

Town of Windham, VT Selectboard
5976 Windham Hill Road
Windham, VT 05359

Certified Mail
Return Receipt Requested

May 26, 2022

Gary & Jessica Clay
268 White Rd.
Windham VT 05395

Re: Selectboard Meeting/Vicious Dog Hearing re: Zoie, Kash and Angus

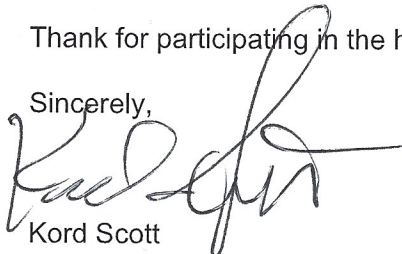
Dear Mr. & Ms. Clay:

Attached please find the Vicious Dog Hearing Decision/Protective Order regarding Zoie, reached by the Windham Selectboard and approved on May 26, 2022.

I would like to remind you that Zoie being registered in Windham is part of this decision.

Thank for participating in the hearing and communicating with us about the incident.

Sincerely,



Kord Scott
Selectboard Chair

Encl.: Windham Vicious Dog Ordinance

cc: Elizabeth Stober
Town Clerk
Health Officer
Windham County Animal Control Officer

**VICIOUS DOG HEARING DECISION
Town of Windham, VT Selectboard**

Re: Zoie

Introduction and Procedural History

1. This proceeding involves a vicious dog complaint submitted in writing by Elizabeth Stober of Windham VT. The complaint was received by email on May 13, 2022. Per the complaint, on May 11, 2022, Ms. Stober indicates she was bicycling on the town road, when she was accosted by 3 dogs. An unidentified dog bit her in the leg at this time. She indicated that one of these dogs were yours.
2. On May 19, 2022 notice of this vicious dog hearing was emailed to Ms. Stober, Erica Van Alstyne, and Jessica Clay.
3. On May 19, 2022 public notice of this vicious dog hearing was posted at the Windham Town Office, the Windham Fire Company, the Windham Meeting House and on the official Town website.
4. Present at the hearing held on May 20, 2022 via Zoom and in-person at The Meeting House were the following:

Kord Scott, Selectboard Chair
George Dutton, Selectboard Vice Chair
Michael Pelton, Selectboard member
Elizabeth Stober, complainant
Erika Van Alstyne, respondent
Jessica Clay, respondent
Abigail Abbott, respondent
George Heslin, complainant
Ashley Pinger, Windham County Sheriff's Animal Control Officer

As this was a public meeting there were various members of the public not included in the list above.

RELEVANT ORAL TESTIMONY

Rules of Procedure for Windham Selectboard Vicious Dog/Wolf Hybrid Hearings were read by Kord and agreed to by both parties. Michael proceeded to read the complaint.

Ms. Stober, the complainant, then referred to the written account and indicated that it was complete. She had nothing new to add to the statement but indicated that this was a traumatic incident, and she fears dogs as a result of the incident. She indicated that she found that 2 of the 3 dogs were vaccinated. She was concerned about the cost and trauma of potentially of having to be treated for Rabies.

Ms. Clay, the respondent, indicated that she was concerned about having to put up a significant amount of fence as there is approximately 18 acres of property. She indicated that there are significant costs associated with fence installation.

Ms. Van Alstyne, the respondent, indicated that Angus had not left the porch. Ms. Van Alstyne indicated that she was working to obtain and build a fence, license and appropriately vaccinate the dogs. She indicated that she has a shock collar but has neglected to put a new battery in it. She was questioned about her standing order that she was to keep the dogs on leash or contained. When she was questioned regarding what changed, she indicated that she was now supervising them unleashed outside as it was summer.

George Heslin indicated that he has been dealing with unwelcome dogs repeatedly for several years. He indicated that it is dangerous for him and his family to come to their property in Windham. He indicated that he is often accosted by 3 dogs.

Abigail Abbot, respondent, apologized to the victim and was remorseful regarding this incident. She indicated that these dogs are not the only dogs in the neighborhood and that others are routinely at large.

Ashley Pinger, Animal Control Officer, indicated that there have been multiple interactions with the respondents and owners of the dogs in question. She felt that Kash has a bite history and must be contained in a suitable fence and an electrical fence might be appropriate for the other 2 dogs as they currently have not been identified as a vicious dog. She indicated that there are fees as a result of citations that have not been paid. Officer Pinger indicated that there have been multiple interactions with the owners regarding Zoie's running at large and previous contacts regarding Kash's previous bite.

Written Evidence-

Written Email submitted by Elizabeth Stober:

"3 dogs ran off that front lawn, surrounding me, chasing me..."

