

Date November 24, 2008

**PUBLIC HEARING ON APPEAL OF
DANGEROUS ANIMAL DECLARATION**

WHEREAS, Shannon Simmons, 1800 Watrous Avenue, filed an application for appeal before the City Council of the City Hearing Officer's decision upholding the Chief Humane Officer's declaration of her dog as a dangerous animal; and,

WHEREAS, Ms. Simmons requested an opportunity to address the City Council regarding her appeal; and,

WHEREAS, Ms. Simmons has been provided with the opportunity to address the City Council on the matter of her 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 and Ms. Simmons' dog be declared a dangerous animal and that it be humanely destroyed.

MOVED BY _____ TO UPHOLD DECLARATION AND TO HUMANELY DESTROY THE ANIMAL.

_____ 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

MOJO

EXHIBIT A **Hearing Officer's Decision
(City Exhibits A-L)**

EXHIBIT B **Appeal from Ms. Simmons**

EXHIBIT C **Letter to Ms. Simmons
(Setting Date for appeal to Council)**

EXHIBIT D **Letter and Administrative Hearing Transcript
to Ms. Simmons**

November 13, 2008

Shannon Simmons
1800 Watrous Avenue #51-B
Des Moines IA 50315

RE: Administrative Hearing – Declaration of Dangerous Dog

Dear Ms. Simmons:

At your request, the City of Des Moines scheduled an Administrative Hearing on November 6, 2008, at 1:00 p.m. regarding the declaration of your tan and white male Pit Bull dog named Mojo, 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 – Municipal Code Section 18-203. Immediate Seizure or Destruction of Animals
- City Exhibit B – Municipal Code Section 18-202. Seizure, Impoundment and Disposition of Dangerous Animals
- City Exhibit C – Municipal Code Section 18-41. Definitions of Vicious Dog
- City Exhibit D – Municipal Code Section 18-56. Confinement of Vicious Dogs
- City Exhibit E – Letter to Shannon Simmons dated October 31, 2008, declaring her dog “Mojo” to be a “dangerous dog,” and setting the date and time of the Hearing
- City Exhibit F – Document Service dated November 2, 2008
- City Exhibit G – Case Investigation Report dated October 23, 2008, Case #08-39009
- City Exhibit H – Animal Incident Investigation Report dated October 24, 2008, Case #08-39009
- City Exhibit I – Animal History Report dated October 25, 2008, Case #08-39009
- City Exhibit J – picture of Shannon Simmons' dog, Mojo
- City Exhibit K – Supplemental Report dated October 27, 2008, Case #08-39009
- City Exhibit L – Supplemental Report dated November 3, 2008, Case #08-39009



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

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1949, 1976, 1981,
2003

Shannon Simmons
November 13, 2008
Page Two



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Sergeant Raudabaugh said that on October 23, 2008, Shannon Simmons' tan and white Pit Bull breed dog, Mojo, was not properly confined or leashed when it was walking in the apartment building hallway. A neighbor's girlfriend was walking up the hallway and Ms. Simmons' dog followed her up to the neighbor's apartment door. When the neighbor opened his apartment door, his own dog came to the doorway. Ms. Simmons' dog then bit the neighbor's dog, grabbed hold of the dog, and dragged it down the hallway. Sergeant Raudabaugh said Animal Control impounded Ms. Simmons' dog for quarantine and breed evaluation. Ms. Simmons' dog did not have current rabies, a City license, or the insurance required to have a vicious dog. The victim dog was also impounded for quarantine because it also did not have current rabies or a City license.

Sergeant Raudabaugh said the City Veterinarian evaluated Ms. Simmons' dog and found it to have predominate characteristics of a vicious dog breed. Because Ms. Simmons' dog was not properly confined and was involved in an unprovoked bite to another dog, Sergeant Raudabaugh declared it to be a "dangerous dog."

Shannon Simmons attended the Hearing and said she was not present at the time of the incident, but has been handling the situation with her neighbor. Ms. Simmons said Mojo is five years old and she has had him since he was a few weeks old. Ms. Simmons said her dog's rabies expired in 2007. Ms. Simmons said she left her apartment to get some pumpkins at a store a short distance away and must not have latched the door properly. Ms. Simmons said Mojo apparently nosed his way out the door, bit the neighbor's dog, and was back in the hallway when she returned a short time later. Soon after her return, Ms. Simmons said her neighbor came and told her about the bite.

Richard Simmons spoke and said he attended the Hearing so he could remove the dog to its new home outside the City of Des Moines. Sergeant Raudabaugh explained to Mr. Simmons that the dog would remain at the shelter until a ruling was made. If the "dangerous dog" declaration is not upheld, the dog can be reclaimed and will have to be licensed as a "vicious dog."

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

Shannon Simmons
November 13, 2008
Page Three



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2003

- Shannon Simmons' dog, Mojo, is a "vicious" animal as defined by Municipal Code Section 18-41 (1), (2), (3) (7)
- In accordance with Municipal Code Section 18-203, Shannon Simmons' dog, Mojo, may be processed as a "dangerous" animal under Municipal Code Section 18-202
- Shannon Simmons failed to confine her dog, Mojo, as defined by Municipal Code Section 18-56
- Shannon Simmons' dog, Mojo, was running-at-large (Municipal Code Section 18-55) at the time of the incident
- Shannon Simmons failed to have a current rabies certificate, City of Des Moines' dog license, and necessary insurance for her Pit Bull breed dog, Mojo

Therefore, I am ordering Shannon Simmons' dog, Mojo, 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, please contact Animal Control at 248-6051.

