

**ANIMAL CONTROL BOARD
COUNTY OF MAUI**

Cameron Center
Conference Room 1
95 Mahalani Street
Wailuku, Maui, Hawaii

October 1, 2015
9:00 a.m.

MINUTES

I. CALL TO ORDER

The meeting was called to order at 9:02 a.m. by Chair Vargas

II. ATTENDANCE/QUORUM

A. ATTENDANCE

Members Present: Anthony Vargas, Jr.
Doreen Forsberg
Rabbi Larry Winer

Members Excused: Larry Shapiro

Staff Present: Kimberly Ferguson, DHHC
Jerrie Sheppard, Deputy Corporation Counsel

Others Present: Dania Katz
Dennis Hall
Michael Trento

III. PUBLIC TESTIMONY

A. Dennis Hall

Mr. Dennis Hall stated his name for the record. He told the board he was the owner of the dogs in question and stated that the dogs were "our dogs". Mr. Hall gave a brief account what happened on the day of the incident. He stated they were having a yard sale and the dogs got out of the house and ran past him while he was parking his truck. Mr. Hall said he immediately got into his truck to get the dogs and that he was 10-15 seconds behind his dogs. Mr. Hall also stated he broke up the dog fight. Mr. Hall then said he saw blood on the Katz's dog's mouth.

Mr. Hall commented that the Katz's son ambushed a boy staying at their house with a bb gun and they didn't do anything about that. Chair Vargas instructed Mr. Hall to

direct his testimony to the board. Mr. Hall stated he was in the process of moving to San Diego and told the board that they are feeding the dogs in containers to get them used to them.

B. Michael Trento

Mr. Michael Trento stated his name for the record. He advised that he was the homeowner and asked why they were not invited to the earlier meetings.

Deputy Corporation Counsel Sheppard explained that it was not a hearing, but a meeting of the Animal Control Board that will hear petitions from dog owners who have a dog that's been deemed dangerous and the owners appeal to see whether the deeming will be upheld by the board. She explained that what the Katz's had done was say "Hey, the dogs were not deemed [dangerous] and we don't have anyone to appeal to because the Maui Humane Society (MHS) is not hearing us" and that they wanted to be heard by this committee. Deputy Corporation Counsel Sheppard stated that the Katz's did not have a "hearing"; they testified about an item on the Board's Agenda dealing with MHS' failure to deem dogs dangerous. She then stated the board had asked MHS a number of questions and has obtained a report from MHS about the incident. Deputy Corporation Counsel Sheppard explained that if MHS deems any of Mr. Hall's dogs dangerous, the owner has the right to follow the Maui County Code and appeal the dangerous dog deeming to this body. She explained that when there is an appeal by the dog owner to review the dangerous dog designation, it is the owner's responsibility to bring any witnesses they want to attend and testify. Because the matter on previous agendas was not a "hearing" by a dog owner who was appealing their dog's "dangerous" deeming, there was no obligation for the Katz's to invite anyone to the Board's meeting.

Mr. Trento stated he voluntarily gave his insurance information to the Katz's lawyers and knows their dog was wrong. He also said it's a shame the Katz's dog had to be put to sleep as from what he read the vet said there was no vital organ damage. He also commented that the dog was attacked and it was older. Mr. Trento stated the dogs have reservations to move to San Diego for October 28th, and that he'll be moving sometime in November. Mr. Trento also commented that they don't use their front door anymore. Mr. Trento concluded his testimony saying he is very sorry to the Katzs' and that he doesn't know what more he can do.

C. Dania Katz

Mrs. Dania Katz stated her name for the record and read letter dated 10/1/15 from Joel Katz attached as Exhibit 1.

Mr. Hall commented that the observed first attack is a new precedent and asked about the deeming.

No one else was present to testify. Public testimony closed.

IV. APPROVAL OF MINUTES

- A. Deputy Corporation Counsel Sheppard recommended a number of revisions to the draft of the minutes of the September 3, 2015 meeting and they were noted by staff and members.

Chair Vargas entertained a motion to approve the minutes as amended. Motion moved by Vice Chair Forsberg, seconded by Member Winer. All were in favor of approving minutes as amended.

V. UNFINISHED BUSINESS

A. JOEL KATZ OBJECTING TO MAUI HUMANE SOCIETY'S NON-ENFORCEMENT OF DANGEROUS DOG DESIGNATION

Chair Vargas read the cover letter written by Jerleen Bryant of MHS (attached as Exhibit 2) and read the Determination on page six of the case review (attached as Exhibit 3).

