Adrian Wilson, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

ADRIAN WILSON: Yes ma'am.

HEARING OFFICER LEANN DUCEY: Go ahead and tell me why you're here today.



ADRIAN WILSON: I'm here today to...

HEARING OFFICER LEANN DUCEY: If you could speak kinda, a little bit louder because we are taping this.

ADRIAN WILSON: I'm here today to try and prove that my dog is not a dangerous animal. Uhm, I have statements from neighbors and family who, the family who know my dog and the neighbors who I've just met that have seen my dog on separate occasions with unleashed dogs at my fence to which he did not react to them. I have a neighbor across the street that wrote a statement that she has two little dogs that bark at my dog and he has never reacted to them. And the statements from my family are just to kinda describe how Red is and how he acts towards them and how he's not dangerous.

HEARING OFFICER LEANN DUCEY: If you want to enter those, uh, give those to me. I can enter those as Appellant Exhibit 1. Did you want to?

ADRIAN WILSON: Yes.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: Do you need those right now?

HEARING OFFICER LEANN DUCEY: Uh-huh. Go on with your testimony.

ADRIAN WILSON: Uhm, I know that I'm at fault for not having my dog properly leashed or confined in a 6-foot fence. Maybe ask that you use some discretion and maybe give me a second chance, or my dog a second chance to, to make things right like get proper confinement. And a, I've got, since the incident, I went and got renter's insurance and pending your decision I was going to get the dog licensed.

HEARING OFFICER LEANN DUCEY: Okay. Do you have anything to tell me about the incident?

ADRIAN WILSON: I wasn't there at the incident so I can't really state what happened. But I do have the person that was there, Donnie McVey. He's a witness to what happened.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: And if, if you would allow it, my neighbor across the street said she would come in and witness but she didn't get off work until about 1:30 so I could, the number's on the paper. I could call her and have her come up here.

HEARING OFFICER LEANN DUCEY: Did she write one of these statements?

ADRIAN WILSON: Yes.

HEARING OFFICER LEANN DUCEY: Okay. That will probably suffice. So if you want someone else to come up they can come up now.

ADRIAN WILSON: Yes. Can I read?

HEARING OFFICER LEANN DUCEY: If you want to read, that's fine. Do you have a copy of this?

ADRIAN WILSON: Uh, no I don't.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: Can I read all of them?

HEARING OFFICER LEANN DUCEY: You can do whatever you want dear. This is your time to submit any evidence you wish.

ADRIAN WILSON: This is from Bessie Kozum "cauzie"), I think is her last name.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: To Whom This May Concern. I've watched the dog since he moved in and he seems like such a good dog. I've seen loose dogs go up to his fence while he has been out and the dog never reacted. I have a dog myself that has been in my front yard barking at this dog and he has never reacted in a negative way. The day of the fight, the dog that got attacked was at a neighbor's fence barking at two little dogs that live there. The three of them were barking viciously at each other through the fence. That's when the dog climbed his fence and attacked the big black one. I believe he jumped the fence to protect the little dogs. I am writing this because the dog needs another chance and I don't think he is a mean dog because I've never seen him react to any other dog or this one before. Please give this dog another chance. Thank you. Bessie. And it gives her phone number.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: The next statement is from my neighbor two houses down that owns three Basset Hounds and it says, To Whom It May Concern. My name is Wendy Lee. I work for DART and live at 2532 Williams Street. I have three Basset Hounds. They have gotten loose a few times and have gone down to, gone down to my neighbor's house where his dog was taken for fighting another dog. However, his dog has never fought with or acted angry to my three at any time they, that they got loose. If you have any questions or concerns please contact me at 264-0966. Thank you. Wendy Lee. The next statement is from my brother Raymond Victor Wilson. To Whom This May Concern. My name is Raymond Victor Wilson and I'm Adrian Darius Wilson's brother. I've known their dog Red, since they've had him. He's a very good dog and I've never seen him be aggressive towards anyone. I have a five year old son and he gets along great with Red. He really is a great dog and we all love him. Please find it in your heart to give Red a second chance. The next statement is from Joyce Briggs. That's my dad's cousin. To Whom It May Concern. My name is Joyce Briggs. I am Adrian's father's cousin. I've stayed at their home several times. Red was the kind of dog I thought I should be afraid of because of their reputation. Supposedly you call him dangerous. Red is the opposite of

these things. I cannot believe that I fell in love with this big gentle pup. I have never seen him act out in any way. I've never heard him growl or even play rough. Adrian and his father care for him more than anything else. He is their child. It would be a catastrophe if you kill him. Please believe those that tell you he was, has never acted out. Adrian is very remorseful. He knows now how important it is to be responsible. He wants and is going to school to become a police officer. I beg of you to consider the outcome of Red being put to sleep. Thank you. Joyce Briggs. And the last statement I have here is from my father, Raymond Wilson. Red has been brought up with love and care. Never have we had to use force or strike him. He is a good dog. He sleeps with us in our beds because he is one of us.

HEARING OFFICER LEANN DUCEY: That's okay. Just take your time.

