

**ANIMAL CONTROL BOARD
COUNTY OF MAUI**

JANUARY 18, 2018
9:00 A.M.

Dept. of Finance Conference Room
(Located on the lobby level of the County Building)
200 South High Street
Wailuku, Hawaii 96793

MINUTES

The meeting was called to order at 9:07 a.m. by Vice Chair Balcomb. The following members and staff were present:

Members Present:	Aimee Anderson Dr. Christie Balcomb Patrick Borge
Members Excused:	Anthony Vargas, Jr. Rabbi Larry Winer
Staff Present:	Jerrie Sheppard, Deputy Corporation Counsel (DCC) Kimberly Ferguson, DHHC, Board support staff
Others Present:	Julia Chambers, Maui Humane Society (MHS) Debbie Redd, MHS Mark Aguirre

I. PUBLIC TESTIMONY

There was no one present for public testimony. Public testimony was closed by Vice Chair Balcomb with no objections.

II. APPROVAL OF MINUTES

Approval of the minutes of the January 4, 2018 board meeting was deferred to allow more time for preparation and review. All members present were in favor of deferring the approval of 1/4/18 minutes to the next meeting on March 1, 2018. Matter deferred with no objections.

III. APPROVAL OF FINDINGS OF FACTS/CONCLUSIONS OF LAW

Approval and adoption of the Findings of Facts and Conclusions of Law pertaining to the Penni Egger appeal was deferred to allow more time for preparation and review. All members present were in favor of deferring the approval and adoption of the Findings of

Facts and Conclusions of Law pertaining to the Penni Egger appeal to the next meeting on March 1, 2018. Matter deferred with no objections.

IV. ANNOUNCEMENT OF NEXT MEETING DATE AND AGENDA ITEMS

Next meeting was set for Thursday, March 1, 2018 at 9:00 a.m.

V. RECESS FOR HEARING

Vice Chair Balcomb entertained a motion to recess the board meeting for the hearing. Motion moved by Member Anderson, seconded by Member Borge. All were in favor, motion carried. Meeting recessed at 9:10 a.m.

VI. HEARING

(Record of hearing attached)

VII. MEETING RECONVENED TO ANNOUNCE RESULTS OF HEARING

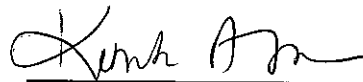
Meeting was reconvened to announce results of hearing at 10:01 a.m. Board members, staff MHS and appellant Aguirre were present.

The board's determination on the disposition of King Kong was to relinquish custody back to Mr. Aguirre.

VIII. HEARING ADJOURNMENT

Meeting was adjourned by Vice Chair Balcomb at 10:09 a.m.

Respectfully submitted:



Kimberly Ferguson
Secretary to the Animal Control Board

**ANIMAL CONTROL BOARD
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JANUARY 18, 2018
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MARK AGUIRRE DISPOSITION HEARING

Members Present:	Dr. Christie Balcomb, Vice Chair, Presiding Patrick Borge Aimee Anderson
Members Excused:	Anthony Vargas, Jr. Rabbi Larry Winer
Staff Present:	Jerrie Sheppard, Deputy Corporation Counsel Kimberly Ferguson, Board staff-DHHC
Parties Present:	Julia Chambers, Maui Humane Society (MHS) Debbie Redd, MHS Mark Aguirre, Appellant

Procedural summary:

The hearing for the disposition of impounded dangerous dog King Kong, requested by owner Mark Aguirre, was convened on January 18, 2018 at 9:10 a.m., following the board's business meeting this date. Board members and staff, along with MHS personnel Julia Chambers, Humane Enforcement Officer, and Debbie Redd, Humane Enforcement Supervisor, were present. Appellant Mark Anthony Aguirre was also present.

Vice Chair Balcomb asked Deputy Corporation Counsel (DCC) Sheppard to outline how the proceeding would progress. DCC Sheppard stated the hearing was convening under Maui County Code (MCC), Section 6.04.050 relating to impoundment. The purpose of the hearing was for the board to determine whether or not the dog, King Kong, who is designated a dangerous dog per MCC 6.04.046.A.1.a, was or was not restricted in movement as required by the Conditions of Ownership of a Dangerous Dog, MCC 6.04.046.C.; whether or not King Kong was seized and impounded by MHS, and the facts and circumstances surrounding that seizure and impoundment. It appeared that the owner had been issued a notice to appear before the board because Mr. Aguirre was present. In summary, the hearing is an ownership determination based on the impoundment of the dog under MCC Section 6.04.050.

DCC Sheppard explained the Board will hear evidence from both parties. Each party is subject to questioning by the Board members, and each party may cross-examine witnesses presented

by the opposing party. The Board would then deliberate in private, and would reconvene the Animal Control Board meeting to announce its decision.

The following is a summarized, not verbatim, record of the proceedings.

MHS Case:

Vice Chair Balcomb: Maui Humane Society, would you like to present your testimony for this case?