Chair Vargas then gave a summary of the determination. He stated that MHS deemed Tank as a dangerous dog pursuant to MCC 6.04.046 and that MHS concluded there was not enough evidence to support deeming the other three dogs as dangerous dogs.

In addition to the exhibits mentioned above, the Board entered a document received from MHS entitled "Policy for Enforcement for Determination of Dangerous Dogs" into the record (attached as Exhibit 4).

Mr. Hall asked how he would go about obtaining a copy of the minutes and was advised it would be available on the County website after it is approved at the next meeting of November 5, 2015.

Mr. Hall advised the board that he would be filing an appeal and was informed by Chair Vargas to take care of that business with board staff following the meeting.

VI. NEW BUSINESS

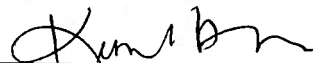
A. DISCUSSION ON SECTION 6.04.050 B3, MAUI COUNTY CODE, AT THE REQUEST OF MAUI HUMANE SOCIETY

At the request of MHS, new business deferred to next meeting. Motion to defer entertained by Chair Vargas, moved by Vice Chair Forsberg and seconded by Member Winer. Member Winer asked for a copy of the code and section to be provided to all members.

VII. ADJOURNMENT

Motion to adjourn entertained by Chair Vargas, moved by Vice Chair Forsberg, seconded by Member Winer. Meeting adjourned at 9:35 a.m.

Respectfully submitted:



Kimberly Ferguson
Secretary to the Animal Control Board

To The Animal Control Board. October 1, 2015,

I regret that I cannot attend today. I am a teacher and it is difficult for me to continue to miss my classes.

This animal control board has the authority to rule that all four dogs that were involved in the killing of our dog and the attack on me are dangerous.

This will require Dennis Hall and any future owners of these dogs to abide by the conditions of dangerous dog ownership. Thank you for your time and attention to my appeal of the Humane society's original ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel Katz", with a stylized flourish at the end.

Joel Katz

EXHIBIT 1



Maui Humane Society
P.O. Box 1047
Pu'unene, Hawaii 96784
P# 808.877.3680
F# 808.877.5033
www.mauihumane.org

Board of Directors

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Director of Humane Enforcement
Mark Wilson

Director of Finance
Doris MacFarlane

Director of Veterinary Services
Dr. Miyo Kim, DVM

Dear Board of Animal Control:

2015 SEP 23 PM 4:00

I write on behalf of Maui Humane Society ("MHS") to follow up from the meeting before the Board of Animal Control ("Board") and corporation counsel, Jerrie Shephard, that occurred on September 3, 2015 ("Meeting").

Pursuant to the Board's request at the Meeting, enclosed for the Board's review please find (1) a copy of MHS' Policy for Enforcement Officers regarding Determination of Dangerous Dog; and (2) the MHS' determination regarding the dogs in the Katz/Hall matter. Your comments regarding MHS' Policy are welcomed.

MHS will notify the owner of the dog of the designation of one of the dogs being deemed dangerous pursuant to Maui County Code § 6.04.046. MHS will employ the procedures set forth in § 6.04.046, and please note, impoundment is not one of the requirements during this procedure as discussed at the Meeting.

We anticipate that the provision of the requested materials prior to the deadline imposed by the Board obviates any need for MHS to attend the meeting that was scheduled on October 1, 2015.

If, however, MHS' decision is appealed by either the owner of the dangerous dogs or the Katz under Maui County Code § 6.04.095, it is requested that MHS receive a copy of the notice of the hearing provided to all parties involved in accordance with Hawaii Revised Statutes Chapter 91.

Sincerely,

Jerleen Bryant, CEO
Maui Humane Society

Enclosures: As noted

cc: Shannon S. Sheldon, Esq.

EXHIBIT 2

CASE REVIEW: 19061

RECEIVED

2015 SEP 23 PM 4:30

Introduction

On September 3, 2015 at 0900 hours, I attended a meeting¹ of the Maui County's Animal Control Board. The board was in the continuing process of hearing case 19061, State of Hawaii vs Hall.

Hall had been accused of allowing his four dogs to leave his property without restraint and attack another dog owned by the Katz.

According to County Council Jerrie Sheppard, Hall had entered a plea of No-Contest with the District Court.