ADRIAN WILSON: Part of...

HEARING OFFICER LEANN DUCEY: Would you like your father to read it? If someone wants to come up and read it they can. I just need your name and address and swear you in.

RAYMOND WILSON: My name is Ray Wilson. I live at 2508 Williams Street.

HEARING OFFICER LEANN DUCEY: Okay. Do you Ray Wilson, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

RAYMOND WILSON: Yes ma'am I do.

HEARING OFFICER LEANN DUCEY: Okay, go ahead.

RAYMOND WILSON: He sleeps with us in our beds because he's one of us, part of our family. Red has never and I mean never even growled at a person, but rather only to be so happy. He will not ever be bad and this incident is just that, one incident. When in all his years, days and moments a one time's event or bad choice on the part of Red shouldn't be the end of such a wonderful animal. On this particular day, Adrian nor I were at home and a friend of mine was left alone to work on a car. That friend has seen a docile, loving and playful dog and so he never imagined Red could act like a dog who was protecting territory or his family or pack. When he saw a strange dog out of control whose owners' let their dog harass those other two little dogs that were catty-corner by approaching the fence and allowing a confrontation of her dog, big dog against two little dogs, Red's instincts to protect them triggered him, triggered him to for the first time ever to climb the fence out of our fenced yard. Adrian procrastinating on the legal aspects of getting license, tags, insurance and registration, etc. are Adrian's mistake and Red could not do anything about that. So as a judge over Red's living or so (dangerous) he must die, I ask to give Red the chance that he deserves. Adrian's father Ray Wilson.

HEARING OFFICER LEANN DUCEY: Thank you. Do you have anything to add while you're up here?

RAYMOND WILSON: Well, under the dangerous law ordinance I believe that it mentions unprovoked and I'm sure that the lady that wrote, we don't know anybody

because we've just been there like four months. So the lady that said she saw it from start to finish, I have to believe her because we don't know her and she, she's really concerned enough that she's willing to come, come down here even. And she is saying that, that their dog was over at the fence which wouldn't be, you know, unreasonable. I mean it's right by the, by the street and everything, barking at two little dogs which that's what dogs do, ya know. I mean, but, I mean, that's what she's saying so I believe her cause we didn't ask her to say anything ya know she just, that's what she wrote and our dog reacted because we're talking about just not, the land that wrote it sits straight across the street from us and then I'm talking about the house right next to hers is where the little dogs are. And my dog sits out at the edge, at the fence, ya know. He just sits out there and lounges or what have you and, you know, I, I'm glad that she saw it because you know that's, that's the best thing that could have happened as far as to help make you understand that he's not that vicious dog that...I believe her testimony as, her statement as far as that dog was barking and, ya know, I, ya know, it ain't unusual. Them little dogs bark at every dog that goes by so it wouldn't be unusual for a dog walking by to bark back and. But, her, she describes it as at their fence which, ya know, then, then you have to wonder why the lady didn't have more restraint or walk her dog on down the road or something. But my dog reacted, ya know, I really believe it. My dog reacted saving, thinking that his friends or because that his, ya know, they are territorial and that's, I believe the lady the way that she worded it is that he was protecting, ya know, his friends or his pack or, you understand what I'm saying.

HEARING OFFICER LEANN DUCEY: Yes.

RAYMOND WILSON: And, and that's the only reason cause he's never, he's just never ever, he never growls at people ever, ever. And as far as he, ya know, he has had a couple where he growls at dogs, but we always have him on, ya, know, we always walk, when we walk him, we, and we have a, a, metal, we have him on proper leash, ya know, and everything when we walk cause we know that he is very strong. And, ya know, and, the, the lady's statement is, is, ya know, that's an independent person. I don't even know her name at all, zero. And I've never even seen her still. But just her passion for our dog is, just touches me and, and is true, ya know. She don't have no reason to lie one way or the other. If she didn't see that dog over at the fence I don't think she would have said that that dog was over at that fence barking and, and under the law I just think that there is a thing in there when it's given for the vicious, for the dangerous dog it says this, this, and unprovoked. And I think, I hope that, ya know, you might believe that that lady's statement is pretty true.

HEARING OFFICER LEANN DUCEY: Okay.

RAYMOND WILSON: And that's about all I can think of to say.

HEARING OFFICER LEANN DUCEY: Okay. Does anybody else over here want to speak? Please come on up and give me your name and address.

DONALD MCVEY: My name is Donald McVey and I live at 204 4<sup>th</sup> Street, Des Moines, Iowa.

HEARING OFFICER LEANN DUCEY: 204 4<sup>th</sup>?

DONALD MCVEY: Yes.

HEARING OFFICER LEANN DUCEY: And how do you spell your last name?

DONALD MCVEY: Mc, capital V as in victor, E as in Edward, Y.

HEARING OFFICER LEANN DUCEY: Okay. Please raise your right hand. Do you Don McVey, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

DONALD MCVEY: I do.

HEARING OFFICER LEANN DUCEY: Okay. Go ahead and tell me why you're here today.