Officer Chambers: Good morning everybody. On September 15th, 2017, Mr. Aguirre's two dogs, King Kong and Jacob, were deemed dangerous dogs by Humane Enforcement Director Mark Wilson. On January 3rd, 2018, MHS received a report of a dog-to-dog attack taking place at 26 Hoouli Place, Kahului, Maui, Hawaii, where Mark Aguirre currently lives. I met with Mr. Aguirre and asked him to explain what happened. Mr. Aguirre stated that as he was placing items in the back of his truck, parked at his home, he left his backyard gate open. His two boxers, dangerous dog King Kong and his other dog Lila, got out and were in the front yard. The two dogs heard the neighbor's Pomeranian mixed-breed dog barking while on a walk with its owner. King Kong and Lila charged and attacked the Pomeranian. Mr. Aguirre stated that Lila was leashed. The victim dog was brought to At Home Animal Hospital. The dog suffered two minor puncture wounds on the abdomen. This was later confirmed when I followed up with At Home Vet. They confirmed the victim dog did receive medical attention the day the incident occurred.

The victim dog owner, Hiroko Kawachi, was unable to identify which of Mr. Aguirre's two boxers bit her Pomeranian because they were identical boxers, or so similar that she could not say which dog actually did the biting. I issued a citation for being Lila being at large, and I impounded the dog King Kong for non-compliance with the dangerous dog regulations. Through my investigation of this case, I found that Mr. Aguirre was in violation of the dangerous dog regulations. King Kong currently is not micro-chipped and is not neutered, which was required within 30 days of his designation as a dangerous dog which this Board imposed on 11/2/2017. Mr. Aguirre violated the confinement restrictions which require dangerous dogs be confined indoors, which is where Mark explained to me that he was confining his dog but it got out. Also, when the dog was outside of the confinement, it was not wearing a muzzle.

Officer Redd: I have a timeline that summarizes it so it's a little easier to follow. I thought I printed out 8 but I didn't. I'll give Mr. Aguirre one copy, and ask that you folks share.

DCC Sheppard: You want to number that as Exhibit 1? Would the board like accept Exhibit 1 into evidence?

Officer Redd: There is a typo on there. Officer Chamber's name is missing an "h".

Vice Chair Balcomb: Okay, accepting Exhibit 1 for the record. Do you want to go through it?

Officer Redd: I'll read it.

Officer Redd read Exhibit 1 (attached) out loud to the board.

DCC Sheppard: So where are the dogs now?

Officer Redd: King Kong is currently at the MHS. I brought a list of the boarding and impoundment fees.

DCC Sheppard: He's been there since January 3rd?

Officer Redd: He has been there since January 3rd.

DCC Sheppard: What about Lila?

Officer Redd: Lila was not impounded as a dangerous dog; she was left with her owner. Jacob was not impounded because we did not find evidence of him violating the dangerous dog non-compliance code at that time.

DCC Sheppard: Jacob wasn't out?

Officer Redd: He was not out, according to Mark Aguirre.

DCC Sheppard: So there's just two dogs involved in the attack?

Officer Redd: Two dogs.

DCC Sheppard: And the Pomeranian was where at the time of the attack?

Officer Chambers: The Pomeranian was out on a walk outside the property of house number 30 on Houui Place, Kahului, which is right next door to Mr. Aguirre's house.

Officer Redd: The Pomeranian was on its owner's property; she was restrained on her owner's property. Officer Chambers has a diagram depicting the neighboring houses.

DCC Sheppard: She was being walked on a leash on her own property?

Officer Chambers: Well she was just getting ready to go on her way for a walk.

DCC Sheppard: Okay, so she was just about to start out on a walk? What's the owner's name of the Pomeranian?

Officer Chambers: The owner's name is Hiroko Kawachi.

(Officer Chambers was asked by DCC Sheppard to spell out the owner's name which she did.)

DCC Sheppard: Ok, what's her address?

Officer Chambers: Her address is 30 Houui Place, Kahului.

DCC Sheppard: And what is Mr. Aguirre's address?

Officer Chambers: It is 26 Houui Place, Kahului

DCC Sheppard: Are they directly adjacent to one another or are there intervening houses between them?

Officer Chambers: If you look on the picture right here it'll show you where they are.

Vice Chair Balcomb: Would you like to enter that as an exhibit, Exhibit 2. Okay.

Officer Chambers: I have placed marks "x1" and "x2" on Exhibit 2 to identify who lives at what house.

DCC Sheppard: For the record, they're at the end of a cul-de-sac and they are adjacent properties. Is that correct?

Officer Redd: This is her investigation, I've not been involved with the attack.

DCC Sheppard: Have you had indication about whether or not the owner, Mr. Aguirre, desires to redeem his dog or relinquish ownership?

Officer Chambers: He does in fact want to redeem his dog.

DCC Sheppard: I have no further questions.

Member Anderson: I have a question. What's the status of the criminal case in regards to the dangerous dog non-compliance on King Kong? I know you impounded him under the non-compliance. Has this case gone to the prosecutor's to be prosecuted for criminal non-compliance?