Present were Joel and Dania Katz, Maui Humane Society's, CEO Bryant, myself and the Board. Neither Dennis Hall nor a representative for him was present.

At the conclusion of this meeting, the Board requested Maui Humane Society review and reevaluate the decision not to deem Dennis Hall's dogs. It was apparent the Board had information from MPD and the Katz which MHS was not provided. CEO Bryant asked for copies of all correspondence in order to fairly review the case.

I have read the minutes of the board meeting of August 11, 2015, including Exhibit 1, Joel Katz' statement dated August 9th, 2015, another statement marked Exhibit 2, Wit. Fergusson's statement (undated), both the original MPD report by Officer Sorcy and the supplement MPD report prepared by MPD Sgt. Nishida and all relevant reports prepared by Maui Humane Society, which included past reports and statements. I did name and address queries from 2000 to present on Dennis Hall, Mike Trento, Joel and Dania Katz, Bill and Debbie Sutherland, Robert Gault and Asher Fergusson. I checked every report listing a house on Hiahia Place.

Background Regarding Parties and Witnesses

Dennis Hall. He has two prior contacts with MHS.

08/24/2012. Neighbor reported three of his dogs loose in the neighbor's front yard. Officer responded on three different days and found the dogs restrained in the backyard.

05/05/2008. Neighbor reported two dogs loose in their yard. One dog is no longer with Hall and the other was a visiting dog and did not live on the property.

There were no other reports for Dennis Hall, Mike Trento or 1272 Hiahia Pl.

¹ It is unclear whether it was a meeting or hearing. To MHS' knowledge, Hall was not notified of the meeting/hearing. However, the meeting was recorded and County Counsel was present, as well as one of the parties, which appears to make it a hearing. MHS has inquired of the Board as to whether HRS Chapter 91 has been followed with respect to these meetings/hearings, including notification of Hall, but has not received a response as to date.

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Joel and Dania Katz.

Joel Katz has no prior calls to MHS

Dania has had six prior contacts with MHS including the address of 1320 Hiahia Pl.

10/2006, Dania Katz's cat was the victim of a dog attack from dogs on Lwr Beach Rd.

02/2008, Dania Katz reported a stray dog in the neighborhood.

10/2008, Dania Katz reported abandoned felines.

10/15/2008, Dania Katz' dog was the victim of a dog attack. She had her dog tied in the front yard and three dogs from Lower Beach Rd. attacked her dog.

03/19/2011, Dania Katz complained about a neighbor's barking dog.

09/10/2011, Dania Katz complained about the neighbor's dog crying.

Bill and Debbie Sutherland at 1285 Hiahia.

09/2005. Bill Sutherland is investigated for allowing his dog to be unrestrained, off property and killing a neighbor's cat.

09/07/2012, Debbie Sutherland reported her cat returning home and it had been shot.

Robert Gault.

01/2015, Robert Gault investigated for allowing his dog to be off property, unrestrained and an imminent threat to the public.

02/2015, Robert Gault investigated for allowing his dog to be off property and unrestrained.

Asher Fergusson. There is no record in MHS system for this person.

Statements of Witnesses

I reviewed all the statements.

Joel Katz heard the attack and witnessed the attack already in progress. J. Katz made his first statement to Off. Inano during the initial phone call on June 14th, 2015 at approx. 0834 hours. He made no mention of any injuries to himself. J. Katz made his next statement to Off. Green on June 14th, 2015 at 1150 hours. During this statement J. Katz reported injuries to his right index finger, swelling on his left

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wrist, scratches on his face and scrapes on his left leg. He attributed these injuries to his efforts to pull dogs off of his dog. Off. Green observed a band-aid on his right index finger and scratches on his left leg. The next statement was initiated by J. Katz having requested an acquaintance, Sgt. T. Nishida, write a third report on this incident. J. Katz contacted Sgt. Nishida and stated he was "attacked and bitten all over" as he tried to rescue his dog. Off. Sorcy's account of the incident made by J. Katz, indicated his injuries were sustained as he attempted to separate the dogs. In his statement to Sgt. Nishida, she observed lacerations and cuts. Nothing was stated about puncture wounds or bites. In his written statement submitted to the Board, J. Katz stated he had scratches on his face and neck, bite punctures on his left wrist and elbow. In the August 9th statement, he attributed the scratches on his knees and feet to falling.