DONALD MCVEY: Well, Ray is like a brother to me. I've known him for most of my life and his son is like a nephew. And I've known Red since they've had him and I can never remember one, one time where he's ever been vicious. I've played with him and I've seen, Ray has a friend that just had a baby. They brought him over last week and brought him in the house and Red just kinda was curious. He wasn't, a, excuse me, a, I'm sorry. I thought I had it turned off. Anyway, the night in question, uh, Ray and Adrian was, was not there. I was working on a car and Red was, was outside as usual. And, uh, he's always been, ya know, right there around me when I'm working on a car cause we're kinda buddies. But, anyway, I heard some dogs barking and wasn't really paying any attention to it because like I said Red's never been an aggressive or towards any dogs that going down the street. And he's been there a couple months. Before that they lived in an apartment over on 23<sup>rd</sup> Street and I stayed there several nights and took him out walking and he never ever been aggressive towards anything or anyone. Uhm, anyway, I heard some dogs barking and I didn't pay any attention at first, but then I heard some females kinda screaming something about he's going to kill my dog or something. And then I finally got my senses together and figured well I better check. And I, the, where I was working on the car was probably 75 feet from the road. I don't hear so well. I have ear, ear damage from Vietnam. Uhm, when I got kinda close I realized it was Red and another dog fighting so I, I ran out and I, I tried, I mean everything was going fast forward but I wasn't realizing who was there. I just thought it was two young girls, but it was apparently the owner that was there. Uhm, I didn't notice no leash at all. If, if I had I think I would have grabbed the leash and used that as a stronghold to try to break them up.

HEARING OFFICER LEANN DUCEY: You mean a leash on the, the other dog?

DONALD MCVEY: On the other dog. I didn't see one, but. Anyway, when I finally got him loose I took Red back in the house and I mean he was calm. He didn't growl to try to bite me or anything. And, uh, I continued to work on the car and 15 minutes later I was done and I went in the house to wash up. And I'm sitting there talking to Red, ya know. Why'd you do that? Why'd you do that? And he's just sitting there. He knew maybe he done something wrong but not, not knowing what. Uhm, about 5 or 10 minutes after that a Des Moines police officer and an animal control officer come up and asked me what,

what had happened and I told them what I'm saying right now. Uhm, Red is a good dog. I'd hate to see him put to sleep and if you would reconsider on doing anything like that I'd, I'd really appreciate it.

HEARING OFFICER LEANN DUCEY: Okay. Thank you. Anyone else?

UNKNOWN SPEAKER: Ma'am, can I add one more.....?

HEARING OFFICER LEANN DUCEY: Sure. Yes. Just when you get up to the microphone state your name so the transcriber will know who it is.

RAYMOND WILSON: My name is Ray Wilson and I, I forget what number it is in the ordinances cause I'm not that familiar with them. But somewhere in there it does mention that if, if you was to rule in our favor that the City would take on this, the charge of the courts whatever the proceedings cost. And I'd like to say that we'll, we'll, we'll gladly pay that too as far as any charges so that that doesn't make any decision, have any weight in the decision of, ya know, whether the taxpayers are going to pay for this or not.

HEARING OFFICER LEANN DUCEY: Are you talking about the boarding charges or something? Sergeant Raudabaugh can you....

RAYMOND WILSON: I'm not even, I'm not even sure.

HEARING OFFICER LEANN DUCEY: I'm not sure what he's talking about. Sergeant maybe here.

RAYMOND WILSON: I could be incorrect then.

HEARING OFFICER LEANN DUCEY: You can stand there.

SERGEANT SCOTT RAUDABAUGH: What he's referring to is the impoundment fees and boarding fees.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: And I don't even take that into consideration in any of this.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: That's subsequent to, to these declarations and decisions. That isn't a factor involved in making any decision.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: Uhm, it's subsequent to, to whatever. Uhm, it does have, it does not, once again I need to say it again but I will say that it doesn't factor into any decision.

HEARING OFFICER LEANN DUCEY: Okay.

UNKNOWN SPEAKER: Alright. Okay.

UNKNOWN SPEAKER: I didn't know.

RAYMOND WILSON: But I just thought I'd say that.

HEARING OFFICER LEANN DUCEY: Okay. Anyone else over here? Just state your name again.

ADRIAN WILSON: My name is Adrian Wilson.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: I'd just like to add that before the incident I had gotten fence to build a kennel because I was aware that I needed a closed in kennel. Uhm, and I was taking steps. I was looking up quotes for renter's insurance.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: Cause I was to receive a, like a school check from, in about, it would have been two weeks from last Monday. So I was planning on getting everything all at once. That's all I wanted to add.

HEARING OFFICER LEANN DUCEY: Okay. Thank you. Okay. Does anyone over here want to speak today? Please state your name and address:

JENNIFER MEDINA: Jennifer Medina, 2413 Williams Street.

HEARING OFFICER LEANN DUCEY: And how do you spell your last name?

JENNIFER MEDINA: "Medina."

