



# CITY OF SACRAMENTO

## OFFICE OF THE CITY CLERK

915 I STREET  
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814  
TELEPHONE (916) 449-5426

LORRAINE MAGANA  
CITY CLERK

October 2, 1981

Honorable Mayor and City Council  
City Hall  
Sacramento, CA 95814

APPROVED  
BY THE CITY COUNCIL

OCT - 6 1981

OFFICE OF THE  
CITY CLERK

*See A  
adopted*

Members in Session:

SUBJECT: Appeal of Bradley R. Romero from the decision of the Animal Control Officer deeming his pet Malemute dog a Vicious Animal.

### SUMMARY

Attached is the appeal of Bradley R. Romero from the decision of the Animal Control Officer deeming his pet Malemute dog a Vicious Animal, as required by Section 6-104, Sacramento City Code.

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

### FINANCIAL DATA

The estimated cost would be \$100.00 and would be available from the Animal Control budget.

### RECOMMENDATIONS

1. If the Council should decide to appoint a hearing examiner, it is recommended that the following motion be adopted: "The

City Council  
October 2, 1981  
Page 2

Council hereby determines pursuant to Section 2.324 of the City Code, that this appeal will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner. Therefore, the Council appoints Steven Bair as hearing examiner to hear the appeal on Thursday, October 29, 1981, at the hour of 9:00 a.m., in the Council Chamber, Second Floor, City Hall, 915 "I" Street, Sacramento, California.

2. Should the Council decide to consider the appeal itself, it is recommended that the hearing be set for October 27, 1981.

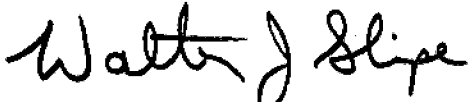
Respectfully submitted,

  
Lorraine Magana  
City Clerk

LM/mm  
Attachment

cc: Animal Control  
Steven Bair  
Bradley Romero

RECOMMENDATION APPROVED:

  
Walter J. Slipe  
City Manager

October 6, 1981  
District 6

NOTICE OF APPEAL

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF SACRAMENTO

DATE: Oct. 1, 1981

OCT 1 2 08 PM '81

Pursuant to Section 2.320, City Code, I wish to appeal the decision of the  
Animal Control Officer made on 9/23/81  
regarding deeming pet minkette a vicious  
animal.

as required by Section 6-104, City Code.

My reason for appealing is as follows: We think our dog should be  
given a chance. We are willing to keep him in a caged area  
something like this will ever happen again. Our dog is a loved  
and devoted family pet and has been for 6 years and an occurrence  
like this has never happened. He is a registered AKC dog, and we  
have another dog of same breed who is pregnant and his absence affects her  
psychologically. At the hearing, character witnesses will be made  
available upon request also an authority on a dogs behavior, a registered  
veterinarian. (Additional reasons on back side of notes.)

\*\*\*\*\*  
PLEASE PRINT:

NAME: Bradley R. Romero

ADDRESS: 5311 Priscilla Lane

CITY: Sacramento STATE: CA ZIP CODE: 95820

TELEPHONE NUMBER: 916/381-2515

Brad Romero  
SIGNATURE

According to our information, the attack on the child may have been instinctive but the attack on the child's father was defensive. According to witnesses, the father cornered him and tried to kill him with his bare hands.

Therefore, we think only one definite attack was made.

We are very sorry this happened and we wish there was something we could do but the legalities will be taken care of in court.

We desperately want a second chance for our pet.

TAMARACK



CITY OF SACRAMENTO

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF SACRAMENTO

SEP 24 10 59 AM '81

DEPARTMENT OF ANIMAL CONTROL  
2127 FRONT STREET SACRAMENTO, CALIFORNIA 95818  
TELEPHONE (916) 449-8623

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

September 23, 1981

Brad Romero  
5311-Priscilla Lane  
Sacramento, California  
95820

Dear Mr. Romero

Your dog has been deemed a (Vicious Animal) under Sacramento City Animal Control Ordinance Section 6.401.

On September 14, 1981 your dog a Gray and Black Male-Malamute without provocation severely bit a four year old child and his father.