Sincerely,

A handwritten signature in cursive script that reads 'LeAnn Ducey'.

LeAnn Ducey
Hearing Officer

Enclosures

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

CITY
EXHIBIT

A



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)

B

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)

CITY
EXHIBIT

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.

CITY
EXHIBIT

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)

E

October 31, 2008

Ms. Shannon Simmons
1800 Watrous Avenue # 51-B
Des Moines, Iowa

Dear Ms. Simmons,

On October 23, 2008 your tan and white colored Pit Bull breed dog, named "Mojo," was not properly confined or leashed when it was walking in the apartment building hallway and bit a neighbor's dog as it stood in the doorway, the bite caused injury to your neighbor's dog. Subsequently your dog was impounded for quarantine at the animal shelter. (2008-39009)

On October 25, 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, city ordinance 18-41.

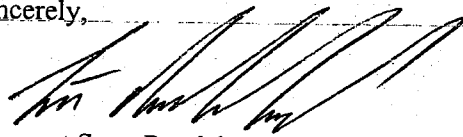
Because your dog is defined as a vicious dog and was not properly confined or leashed, in accordance with the vicious dog ordinance 18-56, and was involved in an unprovoked bite it is being declared a "Dangerous Animal," in accordance with the dangerous animal ordinance 18-203 and 18-202.

An Administrative Hearing to review the "Dangerous Animal" declaration has been scheduled for **1:00 P.M. on Thursday, November 6, 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

ALL-AMERICA CITY 1949, 1976, 1981



Animal Control

DOCUMENT SERVICE

Case number: 2008-39009

ARL number (If known): A06277950

Animal owner's name: SHANNON SIMMONS

Address: 1800 WATROUS #51-B

Location of service: SAME

Name of person receiving document (print):

Left on AA-B date sheet tenant showed me where Shannon lives
Their signature: X _____

Date and time served: 11/2/08 9:22 AM

Animal Control Officer serving document (print):

Gordon

Animal Control Officer's identification number: 7211

Type of document served: Vicious dog letter Dangerous

animal letter Illegal animal letter Hearing ruling letter

City Council decision letter Other: _____

KF ACU

NOV 03 11:26 AM

CASE INVESTIGATION REPORT
DES MOINES, IOWA POLICE DEPARTMENT

* **ATTN ANIMAL CONTROL**

2008 OCT 24 AM 6:01

CITY EXHIBIT

41

G

DOMESTIC ABUSE HATE/BIAS LEOKA

17. DISTRICT 3			18. BEAT 135			19. REP. AREA			1. NAME (LAST, FIRST, MIDDLE) CONN, ROBERT L			2. CASE NUMBER 08-39009				
20. OCCUPATION POSTER			21. HOURS 0800-1630			22. SOBRIETY 532			3. ADDRESS 1800 WARZOUS AVE 306 S3 Apt # C			4. RES. PHONE 494-5803				
23. DESCRIBE LOCATION OF OFFENSE OR TYPE OF PREMISE APARTMENT COMPLEX									7. R/S/A W/M/JMK			8. LOCATION OF OFFENSE (ADDRESS) 1800 WARZOUS AVE 306 S1				
24. VEHICLE USED LIC. NO. BY SUSPECTS N									9. REPORTING PERSON CONN ROBERT L W/M/JMK			10. RES. PHONE 494-5803				
COLOR			YEAR			MAKE			11. REPORTING PERSON'S ADDRESS 1800 WARZOUS AVE 306 S1 Apt C Dsm			12. BUS. PHONE JMK				
IDENTIFYING CHARACTERISTICS OF VEHICLE A									13. DATE AND TIME OCCURRED 23 OCT 08 1915			14. DATE AND TIME REPORTED 23 OCT 08 2205				
CODE: V-VICTIM (OTHER THAN IN BLOCK #1) AND SHOW SEX, RACE, AGE W-WITNESS, P-PARENT OR GUARDIAN									15. CRIME Vicious Dog (ANIMAL BITE)			16. CLASSIFICATION				
25. NAME N			CODE			RESIDENCE ADDRESS			CITY			RES. PHONE		BUS. PHONE		
26.																
27.														A		
28. NOTIFICATIONS INVESTIGATOR'S <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IDENTIFICATION UNIT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO OFFICE CASE INVEST PHOTOGRAPHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																
PROPERTY & INJURIES	29. TOOL OR WEAPON USED KETT			30. METHOD USED BITE			31. POINT OF ENTRY N/A			32. VICTIM'S VEHICLE LIC. NO. N			STATE/YEAR			
	33. TYPE PROPERTY TAKEN ITEM 63			34. TOTAL VALUE ITEM 63			35. LOCATION OF VICTIM'S PROPERTY N/A			36. DEGREE OF INJURY AND VICTIM'S CONDITION						
	37. TYPE OF INJURY AND LOCATION ON BODY N/A									38. HOSPITAL		39. TRANSPORTED BY A				
WORTHLESS DOCUMENTS	40. COLOR OF DOC.		41. TYPE OF DOC.		42. DATE OF DOC.		43. DOCUMENT NO.		44. FIRM NAME OF DOCUMENT							
	45. NAME OF NO. OF BANK			46. MADE PAYABLE TO			47. SIGNATURE ON FACE									
	48. REASON NOT HONORED			49. TYPE OF PROPERTY OR SERVICES OBTAINED			50. AMOUNT OF DOCUMENT									
DOMESTIC ABUSE	51. DO YOU HAVE A CURRENT NO CONTACT ORDER? YES <input type="checkbox"/> NO <input type="checkbox"/>			52. HAS THE SUSPECT BEEN CHARGED WITH DOMESTIC ABUSE ASSAULT ON THE VICTIM OR OTHERS IN THE PAST? YES <input type="checkbox"/> NO <input type="checkbox"/>			53. NOTICE OF ABUSED PERSON RIGHTS GIVEN? YES <input type="checkbox"/> NO <input type="checkbox"/> I REQUEST A NO CONTACT ORDER: A SIGNATURE OF VICTIM									
	<p>CONN STATED THAT WHEN HE OPENED HIS APARTMENT DOOR TO LET SOMEONE IN, SIMMONS' DOG BIT HIS DOG AND REFUSED TO LET GO. SIMMONS' DOG DRAGGED CONN'S DOG DOWN THE STAIRS AND FINALLY LET GO BY ATT # A. CONN PICKED UP HIS DOG AND TOOK IT TO THE IOWA VETERINARY SPECIALTIES LOCATED AT 6111 CRESTON AVE. CONN SHOWED ME A BILL TOTALING \$225.49 IN VET BILLS DUE TO HIS DOG BEING ATTACKED.</p>															
54. REPORTING OFFICER SWANK, R. NO. 5068									55. STATUS (CHECK ONE) <input type="checkbox"/> SUSPENDED <input type="checkbox"/> EX. CLD <input type="checkbox"/> OPEN <input type="checkbox"/> CLOSED			58. REVIEWER 		60. UNIT REFERRED TO: <input type="checkbox"/> CIB <input type="checkbox"/> V/NCU <input type="checkbox"/> IA <input type="checkbox"/> CO. ATT. <input type="checkbox"/> PIO <input type="checkbox"/> SO <input type="checkbox"/> CHIEF <input type="checkbox"/> OTHER: ACU		
2ND OFFICER			56. SUPERVISOR APPROVING			NO.			59. UCR DISPOSITION							