HEARING OFFICER LEANN DUCEY: Okay. Please tell me why you're here today. Oh, I need to swear you in. Please raise your right hand. Do you Jennifer Medina, swear or affirm the testimony you are about to give is truth, the whole truth and nothing but the truth?

JENNIFER MEDINA: I do.

HEARING OFFICER LEANN DUCEY: Go ahead.

JENNIFER MEDINA: I just want you to hear my perspective of what happened that day.

HEARING OFFICER LEANN DUCEY: Okay.

JENNIFER MEDINA: It was about 7 o'clock I believe that Thursday, the 25<sup>th</sup>.

HEARING OFFICER LEANN DUCEY: a.m. or p.m.?

JENNIFER MEDINA: p.m.

HEARING OFFICER LEANN DUCEY: Okay.

JENNIFER MEDINA: And I decided to take my dog for a walk and my daughter up to Hoyt Middle School. We often go up there. So I had my dog on the leash and we are heading up one block to Hoyt. And, you know, my daughter is 6 years old and we don't have a sidewalk on our street so we always walk on the opposite side of the street so we can see oncoming traffic coming at us. So that would mean that we would be walking closer on the side of the street that Adrian's house is on.

HEARING OFFICER LEANN DUCEY: Okay.

JENNIFER MEDINA: But nevertheless we were in the street. Before we get to Adrian's house, my neighbor from two doors up is driving down to her house and she stops and we have a short conversation about one minute in length. I would imagine that the dogs could see each other at that point, but I was unaware that there was even a dog in that yard at that point. We have a short conversation and then my friend Debbie drives to her house to go get a gas can to help a friend or whatever. After she leaves we take a few more steps towards Hoyt Middle School and as we get closer to his yard then we see the dog at the corner of the fence.

HEARING OFFICER LEANN DUCEY: Okay.

JENNIFER MEDINA: We didn't go over by the little dogs. Now to let you know, my dog is about the same size as Red, the dog in question. So they could have been sizing each other up when I was talking to my friend and I didn't know about it. We're in the street. Then the dogs are barking at each other when they see each other. I have a male dog. And my dog pulls me towards the fence. It may have gotten up onto the parking at that point. That's when their dog jumps the fence about at the corner of the fence and runs toward my dog. I try to pull my dog back and at some point my dog, I either let go of the leash or my dog has gotten out of the leash. Ultimately my dog does get out of the leash. I'm not sure at what point. I then get into, ya know, fight or flight mode. I fight. I go over. I get Red in like a full nelson under his armpits and try to pull him off. I end up picking up both the dogs when I do that and realize that's a Pit Bull. Don't be stupid. Don't try to break up a fight between two dogs when you don't know the other dog. So I stopped doing that. My daughter is screaming. She's off to the side of the street now. I don't know what to do other than scream for help either. So we're both screaming for help. Uhm, a car had driven by that has, I work at East High School, that had two kids in it that recognized me from school and they had stopped. At this point we're just standing there not knowing what to do and the dogs are, uh, Red's on the back of my dog and I don't know what to do. Then this gentleman, I don't, what's his name?

UNKNOWN SPEAKER: McVey.



JENNIFER MEDINA: McVey. Mr. McVey comes out with a rubber mallet to break up the dogs. Uhm, I, at this point, I screamed don't hit my dog which I don't think he ever did. And he's trying to release the jaw of the, Red. At this point I no longer am watching because I don't want my daughter to see someone hitting a dog even though I understand why he's doing it to separate the dogs. I'm shielding her from seeing that and then the car with the kids that I know from school back up and say, how can we help and I say let us get in and you drive me home. They do that and at that point the dogs are left with Mr. McVey and he separates them either by using the mallet or whatever. I wasn't there for that how he finally got them off. Then when I tell my husband what had happened and he's starting to head up the street, our dog is loose and he runs home. I, I just wanted to let you know what happened in the situation. I don't know if it's considered provoking a dog to do something like that if you're just walking up the street and you bark at the dog. Uhm, he jumped the fence. It was scary for my daughter and for me. Uhm, my dog's going to be okay, but he suffered injuries and I, I would like to submit pictures and bills so you can look at that.

HEARING OFFICER LEANN DUCEY: Okay.

JENNIFER MEDINA: We also have certificate of vaccination from my dog for rabies.

HEARING OFFICER LEANN DUCEY: I'll enter all of these exhibits for you. Now do you need these back or are these copies?

JENNIFER MEDINA: These, well, we'll need copies.

HEARING OFFICER LEANN DUCEY: Okay. Okay. Do you have anything else today?

JENNIFER MEDINA: Our dog's a peaceful dog. I think that it was a male-on-male aggression. The other dogs that have been explained are, ya know, they're smaller. They're not equal size to Red and I don't know if that had anything to do with it. Nobody's ever gonna know what, why, what provoked it but it happened and, ya know, I'd like to be able to walk my dog and go on a walk with my daughter without having to worry about a dog attacking my dog. Uhm, and that's it.