Officer Chambers: Not to my knowledge.

Officer Redd: She actually issued a citation when she impounded the dog for non-compliance of the restraint.

Member Anderson: For King Kong?

Officer Redd: Yeah, for King Kong.

Member Anderson: So you issued non-restraint for Lila and you issued a dangerous dog non-compliance for King Kong. Is that correct?

Officer Chambers: No. Actually on the citation I made a mistake. When I issued the citation, I was instructed to put down non-compliance on there; however, I did not. I failed to do so on the citation I issued to him at the time.

Member Anderson: Do you have a copy of that citation?

Officer Chambers: I don't believe I have a copy. I can check; however, I did issue him the appeal form for impounding his dogs.

DCC Sheppard: We should probably mark that notice as an exhibit.

Mr. Aguirre: She has "dog at large".

Officer Chambers: I have "dog at large" for Lila.

Mr. Aguirre: I have it right here.

Member Anderson: No, I understand that sir, thank you. Because technically when a dog is in violation of the dangerous dog law that's actually a jailable offense. So that's why I'm wondering what the status of this citation is. Is MHS pursuing a criminal case against Mr. Aguirre for the dangerous dog non-compliance is my question?

Officer Redd: I'm sorry if I was given the wrong information. I understood that she actually did issue for non-compliance. So you did not issue for non-compliance, did you put the code for non-compliance?

Officer Chambers: On the citation? I'd have to review it. However, when I originally issued it to him, it did not have non-compliance on it.

DCC Sheppard: So what was it issued for?

Officer Chambers: It was issued for the dog being at large, Lila and that was on there.

Officer Redd: What about King Kong?

Officer Chambers: King Kong wasn't on there however I was initially told that because we were able to prove by an eye witness that the dog was at large, that I had the evidence to impound the dog under witness of the dog being at large in violation of the dangerous dog.

DCC Sheppard: So was only one citation issued?

Officer Chambers: Yes.

Member Anderson: That was my question. So you did not cite him for dangerous dog non-compliance?

Officer Chambers: No, that was not on the citation.

DCC Sheppard: It was only for the other dog Lila?

Officer Chambers: Yes.

Member Anderson: Well you'd have two separate citations.

Officer Redd: Our citations now, you can put two on one. We are pursuing the non-compliance for the spay/neuter for both dogs.

Member Anderson: Okay. Where is the Humane Society at in regards to the non-compliance for the restrictive movement?

Officer Redd: We will issue another citation. If charges were not issued initially, they will be. The spay/neuter non-compliance citation is actually going to be issued today.

Member Anderson: What about the micro-chipping?

Officer Redd: Both of them, for both dogs actually. For Jacob and King Kong, in fact, I think we, did we issue it already?

Mr. Aguirre: Yeah, you were doing it now.

Officer Redd: Okay, we did that this morning because I was unaware that King Kong wasn't even neutered yet.

Member Anderson: So you folks need to sit down with Mr. Aguirre and let him know what those dangerous dog violations will potentially entail.

Officer Redd: Okay.

Member Anderson: Obviously as you know, it's much more serious.

Officer Redd: Yeah.

Member Anderson: Well they're all jailable. Okay, thank you.

DCC Sheppard: So was King Kong issued an at large citation but not a dangerous dog at large non-compliance?

Officer Chambers: I would have to look at the copy of the citation again to tell you exactly what was on there because I did do at large for Lila. Mr. Aguirre, can I please see the citation I issued to you?

Mr. Aguirre: Sure.

Officer Chambers: I did do an at large for Lila.

Officer Redd: This is the one for the January 3rd and it is only for dog at large.

DCC Sheppard: Which dog?

Mr. Aguirre: This is the one, at large, right here.

Officer Chambers: For Lila.

DCC Sheppard: So there's no citation about King Kong at all?

Officer Chambers: No.

Officer Redd: Except for the one that was issued today.

DCC Sheppard: Okay, so no citation has been issued for the January 3rd incident for King Kong?

Officer Redd: Right.

Mr. Aguirre: Here's the one you were looking for. "Dog at large".

DCC Sheppard: Okay, this is the notice to appear. Did you bring a copy of this for the board?

Officer Chambers: No, I did not.

DCC Sheppard: Would you have any objections if we made copies of this for the board?

Mr. Aguirre: No.

The Board recessed to allow for document duplication at 9:28 a.m. and reconvened at 9:35 a.m.

Vice Chair Balcomb: We are reconvening for Mr. Aguirre's hearing. For the record, we have some items to add to the exhibits. Exhibit 2 is the map showing the cul-de-sac and addresses of Mr. Aguirre and the victim. Exhibit 3 will be the dangerous dog impoundment notice and Exhibit 4 will be the animal restitution request from MHS.

DCC Sheppard: At this time, are there any other questions for MHS?

Vice Chair Balcomb: I have a question. When we deem a dog dangerous and they are charged and they have this situation, how is the Humane Society involved in showing that the owners have complied with the conditions?