SUSPECT/PROPERTY INFORMATION
DES MOINES, IOWA POLICE DEPARTMENT

62. HAIR/STYLE, LENGTH, FACIAL, FEATURES, SCARS, MARKS, TATTOOS, BUILD/MUSCULAR, SHORT, TALL, THIN, FAT, ETC.

SUS 1	NAME/ALIAS SIMMONS, SHANNON	R/S/A W/F/WH	DOB UNT	HT. UNT	WT. UNT	HAIR UNT	EYES UNT
	ADDRESS 1800 WATROUS AVE Bldg 51 Apt# A	PHONE NO. 447-1576		ARRESTED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
		ETHNIC H <input type="checkbox"/> NH <input checked="" type="checkbox"/>		WARRANT NEEDED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
				CHARGES FILED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
SUS 2	NAME/ALIAS	R/S/A	DOB	HT.	WT.	HAIR	EYES
	ADDRESS	PHONE NO.		ARRESTED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
		ETHNIC H <input type="checkbox"/> NH <input type="checkbox"/>		WARRANT NEEDED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
				CHARGES FILED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
SUS 3	NAME/ALIAS	R/S/A	DOB	HT.	WT.	HAIR	EYES
	ADDRESS	PHONE NO.		ARRESTED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
		ETHNIC H <input type="checkbox"/> NH <input type="checkbox"/>		WARRANT NEEDED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
				CHARGES FILED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
SUS 4	NAME/ALIAS	R/S/A	DOB	HT.	WT.	HAIR	EYES
	ADDRESS	PHONE NO.		ARRESTED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
		ETHNIC H <input type="checkbox"/> NH <input type="checkbox"/>		WARRANT NEEDED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
				CHARGES FILED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	

63. PROPERTY DESCRIPTION

QTY	ARTICLE	BRAND	MODEL	SERIAL NO.	MISC. DESCRIPTION COLOR, SIZE, INSCRIPTIONS, CALIBRE, ETC.	VALUE
	2					

64. CASE SCREENING

- YES NO 1. DOES THE NATURE OF THE OFFENSE POSE A SERIOUS THREAT OF HARM OR INJURY TO AN INDIVIDUAL OR TO THE COMMUNITY? (ITEM 15)
- YES NO 2. WAS THE VICTIM SERIOUSLY INJURED? (ITEM 36)
- YES NO 3. WAS THERE A WITNESS TO THE OFFENSE? (ITEM 25)
- YES NO 4. CAN A SUSPECT EITHER BE NAMED, LOCATED, IDENTIFIED, OR AN IDENTIFIABLE DESCRIPTION BE PROVIDED? (ITEM 62)
- YES NO 5. CAN A SUSPECT VEHICLE EITHER BE IDENTIFIED, OR AN IDENTIFIABLE DESCRIPTION BE PROVIDED? (ITEM 24 OR 32)
- YES NO 6. IS THERE A REASONABLE EXPECTATION THAT PHYSICAL EVIDENCE CAN BE OBTAINED? (ITEM 28)
- YES NO 7. WAS IDENTIFIABLE PROPERTY TAKEN? (ITEM 63)
- YES NO 8. WAS THERE A SUBSTANTIAL LOSS OF PROPERTY? (ITEM 63)
- YES NO 9. WERE CERTAIN EVENTS OR ACTIONS IN THE OFFENSE DISTINCTIVE OR UNUSUAL AND/OR RELATED TO OTHER OFFENSES? (ITEM 29, 30 AND 31)
- YES NO 10. IS THERE REASON TO BELIEVE THAT THE CRIME IS SUCH THAT PUBLIC INTEREST AND SUPPORT OR FURTHER INVESTIGATION MAY PRODUCE MORE INVESTIGATIVE LEADS, AND MAY RESULT IN SOLVING THE CRIME?
- YES NO 11. WAS THE OFFENSE, OTHER THAN DOMESTIC ABUSE, A SIMPLE MISDEMEANOR THAT OCCURRED IN THE OFFICER'S PRESENCE? (ITEM 15)

