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BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

DEBORAH HORNER ,
Appellant,
v.
CBJ ANIMAL HEARING BOARD,
Appellee

Case No. 2001-04

Decision

This case concerns a dog charged with killing a pet cat without provocation. This charge was investigated by the Director of Animal Control, who declared pursuant to CBJ 08.30.010 that the dog was dangerous. Ms. Horner, the dog's owner, appealed the determination to the Animal Hearing Board which on July 30, 2001 conducted a hearing pursuant to 08.30.030 and on August 13, 2001 issued a Revised Notice of Decision confirming the Director's determination. Ms. Horner timely appealed to the Assembly and the matter was heard by the Assembly on November 19, 2001.

Having considered the evidence in the record and the arguments presented by the parties, the Assembly finds that the Animal Hearing Board denied procedural process to the Appellant. This finding is based on evidence in the record that the presiding officer at the hearing ruled that Ms. Horner could not testify as to the behavior of her dog on prior occasions [R.34] or testify as to the behavior of other dogs in the neighborhood [R 38]. In neither case did the Chair explain its ruling or allow Ms. Horner to explain why the testimony should be admitted. Rulings on evidence, like every other ruling, should be issued only after both sides have had an opportunity to be heard.

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In addition, the Chair stated halfway through the proceedings that the dog “went on some kind of cat killing spree.” [R39] Factual conclusions such as this should be reserved until all the evidence has been received and the Board has concluded deliberations.

For the reasons stated above, this matter is remanded to the Animal Hearing Board for further proceedings. The City Attorney is directed to provide legal counsel to the Board at the rehearing.

At the conclusion of the rehearing, Ms. Horner may petition the Assembly for a refund of the appellate filing fee.

IT IS SO ORDERED.

DATED this 17th day of December, 2001.

ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Marc Wheeler
Presiding Officer

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