Officer Redd: We normally will follow up to a certain point and issue citations if they are found in violation. After that, MHS responds if something comes up, such as, if we get another report or incident where we know or see that there's a violation, then we'll issue citations and charge accordingly.

Vice Chair Balcomb: So the things that are required by 30 days, there's no check to see if they've done this and this?

Officer Redd: Normally, when a dog has been deemed dangerous, there is a timeline of the 30 days. Because you cannot 'take back' a surgical procedure, such as spay/neuter, or a microchip, MHS waits and if somebody requests a hearing, we extend that 30 days to commence when the determination is either upheld or rescinded by the Board. Then we start from there with the 30 days, or whatever period is determined by the board.

Member Anderson: Mr. Aguirre's 30-day compliance date for both dogs, Jacob and King Kong, would have been December 2nd, 2017.

Officer Redd: Yes, by January 3rd, it was way overdue.

Member Anderson: Okay. Do we have proof that he has muzzles and the appropriate leashes? Has there been any confirmation of any of this?

Officer Redd: I can't answer that. I wasn't the original officer that designated the dog. I do believe that Officer Chambers has found that he's been in compliance with the signage.

Member Anderson: Then to confirm with you folks, I know there's a form that you usually have that is initialed when compliance is proved for the various requirements and I don't see one.

Officer Redd: I don't think in this case one was ever made up. I can look.

Member Anderson: Well, we don't have one in our possession here, I see that. So we don't have any hard-fact confirmation of compliance with those things that were required immediately or within that 30 day period. We know now that the neutering and micro-chipping has not happened but we have no confirmation that he has appropriate muzzles or leashes that are required by the code.

DCC Sheppard: Or the insurance.

Officer Chambers: The insurance is on his property. When I arrived at his house on January 3, 2018, I did first do a checklist of the certain things that he had. He did in fact have Beware of Dogs signs posted around the property. He did in fact confirm he had the \$50,000 insurance because he is the owner of the property.

Member Anderson: How did he confirm that?

Officer Chambers: He verbally told me.

Member Anderson: So you didn't require a copy of the declaration page of his policy?

Officer Chambers: I did not see one, no.

Member Anderson: That's confirmation. A verbal is not confirmation.

Officer Chambers: Okay.

Officer Redd: Honestly, if I can get back to this case and matter. We all agree he's in non-compliance with the dangerous dog and charges are going to be brought against him for the additional violations that have come to light right now. But right now, I think the purpose of this hearing is to determine the disposition of the dog.

DCC Sheppard: The ownership.

Officer Redd: The ownership, yes.

DCC Sheppard: Okay. Any other questions for the Humane Society? (none)

Appellant Mark Aguirre's Case:

Mr. Mark Aguirre was given the opportunity to make a statement and testified as follows:

Mr. Aguirre: My dogs were in violation of restraint because the side gate, it closes and latches. It closes by itself. So what happened was I forgot to latch it. It looked locked but it wasn't. I saw Lila go out and then I saw King Kong go out and they were running around the yard. So I was going to go and open the door to my truck so they would think they were going out for a walk, as soon as I got their leashes and everything, but that's when the neighbor's dog started barking and barking and barking. My dogs were running around my yard, but Hiro's dog, Toa, kept barking and barking and my dogs ran over there. When I got there I saw King Kong, I guess that was the ending part already. I was like right here, does anybody want to see? This is Andy's house. (Referring to Exhibit 2)

Officer Redd: You were right in front of the victim dog owner's house? In the driveway?

Mr. Aguirre: No not in the driveway. Right here's the grass, the driveway's right here. Right here is where I walked, ran actually, and I got on my knees and dove to over there and they were apart. Andy was here, but yeah. So what happened was King Kong slipped out because I didn't lock the gate. It's as simple as that and I wouldn't be here if it was locked. The violations from before, I've been working on that. I still got to go to court. The court, they keep on

postponing it; they say 'come back another day', then 'another day'. So I'm on the third or fourth time I have to go to court. I got arrested one time because I missed a date, I thought it was on a Monday when it was on Thursday. In my mind I thought the date was Monday, I prepared for it on Monday or Tuesday or whatever it was, and they said you missed your court date. But that's what happened. So I'm trying to comply. I visit my dog, King Kong, every day, except Sundays and holidays. He's lost a lot of weight but hopefully I'll get him back. It was just a terrible accident, even Andy and Hiro don't want nothing to happen to the dog. Andy left a message here if you want to hear it.

DCC Sheppard: That's up to you.

Mr. Aguirre: No, it's in the truck I think. But yeah, I have a message where he doesn't want anything to happen to the dog or anything. Just yesterday he gave me the bill for his vet, it was like \$600 so I gave him a check yesterday. But they don't desire nothing to happen to the dog. He knows what it is to have animals. He had cats and now he has the dog.

DCC Sheppard: Can you describe again what did you do when you ran over to see what was going on? Cause I only got "I got on my knees and".