IF ALL OF THESE QUESTIONS ARE ANSWERED NO, THE REPORTING OFFICER WILL SUSPEND THE CASE
THE VICTIM WILL BE INFORMED BY THE REPORTING OFFICER THAT THE CASE IS BEING SUSPENDED AND
NO FURTHER ACTION WILL BE TAKEN UNLESS FURTHER LEADS ARE PRODUCED.

REPORTING OFFICER SWANE, Z.	IDENT NO. 5068	DATE 2/20/08	SUSPENDED YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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Animal Incident Investigation Report
Des Moines, Iowa Police Department

2008 OCT 27 PM 2:39

Supplemental X C

32. District: 3		33. Beat: 35		1. Impounded animal AHR/ARL number:		2. DMPD case number: 08-39009	
Impounded or bite animal				3. Victim's name (last, first M.I.): CONN, Robert (Human victim or society)			
34. Animal type: <input checked="" type="checkbox"/> Cat <input type="checkbox"/> Dog <input type="checkbox"/> Other <input type="checkbox"/> : "NOAH"		35. Animal breed: Pitbull		4. Race: WMA		5. Sex: N/A	
36. Animal color: tan		37. Animal fur length: <input checked="" type="checkbox"/> Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>		6. Age: N/A		7. Date of birth:	
38. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>		39. Microchip: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (Records Personnel: Enter M/C# as a serial number)		8. Ethnicity: <input type="checkbox"/> H <input type="checkbox"/> NH <input type="checkbox"/> G		9. Sobriety: Sob. <input type="checkbox"/> H.B.D. <input type="checkbox"/>	
40. Rabies tag: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> R/T#:		40A. Date of vaccination:		40B. Date of vaccination expiration:		40C. Veterinarian:	
41. License: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Lic#:		42. Other identifiers (Collar, tattoo, etc.): AKT white checks		43. Confinement/quarantine location: Shelter		44. Impounded or bite animal owner's name (Last, First M.I.): SIMMONS, SHANNON	
45. Residence address: 1800 Watrous Blvd #1 #C		46. Residence phone number: 55447-1576		47. Place of employment or school: Market Link		48. Business or cellular phone number: 515-975-0658	
49. Animal owner notification: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>		49A. Date and time of notification: 24 Oct 08 1639		49B. Person making notification: BLANCHARD		49C. Means of notification: PERSONAL	
50. Witness name (Last, first): N/A		51. Residence address: (City and/or state if not Des Moines or Iowa)		52. Daytime or cellular phone number:		53. Witness name (Last, first): N/A	
54. Residence address: (City and/or state if not Des Moines or Iowa)		55. Daytime or cellular phone number:		56. Investigative notifications and/or photographs taken: Detective: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Ident. Technician: No <input checked="" 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 checked="" type="checkbox"/> Yes <input 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 checked="" type="checkbox"/> Other <input type="checkbox"/>		59. Animal breed: Beagle X "NOAH"		60. Animal color: WHY/BKT		61. Animal fur length: Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>	
62. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>		63. Rabies tag: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> R/T#:		63A. Date of vaccination:		63B. Date of vaccination expiration:	
64. Microchip: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> MC#:		65. License: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Lic#:		66. Type and location of injury: top of head, punctures. minor		67. Medical treatment: AEC clinic	
68. Confinement/quarantine location: Shelter		69. Victim animal owner's name (Last, First M.I.): CONN, ROBERT		70. Residence address: (City and/or state if not Des Moines or Iowa): 1800 Watrous Apt 51 #B		71. Residence phone number: 414-5803	
72. Business or cellular phone number: 331-2900		73. Reporting officer: Blanchard 7232 I.D. No.		74. Status: <input type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed <input type="checkbox"/> Case file <input type="checkbox"/> Suspended <input type="checkbox"/> Unfounded		75. Copy/copies made by:	
76. Referred to: <input checked="" type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:		77. Second officer: Tom [Signature] I.D. No.		78. Supervisor approving report: [Signature] I.D. No.		79. Reviewed by: [Signature]	

CITY EXHIBIT
H

Animal Incident Investigation Report
Des Moines, Iowa Police Department

82. Suspect or offender <u>one</u> (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:
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101. Suspect or offender <u>two</u> (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:	

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"/>
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118. Citation number and crime:	119. Citation number and crime:
---------------------------------	---------------------------------

120. Narrative:

Mr. CONN opened his door for a friend and noticed a dog. His dog came to the door and was bitten on top of his head. Mr. CONN took his dog to the JIA vet specialties and was treated and released. Mr. CONN's dog was not seriously injured, and is not current on a rabies vaccination so I impounded "NOAH" and advised him of quarantine procedures. The bite dog "Moby" is a pitbull and not licensed or insured, or current with rabies. Dog owner SHANNON SIMMONS just recently moved here from Boone and did not have license etc. I gave Shannon a case number and advised of quarantine and pitbull rules. She stated after quarantine that she was taking the dog back to Boone. I impounded both dogs for quarantine at the shelter. Also victim dog "NOAH" has antibiotics that I will give Dr. Berg.