"Felt a bite on my lower right leg and knew I had been bit by one of the dogs."

"I asked if the dogs were up to date with their shots and she said they were."

Written Report Submitted by Officer Pinger-

Ms. Van Alstyne must ensure that both dogs are leash walked and ensure that they are contained within a fenced in area per September 6, 2021 decision.

Third citation for running at large issued to the Clays for Zoie running at large June 10, 2021.
December 9, 2021 Signed letter regarding running at large issued to Gary Clay.

May 17, 2022 Citation issued to Ms. Van Alstyne for dog at large and unlicensed dogs. Mr. Clay was not served as he was unreachable.

May 19, 2022 Citation served to Jessica Clay on behalf of Gary Clay for dog at large and unlicensed dog.

There were no other questions or comments, Kord explained that the Selectboard would be closing the proceedings of this final hearing. The Selectboard will go into Deliberative Session for discussion & then will make their findings public. The Selectboard must let Ms. Van Alstyne and Mr. & Ms. Clay know their decision within 7 days by certified mail.

Motion to close these proceedings and enter into Deliberative Session – moved by Kord. All in favor.

Motion to close Deliberative Session and reconvene to continue Deliberative Session at a date & time specific after consultation with the ACO and Town Attorney – Moved by Kord. All in favor.

FINDINGS OF FACT

1. The Board finds that, Zoie was present when the Complainant was bit on May 11, 2022.
2. The Board finds that this caused injury to the Complainant.
3. The Board finds that Zoie was not restrained and was off their owner's property at the time of the incident.

CONCLUSIONS OF LAW

The Board concludes that the dog, Zoie, is a Potentially Viscous dog, and shall be restrained on a leash when uncontained outdoors as is required as set forth in the next section. The Board also concluded that this dog shall be licensed and vaccinated as required by law.

DECISION

Based on the foregoing findings of fact and conclusions of law, the Selectboard finds that Zoie was present when Ms. Stober was bitten without provocation. As it is unclear which dog bit Ms. Stober, a protective order will be rendered for these dogs.

PROTECTIVE ORDER

Based on the foregoing facts and circumstances, and pursuant to 20 V.S.A. 3545 (c),

Zoie will be impounded to the Windham County Humane Society at the owner's expense. **The owner will voluntarily deliver Zoie to the WCHS by close of business on Friday 6/3/22. Failure to comply will result in the lawful seizure of the dog.** Zoie will be boarded for a period of up to 10 days. At the end of the 10-day period if the owners have not **contacted the Animal Control Officer, Windham County Humane Society or refuse to take remedial action to secure the dog's release,** Gary Clay will forfeit ownership of Zoie. Ownership will transfer to the Windham County Humane Society where Zoie can be placed for adoption, transferred to a rescue, or humanely euthanized.

To secure release from the Humane Society, as deemed by the board of selectman in the town of Windham as follows:

Gary Clay will need to; provide secure containment such as: 6' strong sturdy metal fence. This fence shall have a dig barrier. If the fence is not at least 6 feet, coyote rolls shall be placed on top. The fence will be attached to the house. Alternatively, an electric pet containment collar or cable dog run shall be allowed as long as the dog is appropriately contained. Additionally, the homeowner shall keep current a rabies vaccination, dog license, ensure payment of all penalties or set up a payment schedule with the select board. If the payments are not paid within 30 days, the dog shall be impounded to the humane society as described above.

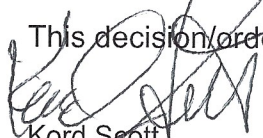
The Selectboard hereby orders that Mr. Clay restrain Zoie on a leash when it is walked to and from any containment area. Zoie is not to be off leash or out of containment when outside the house. The residence is **subjected to unannounced visits from the Animal Control Officer to ensure compliance.**

If protective order requirements are met by June 3, 2022, Zoie will not need to be impounded.

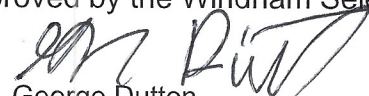
Should Zoie be off property once requirements are met for proper containment, the dog will be seized as described in the protective order requirements. The owner will be given notice of seizure and where the dog is contained.

Failure to comply fully with the conditions set forth in this order shall subject the owner/keeper to the penalties provided for in 20 VSA 3546 (c) and the Windham, VT Vicious Dog Ordinance..

This decision/order was approved by the Windham Selectboard on May 26



Kord Scott
Selectboard Chair



George Dutton
Selectboard Vice Chair



Michael Pelton
Selectboard Member

NOTICE: This decision may be appealed to the Vermont Superior Court Civil Division within 30 days of this date of this decision, pursuant to Rule 75(c) of the Vermont Rules of Civil Procedure.