HEARING OFFICER LEANN DUCEY: Okay. Thank you very much. Anyone else? Yes.

JOYCE BRIGGS: My name is Joyce Briggs and I'm...

HEARING OFFICER LEANN DUCEY: Okay, just a moment. Joyce what?

JOYCE BRIGGS: Joyce Briggs.

HEARING OFFICER LEANN DUCEY: "Briggs?"

JOYCE BRIGGS: Yes.

HEARING OFFICER LEANN DUCEY: And your address?

JOYCE BRIGGS: 2508 Williams for the time being.

HEARING OFFICER LEANN DUCEY: 2508 Williams?

JOYCE BRIGGS: Yes.

HEARING OFFICER LEANN DUCEY: Okay. Please raise your right hand. Do you Joyce Briggs, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

JOYCE BRIGGS: Yes I do.

HEARING OFFICER LEANN DUCEY: Okay. Go ahead.

JOYCE BRIGGS: Uhm, like I said in my statement, I thought Red was some kind of dog I should be afraid of, but, and I thought I'd never bring my grandchildren around because I heard that their instinct was to attack. Well, this dog has played with my granddaughter several times and has never, ever shown any anger or, he just plays with her. If she hits him he, he just lets it go and he's a very gentle dog. And I beg of you. What's done is done. What happened we're sorry for and I ask that you please reconsider to have him euthanized? Let him, I know that Adrian and Ray are trying to fix the kennel and everything and do everything that is right after this. I just ask that you give him one more chance because this is a little family and I'd hate to see it.

HEARING OFFICER LEANN DUCEY: Okay.

JOYCE BRIGGS: Thank you.

HEARING OFFICER LEANN DUCEY: Anyone else have anything to present today? Go ahead. Just state your name please. Oh. Did you just want to present those back into evidence? Okay. Do you need copies of these?

UNKNOWN SPEAKER: Yes.

HEARING OFFICER LEANN DUCEY: Okay. I'll make copies of them. These are the documents that Adrian Wilson presented originally and I will make copies and give them to you. Anything else from anyone? Sergeant Raudabaugh?

SERGEANT SCOTT RAUDABAUGH: I think you might have picked up the picture. No I do not have anything else to add. The only thing that I may ask is if Mr. McVey could maybe step back up and talk about the mallet and whether that was or was not used and how it was used to break up the fight might be good for the proceedings to hear.

HEARING OFFICER LEANN DUCEY: Okay. Just a moment please. Okay. This is Don McVey. Go ahead sir.

DONALD MCVEY: Yes ma'am. Concerning the mallet, uh, I grabbed it because I really didn't know the dog that Red was fighting. I didn't figure that Red would bite me, but I didn't know this other dog and when you're trying to break up two dogs in a fight they

can usually turn on you so I took it for my own protection. Yea, I, I swung at the dogs a couple of times. Uh, I don't know if I hit them or not, but I was just, all I was trying to do was get them broke up and I, I end up finally grabbing Red underneath his, his, uh, chest and got him away from the other dog and put him back over in the yard. And that's, everything was so fast forward I just don't know what all I did. I was just trying to get the dogs broke up.

HEARING OFFICER LEANN DUCEY: Alright. Thank you very much.

ADRIAN WILSON: I just had a question about their dog.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: Was it licensed? Was the dog licensed?

HEARING OFFICER LEANN DUCEY: Okay. Just, would you come back up and answer that question please. Just state your name because we need to get it on tape.

JENNIFER MEDINA: Jennifer Medina. At this point, uh, the dog was not licensed either. Uh, and when we called and filed the report the animal control unit gave us ten days to get our dog licensed.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: My name is Adrian Wilson.

HEARING OFFICER LEANN DUCEY: Just a second please. Okay, go ahead.

ADRIAN WILSON: I was trying to refer to an ordinance. Is there a, isn't there an ordinance in part.

HEARING OFFICER LEANN DUCEY: Sir, if you, Sergeant Raudabaugh can come on up, but I need you to face the microphone because we are recording this.

ADRIAN WILSON: Isn't there one that states that if the dog was, or if they were doing something illegal that would immediately, or, I'll just try to find it real quick.

UNKNOWN SPEAKER: Inaudible.

HEARING OFFICER LEANN DUCEY: Sure.

ADRIAN WILSON: Do you know what I'm referring to when I say like unless they would, if they were breaking the law that would contribute to the injury?

SERGEANT SCOTT RAUDABAUGH: Sergeant Raudabaugh. Uh, contribute to the injury. I don't understand your question.

ADRIAN WILSON: I'm trying to find a section that talks about what I'm referring to. Just give me a minute to find it.

HEARING OFFICER LEANN DUCEY: There's no hurry. I want everything submitted that you need to submit.

UNKNOWN SPEAKER: Do you not have it, like you had listed notes? Did you have any written on that note?

UNKNOWN SPEAKER: Inaudible.

ADRIAN WILSON: Is property licensed.

HEARING OFFICER LEANN DUCEY: If you think, if you think that maybe you do not have it with you today.