"Moto"

2008 OCT 28 PM 3:47

Simmons, Shannon 41
APLA A06277956

CITY OF DES MOINES
ANIMAL CONTROL UNIT

CITY
EXHIBIT

I

DATE: 10-25-08

REFERENCE: ANIMAL HISTORY REPORT # 08.39009

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
- MUZZLE: MEDIUM LENGTH
- JAWS WELL DEFINED
- BLACK NOSE
- BACK: FAIRLY SHORT
- SLIGHT SLOPING FROM WITHERS TO RUMP
- BODY: WELL SPRUNG RIBS
- FORELEGS SET RATHER FAR APART
- CHEST DEEP AND BROAD
- LEGS: STRAIGHT FRONT LEGS
- HINDQUARTERS WELL MUSCLED
- MODERATE SIZE FEET
- SHOULDERS: STRONG
- MUSCULAR
- NECK: HEAVY
- SLIGHTLY ARCHED
- TAPERS FROM BACK OF SKULL TO SHOULDERS
- TAIL: LOW SET
- TAPERS TO FINE POINT
- NOT CURLED OVER BACK
- COAT: SHORT
- CLOSE
- GLOSSY
- EYES: DARK AND ROUND
- LOW DOWN IN SKULL
- SET FAR APART
- SIZE: 23 INCHES AT SHOULDERS
- 66 LBS.

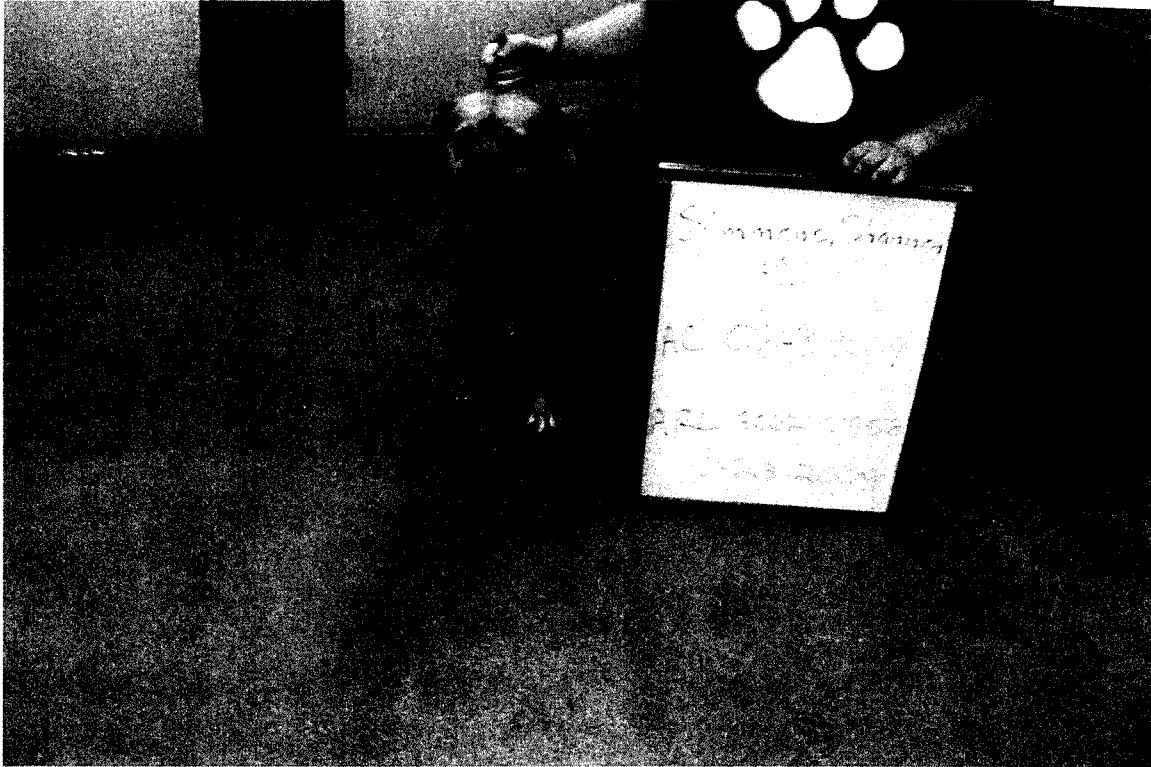
COLOR: tan with white around toes

COMMENTS: male
over 6 mos old

[Signature]

KE ACU

J



Simmons, James
AC CH-1117
P. 21 1117-1117
1117-1117

41

2008 OCT 28 PM 3:47

SUPPLEMENTAL REPORT
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee Comm, Robert	2. Arrest No.	3. Case No. OB-391099
--	---------------	--------------------------

<input type="checkbox"/> Form used as Continuation Sheet for Current Report	4. Date this Report 27 Oct 08 1544	5. Date Original Occurrence 23 Oct 08 2205
<input checked="" type="checkbox"/> Form used to Report Follow up Investigation or Supplemental Information	Officer Case Invest. Photos Yes <input type="checkbox"/> No <input type="checkbox"/> Taken by Anomal, Bit	6. Correct offense or Incident Classification Changed <input type="checkbox"/> Yes <input type="checkbox"/>
7. Kind of Report Continued <input checked="" type="checkbox"/> Follow up or Supplemental or Prosecution <input type="checkbox"/> Traffic Accident	<input type="checkbox"/> Witness Statement <input type="checkbox"/> Offense <input type="checkbox"/> Arrest	8. Multiple Clear Up? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (list other case numbers in narrativ
9. Page No. 1 of 1	10. Traffic Citation No. N/A	11. Value of Property Recovered and Type \$ N/A

CITY
EXHIBIT

K

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.