The August 9th statement:

In this statement, he states he heard the neighbor's dogs in the back of a pick-up barking as they drove by his house. J. Katz never made this statement to Off. Green, Off. Sorcy, Sgt. Nishida, CEO Bryant or myself at any time. This statement is purely speculative since he did not see the vehicle or the dogs. The possibility of numerous vehicles on the street for an ongoing garage sale at the Hall's, there is no way of knowing this to be true.

J. Katz stated Gault made a statement to Sgt. Nishida. Gault is not listed as a witness and his statement is not in her report. Either this is not true or Sgt. Nishida deliberately excluded it from her report.

Hall, Gault and Fergusson never made statements they observed or felt Hall's dogs were attacking J. Katz. Each statement only indicated four dogs were attacking one dog.

J. Katz stated he was treated prior to meeting with Off. Green at 1150 hours, yet Off. Green's observations during this contact were a Band-Aid on his finger and scrapes and scratches on his left leg. If he had been treated, then this was the only first aid given.

Statements made by D. Katz.

Dania Katz made a statement to Sgt. Nishida; however she was not a witness to the attack. MHS received the first call at 0834 hours on Sunday, June 14, 2015, while the Katz' were at the veterinary office. MPD received the call at 0926 hours. Dania Katz statement to the board stated she called MHS three times and MHS didn't arrive until 2-3 in the afternoon. When MHS got the first call at 0840 hours, the Katz' were at the veterinary office. MHS made contact at the Katz' residence at 1150 hours. D. Katz statement to the Board said she didn't hear from MHS on Monday or Tuesday.

This is not true, not only did I (Director Wilson) take a statement from her over the phone the morning of Monday, June 15, 2015 at 1000 hours; I was able to use the information when I interviewed both Trento and Hall at MHS. D. Katz gave me the name of a witness (Gault) and Off. Green left a message for Gault Monday morning at 1033 hours by telephone and obtained a statement when he called back at 1050 hours.

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June 22, 2015 at 1002 hours, D. Katz contacted Off. Green in response to an email request from June 14th, and she stated her husband was handling the information from the attack. She stated he was currently in the hospital due to his injuries and he may be hard to contact. This was not true as stated by J. Katz on June 22, 2015 at 1114 hours when he called Off. Green. J. Katz stated he was not in the hospital nor has he been in the hospital.

Robert Gault:

Robert Gault was the only witness who observed the actual approach of the dogs and the attack. He gave a statement to Off. Green on June 15th, 2015 at 1050 hours. If he gave a statement to Sgt. Nishida, it was not included in her report.

Gault's residence is directly across the street from Katz'. They have a lanai which overlooks the street and several residences. Gault observed four dogs run from the direction of Halls' residence and immediately attack Katz' dog. Gault identified the main aggressor as the dog who was at the head of Katz' dog. This dog has been identified by Hall as Tank. Gault said he left his lanai to help as he could see Katz trying to pull the dogs off. Gault stated Hall arrived first and blocked his view and he didn't know how the dogs were separated. Gault states he saw a pick-up truck with the dogs in the back drive up and down the street prior to the attack. Gault did not see how the dogs got loose. Gault never made the statement the dogs attacked J. Katz. Based on Fergusson's statement, Gault didn't arrive until after Hall.

Asher Fergusson

Asher Fergusson made a statement to Sgt. Nishida on June 23rd. Fergusson never contacted MHS and was unknown as a witness until September 10, 2015. Sgt. Nishida doesn't state how Fergusson became known to her as a witness. Fergusson stated he saw the dogs in the back of a truck at 0730 hours while walking on Akake. Akake is approximately .2 miles from the Katz' residence. When Fergusson arrived at the location, the attack was already in progress and Katz and Hall were on scene and Gault came out of his residence after Hall arrived.

Dennis Hall:

Dennis Hall is the owner of the four dogs and he can only describe the events prior to the dogs leaving his property and what he observed upon arriving at the scene. Hall states the dogs were located in his residence and were let out by an unknown female. Trento corroborated this statement and neither MHS nor MPD could prove this to be false. Hall did identify Tank as the dog who was the primary aggressor and would not release upon command. Hall stated the other three dogs obeyed his commands as he broke up the attack.

It should be noted if MHS would have had Fergusson's information; a timeline could have been established an attempt to disprove the events leading to the dogs escape and based on current criteria, one or more of Halls dogs may have been deemed dangerous at the time of the incident.

Mike Trento only witnessed the events which led to the dogs leaving the property and not the attack.

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Sgt Nishida.

