

**STAFF REPORT
CODE ENFORCEMENT COMMISSION**

Date of Hearing: April 6, 2017

Case Number: A16-205830

Pasadena Humane Society Staff: Lt. Nemesio Arteaga

Location of Violation: 1595 Rose Villa Street and
265 S. Sierra Bonita Avenue
Pasadena, CA. 91106

Violative Condition: Prohibited Activities

Assessor Parcel Number: 5736-011-004

Legal Description: The east 80 feet of Lots 34, 35 and 36 and
the east 80 feet of the south 25.88 feet of
Lot 37, of Tract 2894, as per map recorded
in Book 30, Page 11 of Maps, in the office of
the County Recorder of said County.

Notice of Public Hearing: Mailed Certified/USPS - March 24, 2017
Mailed Regular/USPS – March 24, 2017

Animal Owner: Zachary Carmalt
1595 Rose Villa Street
Pasadena, CA. 91106

Property Owner: Victor Vener
1595 Rose Villa Street
Pasadena, CA. 91106

Name of Dog: "BUDMAN," a 10-year old neutered Pitbull
dog (Pasadena Dog License #LP16-08051).

Pasadena Municipal Code Violations:

Section 1.24.010(A) (Misdemeanors, infractions and administrative penalties.)

"No person shall violate or fail to comply with any provision or requirement of this code. Any person who violates or fails to comply with any provision or requirement of this code shall be guilty of a misdemeanor, unless (1) such violation or failure is designated as an infraction or is subsequently prosecuted as an infraction, in which case such person is guilty of an infraction; or (2) such a violation or failure is prosecuted as a civil administrative action pursuant to Chapter 1.25 or Chapter 1.26 of this title."

Section 6.18.015 – (Prohibited Activities)

“It is unlawful and a public nuisance for any person to own, harbor or keep a vicious dog.”¹

PERSONS INVOLVED:	Jose Rayos:	Mail Carrier – U.S. Post Office
	Zachary Carmalt	Dog Owner
	Victor Vener:	Property Owner
	Lt. Arteaga:	Pasadena Humane Society
	Gabrielle Hendriksen	Animal Control Officer
	Gyaneh Krikorian	Pasadena Police Department
	Luis Lopez	City Attorney Investigator

PREAMBLE

The primary focus of this matter is a dog bite incident that occurred at 1595 Rose Villa Street involving a Pitbull Terrier named “BUDMAN” and a mail carrier for the U.S. Postal Service named Jose Rayos (RAYOS.) There were no independent witnesses to the event. The initial investigative report of the event from the Humane Society indicated property owner Victor Vener (VENER) and RAYOS both confirmed that the incident had occurred inside the confines of the residence. The recitation of events has since changed and RAYOS reports that the incident took place *outside* the residence, while dog owner Zachary Carmalt (CARMALT) and VENER assert that the incident took place *inside* the residence. RAYOS maintains that his initial recounting of events to Animal Control Officer Gabriel Hendriksen (HENDRIKSEN) described the incident as occurring *outside* the residence, but that HENDRIKSEN’S report mistakenly reported the bite as occurring inside the residence.

There is no dispute that RAYOS was bitten by BUDMAN, and a photograph of RAYOS’ injury may be referenced herein as “Attachment C.” The different offering of events is particularly relevant because a definition of a “public nuisance dog” or “vicious dog” does not apply to a bite or injury inflicted *inside* a residence, while such definition would apply to such act occurring outside the residence.

¹ Section 6.18.020(A)(1)(2)(3) P.M.C. states: “As used in this chapter, “public nuisance dog” or “vicious dog” means any dog that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners or family members, to the enjoyment of life or property. The term “public nuisance dog” means and includes, but is not limited to, a dog who exhibits any of the following types of behavior: (1) When unprovoked, in a vicious and terrorizing manner, approaches any person and attempts to attack upon private or public property, except inside an owner’s home or fenced rear yard to which all gates and other places of general ingress or egress to the fenced area are posted with a warning sign stating that a dog is on the premises. The letters on said sign shall be at least 1 inch in height and said sign shall be visible within 10 feet of the entrances to the fenced area. [2] Has a propensity or disposition to attack unprovoked or to cause injury to human beings or domestic animals and the owner of the dog is aware of said propensity or disposition, [3] Bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property, except inside a home or fenced rear yard to which all gates or other places of general ingress or egress to the fenced area are posted with a warning sign stating that a dog is on the premises. The letters on said sign shall be at least 1 inch in height and said sign shall be visible within 10 feet of the entrance to the fence area.”

BACKGROUND – PRIMARY VIOLATION

On October 3, 2016, at approximately 10:14 a.m., HENDRIKSEN responded to 1595 Rose Villa Street at the request of the Pasadena Police Department regarding a report of a dog bite where the victim was reported to be a U.S. Postal Service employee. The dog involved in the incident was 10 year old neutered pit bull terrier named "Budman" (BUDMAN.).