Spoke with victim dog owner. Robert Comm. Comm stated his girlfriend had come home and noticed Apt-A's door was open and their pitbull was out in the hallway. The pitbull followed her up to Comm's apartment. When she opened the door Comm's dog peeked his head out the door. When the dog did so the pitbull from Apt-1A started attacking Comm's dog and drug it down the stairs back to apartment A

OFFICE USE ONLY

14. Reporting Officer Gordon	No. 7211	15. Status (check one) <input type="checkbox"/> Suspended <input type="checkbox"/> Open <input checked="" type="checkbox"/> Ex. Closed <input type="checkbox"/> Closed	13. Date/Time Typed No.	Reproduced No.
17. Unit Referred To:	18. UCR Disposition	19. Reviser	No.	
Second Officer	No.	Supervisor Approving [Signature]	No.	

2008 OCT 28 PM 3:47

SUPPLEMENTAL REPORT
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee Society	2. Arrest No. N/A	3. Case No. 08-39009
--	----------------------	--------------------------------

<input type="checkbox"/> Form used as Continuation Sheet for Current Report	4. Date this Report 3 November 2008	5. Date Original Occurrence 23 October 2008
<input checked="" type="checkbox"/> Form used to Report Follow-up Investigation or Supplemental Information	6. Correct offense or Incident Classification Animal bite/ dog v dog	
7. Kind of Report Continued <input checked="" type="checkbox"/> Follow-up or Supplemental or Prosecution <input type="checkbox"/> Traffic Accident	<input type="checkbox"/> Witness Statement <input type="checkbox"/> Offense <input type="checkbox"/> Arrest	8. Multiple Clear Up? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (list other case number)
9. Page No. 1 of 1	10. Traffic Citation No. N/A	11. Value of Property Recovered and Type \$N/A

CITY
EXHIBIT



INSTRUCTIONS FOR FOLLOW-UP 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.
6

The victim dog in this bite report is healthy and without any signs or symptoms of the rabies virus. This dog will be released from quarantine this date. The owner is aware of the release this date but due to the availability of the veterinarian at the ARL, the dog will be vaccinated and reclaimed on 4 November 2008.

Communication has been made with Simmons in this matter with their Pitbull and it's declaration and subsequent release from impound, also.

CASE CLOSED.

2008 NOV -3 PM 1:44

14. Reporting Officer Susan R. Stropes		No. 7219	15. Status (check one) <input type="checkbox"/> Suspended <input type="checkbox"/> Open <input type="checkbox"/> Ex. Closed <input type="checkbox"/> Closed	13. Date/Time Typed No.	Reproduced No.
Second Officer		No.	Supervisor Approving <i>[Signature]</i>	No.	19. Reviewer
17. Unit Referred To: <i>[Signature]</i>		18. UCR Disposition			



Animal Control

DOCUMENT SERVICE

Case number: 2008 - 39009

ARL number (If known): A0627795CP

Animal owner's name: SHANNON SIMMONS

Address: 1800 WATROUS AV. #51-B

Location of service: SAME

Name of person receiving document (print):
NOT TAPED TO FRONT DOOR

Their signature: * _____

Date and time served: 11/13/08 2048

Animal Control Officer serving document (print):
Blanchard

Animal Control Officer's identification number: 7232

Type of document served: Vicious dog letter Dangerous animal letter Illegal animal letter Hearing ruling letter

City Council decision letter Other: _____

KF ACU

November 14, 2008

LeAnn Ducey
Hearing Officer
City Clerks Office
400 Robert D. Ray Drive
Des Moines, IA 50309

Dear Ms. Ducey,

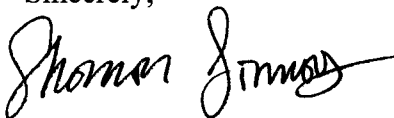
I am writing to appeal to the judgment against my dog Mojo as a "Dangerous Animal". I believe he was unfairly portrayed as a vicious dog under the circumstances of him biting my neighbor's dog. He is a family dog, and a very well behaved part of the family at that. He plays well with other friendly dogs and his best buddy is my boyfriend's 3 year-old son, Kai. Please do not take that away from us. I do not understand why it is "one strike and your out" for my dog and I.

I am prepared to gather statements from friends and family testifying to his manner of the kind and loving dog that he is. I have also compiled many photos I've taken over the years of him playing with other dogs, as well as photos that will show his demeanor around children.

I have taken full responsibility since day one of this whole incident. I feel if anyone needs to be punished it should be me, not my dog. Mojo has been in the pound for a month, the longest month of our lives. I haven't ever been away from him for that long, that's how close my dog and I are. I am willing to do whatever it takes to bring my dog home. I pray that you will give us a second chance and see what a special dog he is and the wonderful family he belongs to.