You are hereby notified that your animal is to be put to sleep on October 2, 1981. If you would like to appeal this determination of the Chief of Animal Control to a hearing officer, you must file a notice of such appeal with the City Clerks office before October 2, 1981.

Very truly yours

Tom Hoover  
Chief of Animal Control

CC: CITY CLERK'S OFFICE  
CITY ATTORNEY'S OFFICE

RECEIVED  
CITY CLERKS OFFICE  
CITY OF SACRAMENTO

BEFORE THE CITY COUNCIL

Nov 13 5 21 PM '81

CITY OF SACRAMENTO, STATE OF CALIFORNIA

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IN RE APPEAL OF  
BRADLEY R. ROMERO

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER

The above-entitled matter came on regularly for hearing on Thursday, October 29, 1981, at 9:00 a.m., in the Sacramento City Council Chamber at 915 "I" Street, Sacramento, California, before STEVEN R. BAIR, duly appointed Hearing Examiner.

Parties and Witnesses present at the above hearing were:

- BRADLEY R. ROMERO, Appellant
- TRUDI R. ROMERO, Appellant
- RUBEN MORA, Senior Animal Control Officer
- TOM HOOVER, Chief Animal Control Officer
- DONALD MASUDA, Attorney for Ray and Jeanett Witthuhn
- MARYLAND ROSE, Witness
- ROBIN SHARP, Witness
- ALLISON DARROW, Witness
- JEANETT WITTHUHN, Witness
- RAY WITTHUHN, Witness

On September 23, 1981, Appellant received a notice from the Department of Animal Control, City of Sacramento, that his male Alaskan Malamute had been deemed a "Vicious Animal" and would be put to sleep pursuant to Section 6.101 of the Sacramento City Code. The notice alleged that on September 14, 1981, Appellant's Animal severely bit without provocation a four year old child and his father. Appellant requested a hearing regarding the

1 proposed action, and thereafter the Sacramento City Council,  
2 pursuant to Sections 2.323 and 2.324 of the City Code, appointed  
3 STEVEN R. BAIR as Hearing Examiner to hear and conduct the above  
4 appeal.

5 At the above duly noticed hearing, documents were submitted,  
6 witnesses were sworn, and testimony was received. Thereafter,  
7 the matter was taken under submission and the Hearing Examiner  
8 has considered and reviewed all of the evidence and arguments of  
9 the parties.

10 FINDINGS OF FACT

11 The Hearing Examiner makes the following findings of fact:

12 1. That Appellant BRADLEY R. ROMERO, residing at 5311  
13 Pirscilla Lane, Sacramento, California, is the owner of a six  
14 year old male Alaskan Malamute, weighing approximately 75 pounds,  
15 known as TAMARACK.

16 2. That prior to September 14, 1981, TAMARACK had never  
17 bitten a human being, but was considered by Appellant to be  
18 "very protective" and had undergone obedience training.  
19 Appellant testified that he had warned neighbors not to trust the  
20 dog, and had warned children in the neighborhood not to go in the  
21 backyard where TAMARACK was kept. On September 14, 1981, at  
22 approximately 7:15 p.m. MARYLAND ROSE, ROBIN SHARP, JEANETT  
23 WITTHUHN, and RAY WITTHUHN were in the process of moving  
24 furniture into a home located at 5351 Pirscilla Lane, in the  
25 City of Sacramento. At that time, TAMARACK and two other dogs  
26 belonging to Appellant were in the backyard of an adjoining  
27 vacant home. The three animals began barking and soon thereafter  
28 escaped from the backyard into a common unfenced area on the

1 street side of both homes. Within a two minute period after  
2 TAMARACK'S escape, MARYLAND ROSE heard growling sounds and  
3 observed a male malamute, later identified as TAMARACK, with  
4 his mouth and jaws around the head of WARREN E. BARRY, age 4,  
5 with only a part of an ear, the chin, and the top of his head  
6 visible. The child's complete face remained inside of the dog's  
7 mouth while Mrs. Rose attempted to pry TAMARACK'S jaws apart.  
8 The child was screaming and blood was coming from his face.  
9 The dog then began to shake his head from side to side until  
10 MR. RAY WITTHUHN, the child's father was able to kick the dog in  
11 the back and caused the child to be released.