INITIAL CONTACT WITH U.S. POSTAL SERVICE EMPLOYEE JOSE RAYOS

HENDRIKSEN'S investigative report dated October 3, 2016 indicates that upon her arrival to 1595 Rose Villa that she met with RAYOS who was standing in front of the residence with an unidentified USPS supervisor who had not witnessed the incident. That report states that RAYOS told HENDRIKSEN that he was delivering a document to 1595 Rose Villa Street that required a signature from the recipient. The reports states that RAYOS told HENDRIKSEN that he rang the doorbell to summon the occupants and that when the door opened, he stepped across the threshold to receive the occupants signature and that as soon as he stepped inside the house BUDMAN jumped on RAYOS and bit him causing a laceration to the skin of RAYOS' abdomen.

HENDRIKSEN'S report indicated that RAYOS stated that pursuant to USPS policy he placed the mail handler bag in front of him and began to back away from BUDMAN. HENDRIKSEN reported that RAYOS stated that the incident took place inside the residence and that at no point did BUDMAN cross the threshold of the front door.

INITIAL CONTACT WITH PROPERTY OWNER VICTOR VENER

HENDRIKSEN reported that VENER'S accounting of the incident was consistent with that of RAYOS and that BUDMAN was inside the VENER residence at the time RAYOS rang the front doorbell and that when VENER opened the front door, RAYOS stepped inside the dwelling to collect a signature as required by the postal service at which time BUDMAN jumped on RAYOS and bit his abdomen. VENER stated that he immediately pulled BUDMAN away from RAYOS.

VENER told HENDRIKSEN that BUDMAN belonged to his stepson, Zachary Carmalt (CARMALT) and that shortly after the incident CARMALT left the premises with BUDMAN for fear that dog would be seized and euthanized by the Pasadena Humane Society.

RESULTS OF OFFICER HENDRIKSENS INITIAL INVESTIGATION

In gathering information at the initial phases of this investigation, HENDRIKSEN was made familiar with the Pasadena City Ordinance relative to conditions that constitute a "nuisance dog" and was aware that a dog bite that occurs *inside* a residence *is not* considered a violation of law, while a dog bite occurring in the unfenced front yard area of the front yard *is* a violation of law. Prior to leaving the location HENDRIKSEN advised RAYOS that because the incident had occurred inside the residence (based on HENDRIKSEN'S recollection that RAYOS had reported that he had crossed the front

door threshold) that no code violation had occurred and that the Pasadena Humane Society did not have the authority to seize BUDMAN. Per HENDRIKSEN, RAYOS reported that he understood, and that he had reported the incident as required by USPS policy.

FOLLOW-UP BY CITY INVESTIGATOR LUIS R. LOPEZ

On October 26, 2017, Investigator Luis R. Lopez (LOPEZ) who is assigned to the City Attorney's Office conducted a follow-up investigation with RAYOS. LOPEZ provided RAYOS with a copy of HENDRIKSEN'S report and asked that he read it aloud. After reading the report, RAYOS stated that: "[t]he report has three lies: 1: Two dogs attacked me at the front door, 2: I never stepped into the house (USPS policy does not allow me to enter the house) [and] 3: The stepson Zachary Carmalt the dog's owner was standing behind Victor Verner and pulled the dog back after the attack."

RAYOS told LOPEZ that as he was standing at the front door having VENER sign for a certified letter that a white dog came around him (VENER) and attacked RAYOS. RAYOS reported that he placed his mailbag in front of himself for protection from the white dog and that concurrently BUDMAN came around VENER (from the rear) and attacked him, biting him and pushing him into the wall.

FOLLOW-UP BY LT. NEMESIO ARTEAGA – PASADENA HUMANE SOCIETY

In a written report from Lt. Nemesio Arteaga (ARTEAGA) to Chief Assistant City Prosecutor Will Rivera (RIVERA) regarding the dog bite incident, ARTEAGA reported that on October 3, 2016, at approximately 10:25 a.m., the Pasadena Humane Society received a request from the Pasadena Police Department Dispatcher to send an Animal Control Officer to 1595 Rose Villa Street, in the City of Pasadena, concerning a report of a dog bite.

ARTEAGA reported that a few minutes after HENDRIKSEN arrived at 1595 Rose Villa Street she contacted him by telephone and told him that she had met with RAYOS and VENER and that she needed some assistance how to proceed as this was the first dog bite investigation she had responded to. HENDRIKSEN did not advise ARTEAGA of the name of the property owner and identified the victim only as an on duty U.S Postal Service employee.