I appreciate your time and hope you will reconsider your judgment and hear my friends and family's testimony.

Sincerely,



Shannon Simmons
1800 Watrous Ave.
Apt. 51B
Des Moines, Ia 50315

Case # 08-39009

DES MOINES, IOWA
CITY CLERK

2008 NOV 14 PM 2:02

FILED

C

November 14 2008

Shannon Simmons
1800 Watrous Avenue #51-B
Des Moines, IA 50315

RE: Appeal of Dangerous Animal Declaration

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

Your hearing before the City Council has been scheduled for Monday, November 24, 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

November 18 2008

Shannon Simmons
1800 Watrous Avenue #51-B
Des Moines, IA 50315

RE: Administrative Hearing Transcript

Per the letter sent to you on November 14, 2008, enclosed is a copy of the administrative hearing transcript that was held on November 6, 2008 at 1:00 p.m.

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

Sincerely,



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
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ALL-AMERICAN CITY
1949, 1976, 1981,
2003

ADMINISTRATIVE HEARING TRANSCRIPT

November 6, 2008

City v. Simmons

Dangerous Dog

HEARING OFFICER LEANN DUCEY: Good afternoon. My name is LeAnn Ducey and I am an Administrative Hearing Officer. It is 1:02 p.m. on November 6, 2008 and we are conducting an administrative hearing on a dangerous dog declaration. The appellant is Shannon Simmons. 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 sergeant with the Des Moines Police Department and assigned to the animal control unit as the supervisor and in that, that position I serve as the Chief Humane Officer as defined by City ordinance.

HEARING OFFICER LEANN DUCEY: Would you please raise your right hand. Do you Sergeant Scott 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.

HEARING OFFICER LEANN DUCEY: Go ahead.

SERGEANT SCOTT RAUDABAUGH: I'd like to start by submitting some records for the, documents for the record. I'm sorry.

HEARING OFFICER LEANN DUCEY: Okay. I will enter these as City Exhibits starting with A. Thank you.

SERGEANT SCOTT RAUDABAUGH: I've got a second copy here I'll leave on the podium if anyone chooses to look at it.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: The only difference between the two is there's a photograph of the dog in the records, the documents that I submitted for the record.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: And there is not one in this, if, if...

HEARING OFFICER LEANN DUCEY: They can look at this one if they want to.

SERGEANT SCOTT RAUDABAUGH: Yes ma'am. I'd like to just kinda start out by going through the documents and explain what they are for the record. Uh, the first one is a copy of City ordinance 18-203 which talks about immediate seizure or destruction of animals and it talks about the dog in this circumstance can be processed as a dangerous animal. City ordinance 18-202 talks about seizure, impoundment and disposition of dangerous animals. City ordinance 18-41 defines what a vicious dog is. Uh, City ordinance 18-56 talks about confinement of a vicious dog. It talks about the requirements for either confining or leashing a, what's defined as a vicious dog under 18-41. Following that is a letter that was, that was served on a, a, Ms. Simmons property, uh, for lack of a better description is a dangerous animal declaration letter. And then behind that is the document service form. Following that is a police report made by a Des Moines police officer, Case No. 08-39009. And then supplemental reports completed by an animal control officer. Behind those are, is an evaluation sheet completed by the a, Dr. Greg Berry with the Animal Rescue League serving in the capacity of City veterinarian and he, uh, evaluated the dog and determined that it exhibited predominant characteristics of a vicious dog breed. Behind that is a, uh, is a supplemental report, or two supplemental reports actually in relation to this report. On October 23, 2008, Ms. Simmons tan and white Pit Bull breed dog named Mojo was not properly confined or leashed when it was walking in the apartment building hallway. A neighbor's, uh, uh, girlfriend was walking up the hallway. The dog followed her up to the neighbor's apartment door. When the neighbor opened up his door his own dog came to the doorway and then Ms. Shannon Simmons Pit Bull breed dog grabbed a hold, bit the neighbor's dog and drug it down the hallway. And, in fact, it has been reported that it took the dog back to Apartment A where Ms. Simmons lives. Subsequently during the investigation an animal control officer conducted a follow-up investigation and impounded Ms. Simmons' dog for evaluation for quarantine and for breed evaluation at the animal shelter. Also, the neighbor's dog, the victim dog for a lack of a better description, did not have current rabies so it was also impounded for quarantine at the animal shelter. After the veterinarian conducted the breed evaluation and found that it exhibited predominant characteristics of a vicious dog breed, Ms. Simmons' dog was declared to be a dangerous animal because it was not properly confined and it was involved in an unprovoked bite and that's the reason, uh, we're here today.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: And that's all I have to submit at this time.

HEARING OFFICER LEANN DUCEY: Okay. Thank you.

SERGEANT SCOTT RAUDABAUGH: Thank you.

HEARING OFFICER LEANN DUCEY: Ms. Simmons. Please state your name and address.

SHANNON SIMMONS: My name is Shannon Marie Simmons. I live at 1800 Watrous Avenue in Apartment 51B here in Des Moines.

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

SHANNON SIMMONS: Yes.

HEARING OFFICER LEANN DUCEY: Okay. Tell me why you're here today please.