Mr. Aguirre: Yeah, well so I jumped towards where I seen them close together. It almost looked like King Kong had Toa. I didn't see the fight like I seen the other one. But this one, it looked like he got the hair or something cause when I went there and jumped in, it was already done. I initially didn't see no teeth or anything like that, no.

Vice Chair Balcomb: Mr. Aguirre, can you confirm which dog that was?

Mr. Aguirre: That was King Kong. Like I mentioned to Ms. Chambers, I want to do everything possible in the right way to get this matter over with. I mean it's been hard but I don't know what to say. I still feel that these dogs are not really, I mean you guys deemed them already but if given a chance later, can I bring them back and show you that they are dogs that are ok, cause on the leash they will listen, but when they're free that's a whole other story.

Member Anderson: I have a question Mr. Aguirre. Prior to your dogs getting out of your fenced yard, they were within your backyard, yes?

Mr. Aguirre: Yes.

Member Anderson: They were within your backyard, yes?

Mr. Aguirre: Yes.

Member Anderson: And your backyard is fenced?

Mr. Aguirre: Yes and walled up, concrete wall.

Member Anderson: But there's no top on it, obviously.

Mr. Aguirre: No.

Member Anderson: Okay. So are you aware that when your dogs are in that backyard like that, they're not muzzled and on a leash that you're already in violation of the dangerous dog non-compliance law?

Mr. Aguirre: I didn't know until Ms. Chambers said that I need another kennel within my gate.

Member Anderson: Did the Maui Humane Society not go over those rules and regulations with you and have you initial that you understood them?

Mr. Aguirre: They might have because I have a lot. I think so. They did.

Officer Redd: Director Wilson actually did go over the law and he issued the dangerous dog notice which actually has the terms written on there.

Member Anderson: We have a copy of those.

DCC Sheppard: Well they were also read during the dangerous dog hearing I believe on November 2nd, 2017, they were reviewed here on the record and we do have a copy initialed that said you were present and did get a copy of those.

Mr. Aguirre: Yes.

Vice Chair Balcomb: Any other testimony?

Mr. Aguirre: They got out and there's nothing more. I have signs on my front door, another gate, before we open the door so that's kind of more secure too.

Member Anderson: Mr. Aguirre, do you have muzzles for your dogs currently?

Mr. Aguirre: Muzzles, I have only one. I ordered the other one. They're being ordered, the large one, you have to get a certain kind, the plastic, rubber one.

Member Anderson: Well you've had some time to do that.

Mr. Aguirre: Yeah, well I'm still waiting for it.

Member Anderson: Okay and as far as the leashes, when you walk your dog, what kind of leashes are you walking them on and how long are they?

Mr. Aguirre: Um, they're close to but not even 6 feet each because I walk them together.

Member Borge: On the day of that incident when your dogs got out, you were going to take them to your truck?

Mr. Aguirre: Ah huh.

Member Borge: With no leash, you were going to throw them inside?

Mr. Aguirre: No, I gotta go get the stuff. I wanted to get them inside the truck, then I gotta go get their choke chain. That's what I use now, choke collar.

Member Borge: The vet bill you said was \$600?

Mr. Aguirre: Yeah.

Member Borge: So what kind of damage, do you know what the injuries were?

Mr. Aguirre: He said it was puncture.

Member Borge: Just two puncture wounds?

Mr. Aguirre: Yeah. He came with the receipt and everything but I didn't really read what it was. According to her, she said two puncture wounds and I just gave them what it was.

Officer Redd: So the other dog that was deemed dangerous, was he being kept in the house at this time?

Mr. Aguirre: Oh yes. They're always in the house.

Officer Redd: On a daily basis, King Kong and Jacob were restrained in your house?

Mr. Aguirre: Yeah.

Officer Redd: Did you have any screens, doors or windows opened in your house?

Mr. Aguirre: No I have them closed because I have a/c.

Officer Redd: Are you aware that you can't walk the dogs, the two that are dangerous, on leashes that are 6 foot in length and you have to have a muzzle on each dog?

Mr. Aguirre: Yes. The muzzle I know but the six foot, I don't leave them at six foot, they're right next to me.

Officer Redd: You're supposed to have a special leash, with a tensile of 300 pounds and the leash can't be more than 6 feet.

Mr. Aguirre: Yeah, is there...

Officer Redd: Apparently we need to go over those laws with you again and these are other charges that are going to be added on to the current charges, non-compliance to the spay/neuter and the micro-chipping and we are going to require proof of your liability insurance. We need a copy of that and I believe that needs to be sent to the Animal Control Board.

DCC Sheppard: No, you enforce that.

Member Anderson: It just needs to be the declaration page that shows the limit of liability.

Mr. Aguirre: Yeah.

Officer Redd: So are you asking to get the ownership of King Kong back?

Mr. Aguirre: Yes.

Officer Redd: Are you willing to get him neutered?

Member Anderson: Yes.

Officer Wilson: Are you willing to get him micro-chipped and pay the restitution owed to the MHS?

Mr. Aguirre: Whatever it takes, yes.

Member Borge: Mr. Aguirre, you know the last time when you came here with the last incident. Do you realize why we voted to make your dogs a dangerous dog? Do you understand why that happened?