ARTEAGA'S follow-up report stated that the address of 1595 Rose Villa Street did not sound familiar to him and that he could not query the address using the Humane Society database as the computer in his vehicle was not in service. At the time of the incident, HENDRIKSEN advised ARTEAGA that although RAYOS had sustained a laceration in his stomach area, she believed a violation of the Pasadena leash law had not taken place because both RAYOS and VENER told her the incident had taken place inside the house.

ARTEAGA told HENDRIKSEN that she may place the dog under home quarantine as long as CARMALT and VENER would agree to keep the dog confined inside the property during the 10-day quarantine period. A short time later HENDRIKSEN re-

contacted ARTEAGA and advised that she had checked Humane Society records management system and that she found no prior history involving the address or the dog. HENDRIKSEN advised ARTEAGA that CARMALT had been contacted via telephone and would be returning home later in the day so that the dog may be placed under home quarantine. ARTEAGA advised her that once she had obtained a statement from the parties involved she may clear from the location and either she or another officer would have to return to the property later to place the dog under quarantine.

At approximately 1:15 p.m. that afternoon ARTEAGA received a telephone call from CARMALT in which CARMALT stated that BUDMAN had lunged at RAYOS only because BUDMAN thought he was an intruder. CARMALT stated that RAYOS rang the doorbell to obtain a signature from VENER and that when VENER opened the door, RAYOS stepped into the interior of the house and BUDMAN lunged at him in an effort to protect VENER. CARMALT stated that after the incident took place he left the house with BUDMAN because several neighbors have a long history of hostility towards him. CARMALT also stated that neighbors came on the VENER'S property and started yelling at CARMALT and VENER, using foul language and threatening to have his dog destroyed. CARMALT stated that when he left the property he had no intentions of hiding the dog.

LATER FOLLOW-UP BY LT. NEMESIO ARTEAGA

ARTEAGA queried the Humane Society records management system seeking earlier reports involving dogs at the subject site and found that on September 1, 2009, an unidentified person reported that a dog named "Buddy" from 1595 Rose Villa Street had been involved in a bite. Records information reflected that the victim told the responding Animal Control Officer that the dog looked similar to one that lived at 1595 Rose Villa Street, although the victim was not completely certain. The records further reflected that the investigating officer went to 1595 Rose Villa Street and was unable to locate a dog, and was told by a resident that the dog involved in the incident did not live at the address.

ARTEAGA also found that on October 17, 2008, the Pasadena Humane Society was called regarding the report of a dog bite attack in front of 1441 Rose Villa Street where it was reported that two dogs that were running loose in the neighborhood had knocked down, and had possibly bitten Anne Burke (BURKE) who live at 1541 Rose Villa. (PHS Case No. A08-13864)

ARTEAGA reviewed the contents of that report and found that Pasadena Humane Society Officer Greg Murphy (MURPHY) contacted a witness, Javier Garcia (GARCIA) who reported that there was a brown dog "Buddy" that looked like it had tried to bite BURKE on the leg, while a white dog, "Paxman" (PAXMAN) appeared to have tried to pin BURKE against a tree. Witness GARCIA stated that BURKE appeared to have trouble standing.

MURPHY contacted a second witness named Pat Sullivan (SULLIVAN) who lived at 1441 Rose Villa Street. MURPHY'S report indicates that he spoke with SULLIVAN who stated that he was standing in a room in front of his house when he saw BURKE walking

on the sidewalk in front of his home. MURPHY reported that SULLIVAN "...saw a brown dog, presumably "Buddy", run up behind BURKE. The dog knocked BURKE forward and to the ground." MURPHY'S report continued, stating "He (SULLIVAN) said it looked like the dog began "mauling" Burke while she was on the ground. Sullivan ran out of his house to assist Burke."

MURPHY reported that BURKE was found to have suffered a broken knee during her fall. MURPHY contacted BURKE at Huntington Memorial Hospital where BURKE stated that before the attack she saw PAXMAN walking in and out of yards across the street. She stated that a moment later she saw BUDDY join PAXMAN as both dogs crossed the street and approached her. MURPHY noted that BURKE'S recollection of the manner in which she sustained her injury was somewhat cloudy but that she remembered falling forward and "BUDDY" trying to bite her leg. BURKE stated that she did not have any recollection of actually being bitten by either dog. MURPHY'S report however noted that BURKE sustained "...a laceration to her buttock that hospital staff stated could not be ruled out as a dog bite."

ARTEAGA'S follow up report indicates that he was informed by City staff that RAYOS had disputed the accuracy of HENDRIKSEN'S report wherein RAYOS told City staff that when he spoke with HENDRIKSEN he stated that the incident had taken place outside of the home, not inside as HENDRIKSEN had written in her report. The Pasadena Humane Society was also informed that in response to the victim's allegations, LOPEZ from the Pasadena City Attorneys' Office had conducted a follow-up investigation in which LOPEZ had interviewed the victim and wanted to interview HENDRIKSEN too. LOPEZ interviewed HENDRIKSEN on November 22, 2016.