12 3. After the child was released, MRS. ROSE placed the  
13 child in the back of a nearby pickup, while MR. WITTHUHN  
14 attempted to restrain the animal and was bitten several times  
15 on both arms while attempting to do so.

16 4. Shortly thereafter, TAMARACK ran into the residence at  
17 5351 Pirscilla Lane, barking and growling at MRS. ROSE as she  
18 attempted to chase the dog out of the house. MRS. ROSE was  
19 successful in chasing the dog out of the house, but fainted  
20 immediately thereafter.

21 5. WARREN E. BARRY sustained serious puncture wounds in the  
22 area of his face, and particularly in the area of his cheeks and  
23 eye lids, requiring three hours of emergency surgery and in  
24 excess of One Hundred (100) stitches.

25 6. That TAMARACK'S attack and biting of WARREN E. BARRY  
26 on September 14, 1981, was entirely without provocation.

27 7. That Appellant, MR. ROMERO, is unsure as to whether  
28 TAMARACK would again engage in this type of conduct. Appellant



1 stated "I don't know whether he will do it again or not."  
2 Appellant has now constructed a kennel in his backyard  
3 which he believes would be adequate to prevent TAMARACK'S  
4 escape.

5 CONCLUSIONS OF LAW

6 BASED ON THE FOREGOING FINDINGS OF FACT, the Hearing  
7 Examiner concludes as follows:

8 Section 6.101 of the Sacramento City Code defines a  
9 vicious animal as:

10 "For the purposes of this article, the term  
11 'vicious animal' shall mean any animal which  
12 has, on one or more occasions, attacked, bitten,  
13 mauled, or otherwise injured any person or  
14 other animal without provocation by such person  
15 or other animal."

14 Inasmuch as the evicence establishes that on  
15 September 14, 1981, TAMARACK did attack and seriously  
16 injure a four year old child, WARREN E. BARRY, without  
17 provocation, the Hearing Examiner finds said animal to be a  
18 vicious animal within the meaning of Section 6.101 of the  
19 Sacramento City Code.

20 Section 6.105 of the Sacramento City Code sets forth the  
21 alternatives available to the City Council regarding dis-  
22 position of this matter as follows:

23 "After hearing testimony from all interested parties as  
24 it may deem proper, the City Council may:

25 (a) Uphold the decision of the Chief Animal Control  
Officer and order the animal destroyed.

26 (b) Order the return of the animal to its owner and  
27 impose such conditions upon such return as may be  
reasonably necessary to insure the public safety.

28 ///

1 (c) Take such other action as it may reasonably find  
2 necessary to protect the public safety, including a  
3 continuation of the impoundment of such animal for a  
4 period not to exceed 30 days from the date of the  
5 hearing."

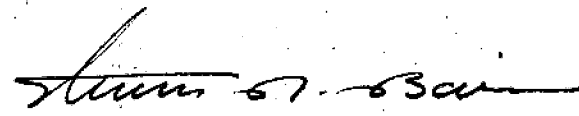
6 Appellant's animal has demonstrated a particularly vicious  
7 propensity which has already resulted in the infliction of  
8 severe injury and trauma upon a four year old child; such attack  
9 could very easily have resulted in the death of WARREN E. BARRY;  
10 and even Appellant is now unsure as to whether his dog will act  
11 in a similar fashion in the future. Under these circumstances, and  
12 in light of the serious potential danger which this animal poses  
13 to the community, destruction of said animal is necessary in order  
14 to insure public safety. Therefore, the decision of the Chief  
15 Animal Control Officer is hereby affirmed.

16 ORDER

17 In accord with the above Findings of Fact and Conslusions of  
18 Law, it is hereby ordered:

- 19 1. That the appeal of BRADLEY R. ROMERO is denied.
- 20 2. That the action of the Chief Animal Control Officer is  
21 upheld and affirmed.
- 22 3. That said animal shall be destroyed. However, such  
23 action shall be stayed until Tuesday, November 17, 1981, in order  
24 to afford Appellant an opportunity to seek judicial review of  
25 this decision.

26 DATED: 11-10-81

27   
28 STEVEN R. BAIR,  
Hearing Examiner