SHANNON SIMMONS: Uhm, I'm here because my dog bit my neighbor's dog. Uhm, I wasn't present, uhm, when the situation had happened. Uhm, and I've been handling it with them and I received a letter on my door stating that I had, uhm, a hearing to declare my dog a dangerous animal.

HEARING OFFICER LEANN DUCEY: Uhm, huh. Okay. Did, did your dog have licenses or current rabies?

SHANNON SIMMONS: No. He, uhm, I do have documents of his prior rabies shot but they had expired in 2007.

HEARING OFFICER LEANN DUCEY: Okay. And how long have you had the dog?

SHANNON SIMMONS: Since he was four weeks old.

HEARING OFFICER LEANN DUCEY: And how old is he now?

SHANNON SIMMONS: He's five. He just turned five in August.

HEARING OFFICER LEANN DUCEY: Okay. So you were not present at the time of the bite?

SHANNON SIMMONS: No. What, what had happened is I left to go get some pumpkins. Uhm, one of my friends was coming over. We were going to carve some pumpkins and, uhm, I live right behind Dahl's so it's not even a block away. And when I left I must not have latched the door properly.

HEARING OFFICER LEANN DUCEY: Okay.

SHANNON SIMMONS: He, what I'm assuming is he nosed his way out, uhm, was, and just confined in that hallway and, uhm, when I came home he was still in that hallway and he was really excited, you know, I didn't, I didn't really know why and so I brought him back into my apartment and a few minutes later I got a knock on my door. It was my neighbor's girlfriend, uhm, and she told me that my dog had bitten her dog. So, uhm, I talked to the both of them to see, ya know, ya know, what they wanted to do about it if they were taking him to the vet. Uhm, they did take him to the vet that night and after they got back from the vet I again went upstairs and, and, you know, wanted to see how their dog was and visit with them a little bit. And, uhm, they had told me that, ya know, my dog followed them up there and, uhm, when they opened the door they met and my dog bit him.

HEARING OFFICER LEANN DUCEY: Okay. Did you have any additional information you wanted to present today?

SHANNON SIMMONS: Other than his prior rabies, uhm, I do have a copy of the, my neighbor's dog's, uhm, veterinary bill when they took him to the emergency vet.

HEARING OFFICER LEANN DUCEY: That's not really a concern here. That's a, that's a separate issue so.

SHANNON SIMMONS: Okay.

HEARING OFFICER LEANN DUCEY: Okay. Did you have anyone else that you wanted to speak today, or?

SHANNON SIMMONS: No.

HEARING OFFICER LEANN DUCEY: Okay. Sergeant Raudabaugh, do you have anything else you want to present today.

SERGEANT SCOTT RAUDABAUGH: No ma'am.

HEARING OFFICER LEANN DUCEY: Well, I'm going, I have not had a chance to look over the documents that were presented to me so I, I, uh, take these declarations very seriously so I'm not going to issue a ruling today. It will probably be the first part of next week. And what I will do is after I've reviewed everything thoroughly, I will write up a ruling and that will be hand-delivered to you by someone from Sergeant Raudabaugh's office, or Sergeant Raudabaugh himself. And should I declare the dog dangerous, then you would have the right to appeal to the City Council and there would be information in there how to do that. But I don't know how I'm going to rule yet. I need to look everything over so thank you very much for coming in. Yes sir.

(Inaudible.)

HEARING OFFICER LEANN DUCEY: Would you come up to the microphone please? Anyone who speaks I just need to get their name and swear them in okay. So please tell me your name and your address.

RICHARD SIMMONS: I am Richard Simmons.

HEARING OFFICER LEANN DUCEY: Okay.

RICHARD SIMMONS: I live at 3301 S.E. 22nd Street, #7. I came primarily....

HEARING OFFICER LEANN DUCEY: Just a second. I need to swear you in. Please raise your right hand. Do you Richard Simmons, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

RICHARD SIMMONS: Yes.

HEARING OFFICER LEANN DUCEY: Okay. Go ahead and ask me your question.

RICHARD SIMMONS: I, I, uh, came primarily to get the dog and, and move him to his new home outside of Des Moines. Is that possible to do today?

HEARING OFFICER LEANN DUCEY: Uh, Sergeant Raudabaugh, would you like to answer that question please? You can stay up there sir.

SERGEANT SCOTT RAUDABAUGH: Sergeant Raudabaugh. No, uh, in situations like this the dog stays in impound until the conclusion of this hearing. Uhm, the, the hearing officer will review all the documents and the testimony given today, will issue a ruling whether to uphold it or not uphold it. If she does not uphold it, the dangerous animal declaration, then you could reclaim the dog, uhm, as a vicious dog, which is a, a lesser then dangerous so to speak. Uhm, if she upholds it then there would be a conclusion or disposition in the ruling in accordance with City ordinance. But until that's all concluded the dog stays at the animal shelter in impound.

RICHARD SIMMONS: Okay.

SERGEANT SCOTT RAUDABAUGH: Okay.

RICHARD SIMMONS: I'd like to make sure though that it's known he has a home waiting for him outside of Polk County.

HEARING OFFICER LEANN DUCEY: Okay. I will note that. Thank you. Anyone else? Okay. Uh, like I said, I will get the ruling out next week and I appreciate everyone coming in. Thank you very much.

I, Renae Lampkin, certify that I transcribed the minutes of the November 6, 2008 Administrative Hearing pertaining to a dangerous dog owned by Shannon Simmons.

Renae Lampkin