According to Sgt. Nishida's report, she decided to re-investigate this incident after the Katz' made contact with her. Sgt. Nishida's report doesn't have a statement from Hall, Trento or Gault. If one was taken, she either failed to include it or chose not to include it. Her report indicates she contacted the Katz' June 16, 2014. We know this to be incorrect. She also stated Fergusson witnessed this incident on June 14th, 2014 at 0830 hours. The only thing correct in this entry is it did occur June 14th.

Sgt. Nishida did not make a determination of responsibility; she actually referred to MHS's recommendations. Sgt. Nishida did not determine if Hall's dogs were a danger to public safety. Sgt. Nishida has the authority to make such determinations and it is apparent by her lack recommendations, she did not feel the dogs are a threat to public safety.

Chronological Order Of The Events As Stated By Statements

Hall lives at 1272 Hiahia, Wailuku, HI, Ocean View Estates. Hall lives at the end of the cul de sac. Katz lives in the same neighborhood at 1320 Hiahia. Their houses are approx. .1 mile from each other or approx. 7 residential lots. Gault lives at the N/W corner of Iwaena and Hiahia. Between 0730 hours and 0745 hours, Hall's four dogs escaped from his residence and ran a tenth of a mile to the Katz' house and attacked their dog, which was tied in their front yard.

Gault observed the dogs running and attack Katz' dog. Hall had entered his truck and gave chase. Katz heard the attack and ran into his yard in an attempt to break up the fight and save his dog. Katz stated three of the dogs would break off the attack when he punched them. Hall arrived within seconds of the start of the attack and was able to restrain three of the dogs. The dog identified as Tank would not release under normal force or commands. Hall had to cause Tank physical pain in order for tank to release the ear and head of Katz' dog.

Applicable Law for Determination of Probable Cause

6.04.046 - Dog regulations—dangerous dogs.

A. Dangerous dog designation.

1. An enforcement or animal control officer may designate a dog as dangerous if the officer has probable cause to believe that the dog has committed any of the following:

a. While on or off the owner's property, attack a person, causing bodily injury to the person;

b. While off the owner's property, attack a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service, causing serious bodily injury or death to the animal;

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c. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of bodily injury to one or more persons;

d. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of serious bodily injury or death to a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service.

2. A dog's breed shall not be considered when making the determination of whether a dog is dangerous.

3. Mere growling or barking or a combination of both shall not constitute grounds upon which to designate a dog dangerous.

"Attack" means: Aggressive physical contact initiated by a dog, which includes but is not limited to, pouncing, biting or scratching. If injury to a person results while breaking up a dog fight, it is not necessarily considered an attack.

"Imminent Threat" means: Fast approaching threat; a threat that is likely to occur at any moment

"Aggressive" means: Ready or likely to attack or confront; hostile

"Probable cause" means: Such a state of facts as would lead a person of ordinary caution or prudence to believe and conscientiously entertain a strong suspicion of the guilt of the accused

Determination

The following determinations are made:

1. The incident was off owners' property.
2. The victims were (a) Joel Katz, a person; and (b) a pet as defined by MCC § 6.04.046.
3. An "attack" occurred against the Katz' pet dog. There is sufficient evidence to conclude that the dog causing the severe injury and eventual death to the Katz' dog was Tank.
4. Joel Katz sustained an injury. There is insufficient evidence to make the determination of which dog caused the injury to Katz, as there is no strong suspicion based on witnesses' accounts as to which dog caused the injury.
5. There is not probable cause to conclude that an "attack" was made against Joel Katz by any dog, as he was breaking up a dog fight. Injury appears to be a consequence of breaking up the dog fight and not by physical contact initiated by a dog against Katz.
6. There is not probable cause to conclude that the other three dogs present an imminent threat (fast approaching threat) to other animals or persons, in light of the prior history of the animals which entirely lacks in any former aggressive behavior towards animals or persons, and that it is inconclusive which of the three dogs, if any, caused any harm to Katz or Katz' dog.

It therefore concluded, Tank is deemed a dangerous dog pursuant to MCC § 6.04.046.