Mr. Aguirre: Uh huh.

Member Borge: Do you really understand? That was not a little dog that was involved; it was a person. That's my concern, to make sure you understand why we are here today.

Mr. Aguirre: Ah.

Member Borge: I love dogs too but I want you to get it. You know what I'm saying, right?

Mr. Aguirre: Yeah, it's not like I don't care.

Member Borge: But I'm saying, do you understand?

Mr. Aguirre: Yes, I understand.

Member Borge: Okay, thank you.

Officer Redd: I have one last request or question for Mr. Aguirre.

Mr. Aguirre: Yes.

Officer Redd: Are you willing to purchase a kennel that the Humane Society can inspect that has sides, top and bottom and keep the dogs in that kennel when they're outside -- the dogs that are dangerous, Jacob and King Kong.

Mr. Aguirre: Sure.

Officer Redd: Are you able to financially do that?

Mr. Aguirre: We'll see. Whatever it takes after all these bills add up, but yeah. I can say it's adding up quickly.

Member Anderson: Mr. Aguirre, may I? I just, I know this is a lot of people coming at you but there's a couple of things, if I can say. One, you made a comment earlier that you still don't believe your dogs are dangerous and that's concerning because if you don't understand that concept, your chances of non-compliance are obviously 100 percent. Okay, and that's why we're here. Number two, I think you need to understand that these are criminal charges that you are going to have to go to court for. The court has the authority to order your dogs destroyed. Okay, so there is no second chance on that if the court deems that to be the case. So for your dog's sake, and clearly you love them, you need to take this seriously and you need to comply completely or your dogs are going to be killed. I can't say that any more clearly, that is the point this is at.

Mr. Aguirre: Right, right, I understand and I will. It's not that I haven't, I do take it seriously.

Vice Chair Balcomb: Either side have anything more?

Officer Redd: No further questions from the Humane Society.

DCC Sheppard: Mr. Aguirre, have you said everything that you want the board to hear, or consider? Have you presented everything that you want them to know?

Mr. Aguirre: No, I just want to, I guess pay more attention and get it done and take care of everything. I'll do what I have to do to do the right thing.

DCC Sheppard: Okay, so basically this hearing is to determine whether you or not you want to relinquish ownership, forfeit ownership, or retain ownership; and your information shows that you want to retain ownership.

Mr. Aguirre: Right.

DCC Sheppard: So the board will close to determine if that is what they are going to conclude.

Mr. Aguirre: Sure.

Vice Chair Balcomb: So we will now close for deliberations. The time is now 9:52 a.m.

RECESS FOR DELIBERATIONS

Vice Chair Balcomb entered a motion to enter into deliberations. Hearing recessed for deliberations at 9:52 a.m.

MEETING AND HEARING RECONVENED

The Hearing and ACB Board Meeting reconvened at 10:01 a.m. Board members, staff, MHS, and Appellant Aguirre were present.

Vice Chair Balcomb reviewed the facts as they related to MCC 6.04.050 regarding impoundment of a dangerous dog and redemption of ownership:

- King Kong was Mr. Aguirre's dog, and King Kong's designation as a dangerous dog was previously heard and upheld by the Board on 11/2/17, at which time the Board imposed Conditions of Ownership as set forth in MCC 6.04.046.C.

- On 1/3/18, King Kong was running at large with another dog, Lila, belonging to Mr. Aguirre. King Kong was not restricted per MCC 6.04.050.B.(1). King Kong was seized for public safety and also due to King Kong's attack of another dog, pursuant to MCC 6.04.050.B.(2).

- Mr. Aguirre has requested the Board to allow him to recover King Kong pursuant to MCC 6.04.050.F. and retain ownership.

The Board determined that King Kong may be returned to Mr. Aguirre's custody on the condition that Mr. Aguirre pay any accrued fees to MHS, micro-chip and neuter King Kong, and comply with all of the Conditions of Ownership for King Kong as previously imposed by this Board.

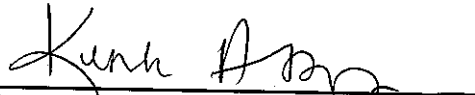
Mr. Aguirre was reminded that MHS may also cite him for Jacob, his other dangerous dog's non-compliance, as well.

Vice Chair Balcomb asked MHS to review the Dangerous Dog Conditions of Ownership (MCC 6.04.046(c)) with Appellant Aguirre and to make checks to ensure that Mr. Aguirre is in compliance. Officer Redd reviewed the Conditions of Ownership imposed on 11/2/17 on the record with Mr. Aguirre, along with the possible penalties that could be imposed by the court if convicted for dangerous dog non-compliance. A copy of the Conditions of Ownership reviewed on the record and previously signed by and provided to Appellant Aguirre on 11/2/17 is attached hereto.

MEETING AND HEARING ADJOURNMENT

Vice Chair Balcomb adjourned the hearing and Board Meeting at 10:09 a.m. with no objections.