ADRIAN WILSON: I know I have it.

HEARING OFFICER LEANN DUCEY: Okay. I was gonna say because you can bring it in tomorrow.

UNKNOWN SPEAKER: Are we having, does this go tomorrow too, or?

HEARING OFFICER LEANN DUCEY: No. No. I just meant if he doesn't, if he thinks that he doesn't have it here today I would let him bring it up or send it to me or something.

RAYMOND WILSON: My name's Ray Wilson again. And I'm not sure what, what it is that the judge, what you would be looking for exactly to prove provoked or unprovoked or if there's a certain guideline that you follow, but what we got here for the dog owner, for our defense is the motivation of the injured.

HEARING OFFICER LEANN DUCEY: Can you tell me what you're reading from?

RAYMOND WILSON: Dog law. Off the Internet. I don't know.

HEARING OFFICER LEANN DUCEY: Okay.

RAYMOND WILSON: The dog owner's legal defenses. And it, and it states that, uh, it's referring to was, was the dog provoked and the motivation is irrelevant. A person may innocently or unintentionally provoke a dog and then the next page it talks about especially one unfamiliar with dogs can unknowingly provoke a dog. That's talking about persons I guess. But as far as in the dog world I mean, and somewhere through here it's talking, this is actually referring more to human bites. If the dog would bite a human. But if a human makes, you know like advances towards the dog's, ya know, his area or makes eye contact with the dog in an aggressive way, that provoking. And I'm sure that a dog advancing towards, ya know, our dog's territory so to speak and making eye contact and barking, even though it's dogs and dogs, that's still an act of, ya know, provoking. I mean it's not absent of the act of provoking for that way.

HEARING OFFICER LEANN DUCEY: Well, if you want to submit that I can make a copy of it and attach it to other things that have been submitted.

RAYMOND WILSON: All, all I'm saying is that, ya know, it was, it was a dog fight. Two males and, and, I mean, on, on the dangerous animal, I mean it, actually, it, I didn't even see it here but if he would hand it to me, the actual 20 whatever it is. I'll read because it, the one that I got marked. Actually the one that they sent. The yellow one, or did you already hand it to her? Here it is. Here's what the...

SERGEANT SCOTT RAUDABAUGH: Could I interject for a moment?

HEARING OFFICER LEANN DUCEY: Sure.

SERGEANT SCOTT RAUDABAUGH: Mr. Wilson read the a, he read a portion of City ordinance that talked about provocation. I would ask that he refer to the City ordinance number. That's a City of Des Moines ordinance.

HEARING OFFICER LEANN DUCEY: Okay. That's what I wanted too.

RAYMOND WILSON: Actually, it doesn't, it isn't. So I can't.

SERGEANT SCOTT RAUDABAUGH: What's it from? Could I ask that?

RAYMOND WILSON: Dog Law. I don't know. It's just off the Internet. But, but as far as the City ordinance, the paper I received from Des Moines it says because your dog is defined as a vicious dog and was not properly confined in the, in accordance with the vicious dog ordinance, that them to are true, ya know, true, as far as how it's written, and was involved in an unprovoked bite, it is being declared a dangerous animal. And I would ask that you look really close at the unprovoked because I believe the state has to prove that it was unprovoked and that's just what it says. And that minus that then, he is not a dangerous animal. And somewhere through all this I've learned or read that, ya know, what really is hurting Red's, this hearing about Red is the fact that he wasn't licensed because if he was licensed he would have three chances. He'd have three chances for the same event. Three, three bites on a domestic animal or dog. Then he could be considered dangerous or two bites on a human he could be considered dangerous. But being he's not licensed and that's not my dog's fault, it's Adrian's fault for not, ya know, I say my dog, but that's not, the dog can't help it that Adrian put it off. You know what I'm saying.

HEARING OFFICER LEANN DUCEY: Okay.

RAYMOND WILSON: And that's as far as the illegal animal part, that's where your discretion comes in big time because we can't fix that and mend that in any way. But, but I believe that, just in a dog gone instance, ya know, a dog on dog world or whatever there was a pro, provoking. Like she said, her dog pulled her towards my dog's fence so that has to be that their dog was acting aggressive too and that's got to be provoking to some degree.

HEARING OFFICER LEANN DUCEY: Okay. I will take that into consideration.

ADRIAN WILSON: Sergeant Raudabaugh, could you tell me what section explains about at-large?

(CHANGED TAPE)

SERGEANT SCOTT RAUDABAUGH: ....and it's 18-55 talks about dog at large and what it means basically.