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Prepared and Submitted By:

Mark Wilson, Director
Humane Enforcement
Maui Humane Society

Date: 9-25-15

Reviewed and Approved By:

Jerleen Bryan, CEO
Maui Humane Society

Date: 9/25/15

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2015 SEP 23 PM 4 00



POLICY FOR ENFORCEMENT OFFICERS FOR DETERMINATION OF DANGEROUS DOG

Introduction

Enforcement officers (“Officers”) of Maui Humane Society (“MHS”) have the responsibility of making the determination of whether a dog is “dangerous” pursuant to Maui County Code (“MCC”) § 6.04.046. This Policy for Enforcement Officers for Determination of Dangerous Dog sets forth the applicable law under the MCC, which is attached and incorporated herein as Appendix 1 to this Policy. This Policy further provides certain criteria for the Officers to assist in their determination. In reviewing the criteria, the definitions identified in Appendix B to this Policy shall be used.

This Policy supersedes any oral or written policy or procedure previously issued on this subject.

Procedures for Determination of “Dangerous Dog”

1. Officers shall follow the applicable legal standard, which is an “officer may designate a dog as dangerous if the officer has probable cause to believe that the dog has committed . . .” See Appendix 1 for MCC § 6.04.046. “Probable cause” means “such a state of facts as would lead a person of ordinary caution or prudence to believe and conscientiously entertain a strong suspicion of the guilt of the accused.”

2. In making a determination of whether a dog is “dangerous”, officers must consider the following factors and employ the definitions in Appendix 2:
 - a. Whether the victim was an animal or person;
 - i. If the victim was an animal, whether the animal had serious bodily injury or death;
 1. If the victim was an animal, what type of animal was injured;
 - ii. If the victim was a person, whether there was any injury;
 - b. Whether the incident occur on the dog owner’s property of off property;
 - i. If the incident occurred on the owner’s property, then the victim need be a person to be determined dangerous
 - c. Whether an attack occurred; and
 - d. If no attack occurred, whether the dog poses an imminent threat of bodily injury to persons, or if the dog poses an imminent threat of serious bodily injury or death to an animal.

3. In making a determination, an Officer should interview any witnesses and the owner of the dog.

4. In determining whether an attack occurred, the Officer should consider whether the incident occurred during a dog fight and whether provocation to the dog occurred.

5. In determining whether the dog poses an imminent threat of bodily injury or death, the Determination Factors identified in Appendix 3 should be considered.

6. If an officer cannot identify the animal responsible, then the inability to identify the responsible animal must be contained in the report.

7. If an officer deems a dog as “dangerous”, then review of the report proceeds to the Director of Enforcement and CEO for final determination.

APPENDIX 1

MAUI COUNTY ORDINANCE

6.04.046 - Dog regulations—dangerous dogs.

A. Dangerous dog designation.

1. An enforcement or animal control officer may designate a dog as dangerous if the officer has probable cause to believe that the dog has committed any of the following:

a. While on or off the owner's property, attack a person, causing bodily injury to the person;

b. While off the owner's property, attack a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service, causing serious bodily injury or death to the animal;

c. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of bodily injury to one or more persons;

d. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of serious bodily injury or death to a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service.

2. A dog's breed shall not be considered when making the determination of whether a dog is dangerous.

3. Mere growling or barking or a combination of both shall not constitute grounds upon which to designate a dog dangerous.

APPENDIX 2

DEFINITIONS

The below definitions use definitions identified in MCC § 6.04.046 and Hawaii case law.

Definitions	
Probable Cause	Such a state of facts as would lead a person of ordinary caution or prudence to believe and conscientiously entertain a strong suspicion of the guilt of the accused
Attack	Aggressive physical contact initiated by a dog, which includes but is not limited to, pouncing, biting or scratching. If injury to a person results while breaking up a dog fight, it is not necessarily considered an attack.
Equine	Horses, ponies, mules, donkeys, assess, burros and zebras
Owner's property	Property owned, leased or rented by owner of the dog
Pet	Dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds not bred for consumption
Imminent threat	Fast approaching threat; a threat that is likely to occur at any moment
Serious bodily injury	Bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
Aggressive	Ready or likely to attack or confront; hostile

APPENDIX 3
DETERMINATION FACTORS

To determine whether the dog poses an imminent threat of bodily injury or death, these factors should be considered:

Prior History

- Restrained bites
- Unrestrained bites
- Leash law complaints and citations
- Immiment threat complaints and citations
- Human and animal attack citations

Confinement Measures

- Secure kennel or fence/wall with gates
- Restraints used

Owner Accountability

- Owner repaired deficient restraint
- Animal neutered/spayed
- Owner is aware of aggression
- Dog is currently licensed
- Owner's ability to cure the problem

Dog Behavior