Respectfully submitted:



Kimberly Ferguson
Secretary to the Animal Control Board

Timeline

9/18/17 - Jacob Boxer Tan White male intact was deemed by Director Wilson

9/18/17- King Kong red white male intact was deemed by Director Wilson

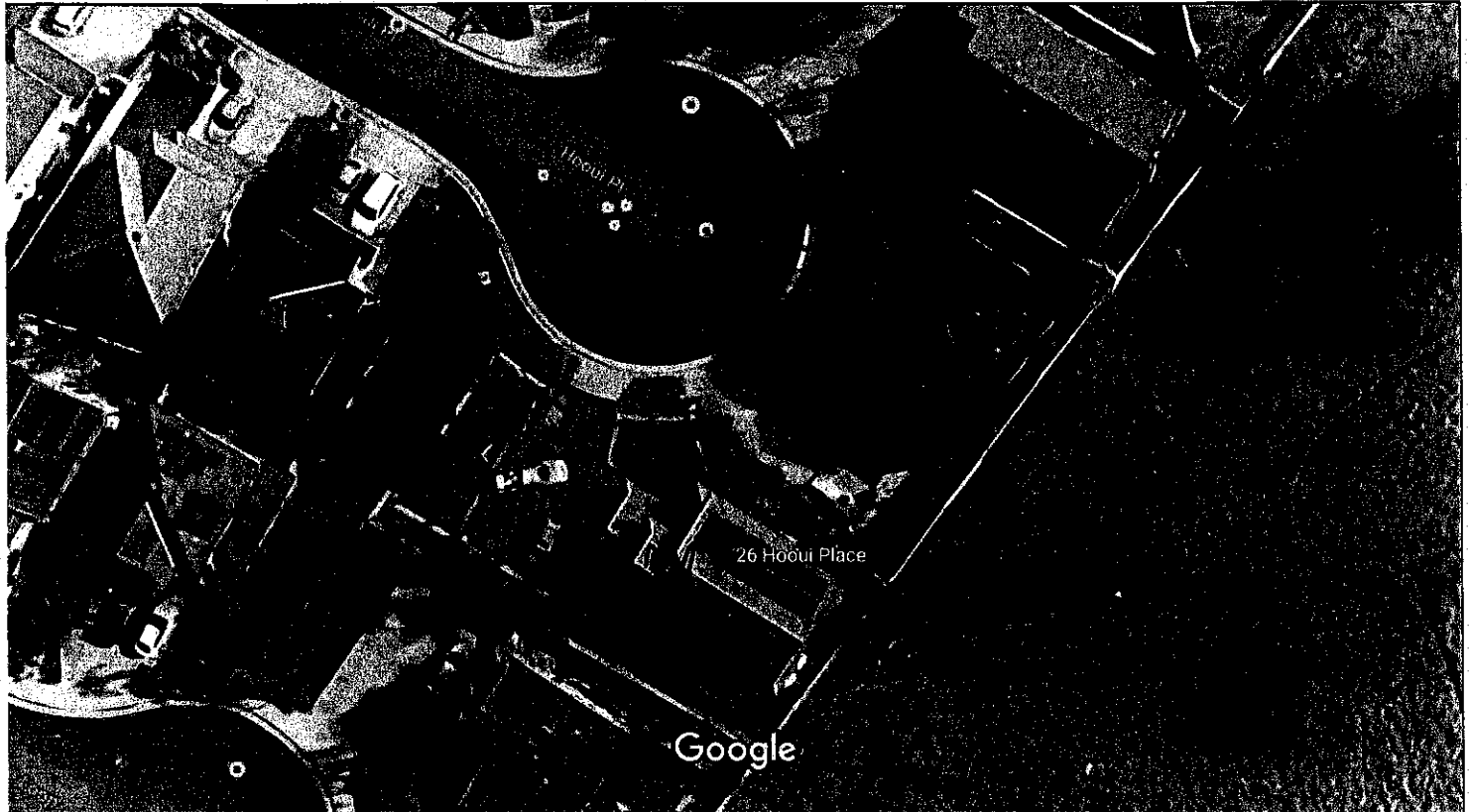
11/02/17- Animal Control Board up held Deeming on King Kong and Jacob with no modifications.

1/03/18 - Dispatch received a new case reporting of two unrestrained Boxers involved in a Dog to Dog Attack.

1/03/18 Officer Cambers was assigned to a new case and thru her investigation learned the dogs involved in the attack were owned by Mark Aguirre. Ofc. Cambers confirmed two of Mark's dogs were unrestrained, one of which attacked another dog which was restrained on its owner property. Ofc. Cambers confirmed with the vets office the complaints dog was injured. The witness was unable to ID which dog actually attacked. The dog's owner Mark, admitted his two dogs named Lela and King Kong where the two unrestrained dogs at the time of incident. Per the CCM 6.04.050 Impoundment King Kong was impounded and notice to appear before the dog was given.