UNKNOWN SPEAKER: What are you looking for? I really don't know. Just that ordinance. Cause here you got your notes of that, running at large. You got 18-55. They said the dog is not properly confined, licensed. Discretion on vicious dogs, is that, illegal and dangerous animals, article 4 or 6, whatever that is. The definition of a dangerous animal. And, and, I'm Ray Wilson again and for the record, we, we've talked or Adrian has talked with the other parties, ya know, of the injured animal and, and without hesitation we're gonna pay the, their vet bill. I mean we're, we're acting in the most responsible way that we can and, and intend to. And like I said I'm on a disability and we just moved so I've been and, ya know, I don't know if it's anything, but I, we've been really broke, really because I get a disability check and we just moved and it's the first time we've lived in a house. So I couldn't just move in and build a kennel, ya know. But I didn't realize, I actually didn't think anything would ever of happened anyway, but we did, I do have the stuff to build one. I've just got a friend that does construction and he give me a bunch of the fencing that I need, or some of it anyway and we're just waiting for his money to build a, to complete that so I mean, I mean even though it was delayed it isn't like we wasn't trying.

HEARING OFFICER LEANN DUCEY: I understand.

RAYMOND WILSON: And I only got so much resources. I can only do what I can do and, and the dog is, he is just a wonderful dog. I mean and I really feel sorry and I am sorry for the injuries and, ya know, I mean I'm glad that their dog is gonna be healthy and make it again and it, and they can walk their dog safely down our street cause one right now until right this moment if we went home today with him he would stay in the house except we would take him out to go to the bathroom which that's what we did in the apartment. And we didn't have no problems there. And then, I mean, we're gonna build, actually we're gonna build instead of with the donated stuff because it's this piece and that piece, we're, he's gonna buy a real kennel and we'll put it together and then so we won't have that problem and they can safely walk their dog down the street and it can bark at our dog all it wants cause our dog will be confined.

HEARING OFFICER LEANN DUCEY: Okay. I appreciate that.

ADRIAN WILSON: How much time do I have?

HEARING OFFICER LEANN DUCEY: You can present anything. You can present anything. This is your time because this is the only chance. No new evidence can be submitted after today so I just want you to make sure you have submitted everything that you need to submit.

ADRIAN WILSON: Explain to me, I can't.

RAYMOND WILSON: Do we want to call that lady? It's 2 o'clock.

HEARING OFFICER LEANN DUCEY: Sergeant Raudabaugh, did you have something?

SERGEANT SCOTT RAUDABAUGH: Yes, I, I don't know if we're getting hung up on a, on a, the fact that the victim dog so to speak wasn't licensed. I don't, I don't know if that's the issue. Uhm, all dogs and cats over the age of 6 months of age in the City of Des Moines must be licensed. Uh, the owners of the, the victim dog were given 10 days at the end of the quarantine to license their dog. It's, that's a standard practice the animal control officers use under routine circumstances if they have current rabies vaccination which they did. They allow for a home quarantine unless there are special circumstances and their dog was, is not in a special category so they, there was, a home quarantine was allowed. Uh, they were given 10 days at the end of the quarantine to license it. The standard practice is the animal control officers will be back out. Check the dog to make sure it's healthy, not showing signs of rabies. At that time if they are unable to present a current 2008 City of Des Moines pet license for their dog, they will be issued a citation for no dog license. That's a standard practice. It's done quite often actually.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: As far as Mr. Wilson's dog, uh, it's a, it's a special category of dog. Pit Bulls are in a, under the City of Des Moines ordinance they're a special dog in a special category governed by a special ordinance, if you will. It's in place now. It's been in place for some time, years in fact. Uhm, as far as Mr. Wilson's Pit Bull breed dog not being licensed, that is an issue. Uh, Pit Bull breed dogs are vicious dogs in that special category. If they're found twice in the City of Des Moines unlicensed, uh, during their lifetime, the dog is destroyed because it's not licensed properly which requires insurance. That's a licensing issue in and of itself. Is the license, lack of license on Mr. Wilson's dog a key issue in the dangerous animal declaration? No it's not. Is it, is it important for this whole issue? Yea it is, but it, is it key to the declaration? No it's not. The fact that the dog is in a special category, requires special confinement or leashing and was not properly confined or leashed, got out, attacked another dog, and in what I feel is an unprovoked, uh, two dogs barking at each other can get them into a frenzy but it isn't necessarily provocation for a dog to attack. Uh, and the dog was supposed to be confined properly. Uhm, and that is the reason for the dangerous dog declaration, not the licensing issue. That's a secondary thing, if you will. Uhm, it does have some contribution to lack of proper confinement and lack of proper leashing, but that is not one of the key issues for the declaration.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: I don't know if that answers Mr. Wilson's concerns about the victim dog not being licensed or not.

HEARING OFFICER LEANN DUCEY: Okay.

ADRIAN WILSON: Adrian Wilson. Uhm, Sergeant Raudabaugh, is a, is walking an unlicensed dog considered an unlawful act?

SERGEANT SCOTT RAUDABAUGH: You must have a dog licensed in the City of Des Moines.

ADRIAN WILSON: So would that be an unlawful act to walk it?

SERGEANT SCOTT RAUDABAUGH: It's illegal to have a dog or a cat over the age of 6 months of age unlicensed in the City of Des Moines.

ADRIAN WILSON: So would walking an unlawful, I'm sorry, would walking an unlicensed dog, would that directly contribute to the injury since he shouldn't have been being walked if he wasn't licensed or shouldn't been.

