

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

IAN YOUNG and DESIREE HEDBERG,

No. 1-07-CV-092333

Petitioners,

ORDER

v.

CITY OF SUNNYVALE, a municipal corporation,

Respondent.

Petitioners' Appeal from the administrative determination by the City of Sunnyvale (Food & Ag. Code 31621) came on for hearing on August 30, 2007 before the Honorable Brian C. Walsh in Department 18 of the Santa Clara County Superior Court. Petitioners appeared through their attorney, Christine L. Garcia, and Respondent appeared through its attorney, Robert L. Boco. Proceeding as a trial *de novo*, the Court considered the evidence and exhibits presented and the oral and written arguments of the parties. The case having been submitted for decision on August 30, 2007 the Court now issues its decision and rules as follows:

The Court finds that Lucy is a "vicious" animal within the definition of Sunnyvale Ordinance 6.04.160 in that, without provocation, she inflicted bites both on a human and

on domestic animals while on public property and, without provocation, chased and approached a human and domestic animals on a sidewalk in a threatening manner and with apparent attitude of attack and, in fact, killed one of those animals, a dog named "Bobbi". Petitioners' own expert states that Lucy exhibits "dog aggression" which is "problem behavior". Though Petitioners, based upon the opinion of their expert, characterized the killing of Bobbi as merely "discipline" or "corrective behavior" because Bobbi had barked at Lucy¹ many times in the past, this neither defeats a finding of "vicious animal" nor provides reassurance as to Lucy's potential future behavior. Indeed, if this example of aggression by what Petitioners' expert called a "dominant dog" was prompted by Bobbi's past behavior of barking at Lucy, the evidence revealed there are any number of dogs at risk for having offended Lucy in the same manner.

The Court finds, based on the evidence produced at the hearing, that it is consistent with the applicable statutes and ordinances that the animal be destroyed and the Court so orders.

Dated: _____

BRIAN C. WALSH
JUDGE OF THE SUPERIOR COURT

¹ Though Petitioner claims that at least part of Lucy's purpose in "correcting" Bobbi was Bobbi's attempt to nip Petitioners' two year old son two months before, there is no reliable evidence that Lucy was present for, or otherwise aware of, that incident.