****Please Note King Kong is presently in the custody of MHS and is NOT neutered or microchipped.

Google Maps 26 Hoouii Pl



Imagery ©2018 Google, Map data ©2018 Google 20 ft

IX - HIROKO Kawachi = Victim Dog owner
IX - Mark Aguirre = suspect Dog owner

EXHIBIT 2

Maui Humane Society
P.O. Box 1047
Pu'unene, Hawai'i 96784
808-877-3680 Office
808-877-5033 Fax
info@mauihumanesociety.org

RECEIVED

2018 MAR -5 AM 10:19

DIRECTOR'S OFFICE
DEPT. OF MAUI

DANGEROUS DOG IMPOUND/SEIZED NOTICE

INCIDENT Non Compliance DATE OF OCCURRENCE 1/3/18 TIME 8:20 AM PM

LOCATION OF IMPOUND/SEIZURE 26 Ho'ou'1 Place Kahului
DATE OF DEEMING 9/18/2017

NAME OF DOG OWNER Mark Aguirre D.O.B. 9/28/1966

S.S.N.# _____ HOME PHONE 808- [REDACTED] CELL 808- [REDACTED]

ADDRESS 26 Ho'ou'1 Place CITY Kahului STATE HI

BREED OF DOG Boxer COLOR Brown SEX M F LICENSE 18-1121

SUMMARY The Dog 'King Kong' was observed at large which is in violation of the dangerous Dog regulations.

YOU ARE HEREBY NOTIFIED THAT YOUR DOG King Kong PREVIOUSLY BEEN DEEMED A "DANGEROUS DOG" HAS BEEN IMPOUNDED/SEIZED. YOU ARE REQUIRED TO NOTIFY OF THE ANIMAL CONTROL BOARD OF MAUI WITH IN 10 DAYS. THE MAUI COUNTY CODE AS IT RELATED TO YOUR DOG: ORDINANCE 6.04.050(B) REQUIRES THE FOLLOWING:

1. ANY DANGEROUS DOG WHICH IS NOT RESTRICTED IN MOVEMENT AS REQUIRED BY THIS CHAPTER SHALL BE SEIZED AND IMPOUNDED BY AN ENFORCEMENT OR ANIMAL CONTROL OFFICER IN AN ANIMAL SHELTER AND CONFINED IN A HUMANE MANNER. THE ENFORCEMENT OR ANIMAL CONTROL OFFICER MAY EUTHANIZE ANY PREVIOUSLY ADJUDICATED DANGEROUS DOG WHICH CANNOT BE SAFELY TRANQUILIZED AND SEIZED.
2. THE ENFORCEMENT OR ANIMAL CONTROL OFFICER, IF REASONABLY NECESSARY FOR PUBLIC SAFETY, MAY, AT THE TIME OF DESIGNATION, IMMEDIATELY SEIZE AND IMPOUND THE DOG.
3. WHEN A DANGEROUS DOG IS SEIZED AND IMPOUNDED, THE ENFORCEMENT OR ANIMAL CONTROL OFFICER SHALL ISSUE A NOTICE TO THE OWNER TO REPORT TO THE BOARD. FAILURE BY THE OWNER TO REPORT TO THE BOARD SHALL RESULT IN OWNERSHIP OF THE DOG BEING DEEMED FORFEITED AND THE BOARD MAY THEREAFTER ORDER DISPOSITION OF THE DOG AS IT DEEMS APPROPRIATE.
4. NOTWITHSTANDING ANY FORFEITURE OF OWNERSHIP OR VOLUNTARY RELINQUISHMENT OF OWNERSHIP OF THE DOG, THE OWNER SHALL REMAIN RESPONSIBLE FOR ALL EXPENSES OF BOARDING THE DOG AND ANY FEES WHICH MAY BE IMPOSED BY THE BOARD.
5. AT THE OWNER'S REQUEST, SUCH IMPOUNDMENT MAY BE AT THE PREMISES OF A LICENSED VETERINARIAN OR AT A COMMERCIAL KENNEL OF THE OWNER'S CHOICE.

YOU ARE REQUIRED TO COMPLY WITH MAUI COUNTY CODE 6.04.050.

Maui County Animal Control Board
Department of Housing and Human Concerns
2200 Main Street Suite 546
Wailuku, Hawaii 96793

OWNER Mark Aguirre OFFICER J. Chambers

DATE 1/4/18 TIME _____
DDNCNOTICE

3RD JAN Revisit call Mr Wilson



ANIMAL RESTITUTION REQUEST

MHS Animal ID #A36807941

MHS Case Number: C044661492

Animal Name: #H112 King Kong

Breed: Boxer

Desc: brown intact male

ITEM	COST	Date	Date	TOTAL
Impound Fee	\$ 25.00	1/3/2018		\$ 25.00
Boarding per day*	\$ 20.00	1/3/2018	to 1/18/2018	\$ 300.00
Neuter**	\$ 105.00	TBD		\$ 105.00
Microchip	\$ -	included w/ neuter		\$ -
Total				\$ 430.00

*Boarding accrues \$20 per day

** Financial assistance available to lower neuter fee to \$20