SERGEANT SCOTT RAUDABAUGH: It did not contribute to the injury. Likewise, if, in this case, I think we're trying to use the fact that their dog wasn't licensed as an excuse for improper confinement of your dog. That's not accurate.

UNKNOWN SPEAKER: Inaudible.

SERGEANT SCOTT RAUDABAUGH: Uh, they, that's my interpretation and please be quiet and let me answer his question okay. Both Mr. Adrian Wilson and the owner of the other dog, they both could have been issued citations. They weren't. The animal control officers should have. They didn't. Rather than coming in after the fact and issuing Mr. Wilson citations while he's dealing with this proceeding, we didn't do that. A Pit Bull is in a category of a special dog with special rules and a higher expectation of compliance.

UNKNOWN SPEAKER: Should they have issued tickets?

SERGEANT SCOTT RAUDABAUGH: Yes they should have. Mr. Wilson was not present at the time that the dog was impounded so he wasn't issued tickets then. He came into the shelter later. Maybe he should have been issued tickets, but rather than rubbing salt into the wound this proceeding proceeded and he was not issued tickets. Uh, is there a correlation with, with the victim dog being walked unlicensed causing this to all happen? No it, no I don't see that it did.

ADRIAN WILSON: I was actually, I was just wasn't trying to use an excuse as why my dog wasn't properly confined, but I was just seeing about the liability for damages, the statute. The owner of a dog shall be liable to an injured party for all damages done by the dog when the dog is caught in an action of harming, maiming, or killing a domestic animal or the dog is attacking or attempting to bite a person except when the party damage is doing an unlawful act, which I was just seeing if walking an unlicensed dog was an unlawful act and if that was if it was directly contributing to the injury.

SERGEANT SCOTT RAUDABAUGH: I think that's a question again for me. Uhm, my answer to that is you're talking about a civil issue that is who pays for what. That's totally unrelated to this hearing here and it is not decided by the hearing officer or by me. Uh, it would be inappropriate for us to decide who pays for what. That's an issue for



attorneys to discuss and if necessary to go to civil proceedings in district court and have a judge decide who pays for what. Uhm, to use this format to, to, uhm, figure that out is, is inappropriate in my opinion. Uhm, that's a totally separate issue, who pays for what as far as damages. That's a civil issue outside of this, this hearing.

UNKNOWN SPEAKER: And sir, can I ask you at what point did you decide that, that it was unprovoked? I mean when did you come to that conclusion?

SERGEANT SCOTT RAUDABAUGH: Sergeant Raudabaugh. When I read the report.

UNKNOWN SPEAKER: The report, you mean when they took statements from the people?

SERGEANT SCOTT RAUDABAUGH: The animal control officer conducted an investigation.

UNKNOWN SPEAKER: And who did he take statements from?

SERGEANT SCOTT RAUDABAUGH: He spoke with the people that were present at the time of the incident.

UNKNOWN SPEAKER: The victims. Right?

SERGEANT SCOTT RAUDABAUGH: Other people as well that were present at the time of the incident.

UNKNOWN SPEAKER: Do we have, are, did you put that into the...

SERGEANT SCOTT RAUDABAUGH: That's in the report that was submitted into the hearing.

UNKNOWN SPEAKER: Okay. I mean, you didn't read it out loud or nothing like that?

SERGEANT SCOTT RAUDABAUGH: No I didn't.

UNKNOWN SPEAKER: Inaudible.

SERGEANT SCOTT RAUDABAUGH: I gave a summary of the incident and then I submitted all the reports and documents to the hearing officer.

UNKNOWN SPEAKER: Okay. Thank you.

SERGEANT SCOTT RAUDABAUGH: Yes.

ADRIAN WILSON: Adrian Wilson. If the key component to this is the, not having my dog properly confined, I don't know, I think you have the power for discretion to maybe give me a second chance. Like keeping my dog properly confined and leashed. So maybe if you would consider that. Just giving me a second chance to do that.

HEARING OFFICER LEANN DUCEY: I will consider everything that's been presented today.

ADRIAN WILSON: That's all I have.

HEARING OFFICER LEANN DUCEY: Okay. Obviously I have a lot to review. I have not had a time to, chance to look at the exhibits or anything that was presented by any party completely yet. And I definitely will want to review the recordings from the tape of the hearing today. So, uhm, I'm not going to issue any kind of a ruling today. There's just too much to look over and it's a very important case. So I will review the information and will, uh, put a ruling in writing. It will probably be the first part of next week sometime before that goes out. Uh, the ruling will be hand delivered to you and upon that, uhm, will be my final administration decision. Should you disagree with that decision you do have the right to appeal to the City Council and that information will be provided in the ruling. But right now I don't have any idea how I'm going to rule. I'm going to review everything very thoroughly. Okay. And I thank everyone for coming in. Thank you very much.

I, Renae Lampkin, certify that I transcribed the minutes of the October 1, 2008 Administrative Hearing pertaining to a dangerous dog owned by Adrian Wilson.

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Renae Lampkin