HENDRIKSEN'S interview was audio recorded by LOPEZ and at a later date the City of Pasadena provided the Pasadena Humane Society with a copy of the audio. At the request from the City of Pasadena, the Pasadena Humane Society had the audio transcribed by Huntington Court Reporters and Transcription Services, Inc. A copy of that transcription may be referenced herein as "Attachment E".

On January 30, 2017, at the request from the City of Pasadena, Pasadena Humane Society staff met with staff from the City of Pasadena regarding the matter. During the meeting, the City of Pasadena and the Pasadena Humane Society agreed that additional information was required to better understand the sequence of events that took place on October 3, 2016. It was also agreed that ARTEAGA would conduct a follow up investigation consisting of contacting the parties involved, including CARMALT and VENER.

ARTEAGA DETAILED FOLLOW-UP WITH RAYOS

On February 10, 2017, ARTEAGA attempted to contact RAYOS using one of the two telephone numbers he had provided on the day of the incident. ARTEAGA reported that when the telephone was picked up someone who identified himself only as "Carlos" answered. ARTEAGA fully identified himself and the purpose of this telephone call. "Carlos" told ARTEAGA that he was RAYOS' supervisor and that RAYOS was not at liberty to discuss the matter because the incident had taken place while he was on duty

and it was a personnel matter. "Carlos" further advised ARTEAGA that there was no need for him to speak with RAYOS because the matter had already been investigated. ARTEAGA advised that he was conducting a follow-up investigation and had a few questions for RAYOS, that the questions were not regarding his job and that they were specifically regarding to the bite incident. Carlos responded by stating that there was nothing more to discuss regarding the matter.

"Carlos" offered to describe how the incident had taken place and further stated that while he had not witnessed the incident he stated that he could describe it based upon what RAYOS told him. ARTEAGA again sought the opportunity to speak directly with RAYOS at which time "Carlos" again told ARTEAGA that the matter had been investigated and there was nothing for additional to discuss with RAYOS. ARTEAGA asked a second time to be able to speak with RAYOS to which "Carlos" again stated that he could answer any questions ARTEAGA might have for RAYOS.

Later that day ARTEAGA was able to make direct contact with RAYOS by telephone and asked RAYOS to meet with him to go over the incident that took place on October 3, 2016. RAYOS stated that he had already talked about the matter with an investigator from the City of Pasadena (LOPEZ from the City Attorney's Office.) ARTEAGA again requested a short meeting with RAYOS. RAYOS declined the face-to-face meeting but agreed to answer a few questions over the telephone.

RAYOS stated that while he was delivering mail in the area of Rose Villa Street he needed a signature from a resident at 1595 Rose Villa Street. RAYOS stated that walked to the front door of the house, rang the doorbell and stood outside, next to the front door, waiting for someone to open it. RAYOS stated that VENER opened the door and he informed VENER that he needed a signature. RAYOS stated that he then produced an electronic signature device for VENER'S use and that VENER reached for it by extending one of his arms though the entryway to accept the device from RAYOS while RAYOS was standing outside the house, next to the doorframe.

RAYOS stated that as soon as VENER'S hand reached the electronic signature device, RAYOS saw a small white colored dog (later identified as "PAXMAN" and a large pit bull terrier later identified as BUDMAN) running from the kitchen and heading in his direction. RAYOS stated that as PAXMAN and BUDMAN were running towards the front door (towards him) BUDMAN was making no sound however PAXMAN was aggressively barking. RAYOS stated that he then placed his mailbag in front of him to keep PAXMAN from biting him, believing that it was only PAXMAN that was aggressive since BUDMAN was not barking. RAYOS stated that as he placed his mail carrier bag in front of himself to keep PAXMAN away VENER immediately leaned over to pick up PAXMAN from the floor and that as VENER did so, BUDMAN went around VENER and jumped up on RAYOS biting him in the stomach area and pushing him backwards against the exterior wall of the house.

RAYOS stated that at that point VENER'S stepson CARMALT suddenly appeared and grabbed ahold of BUDMAN pulling him away from RAYOS and taking him to one of the rooms of the house. RAYOS stated that as soon as CARMALT pulled BUDMAN away,

he (RAYOS) began to back away from the porch area while keeping his bag in front of him to protect himself in the event that one or both dogs came after him again.

RAYOS told ARTEAGA that once CARMALT and BUDMAN went into one of the rooms he did not see them again. RAYOS stated that he believes CARMALT and BUDMAN may have left the house by exiting through a rear door. ARTEAGA asked RAYOS if he told HENDRIKSEN that CARMALT had left the premises with BUDMAN to which he replied "Yes." ARTEAGA asked RAYOS if he was certain that he told HENDRIKSEN that a small dog (PAXMAN) was involved and that BUDMAN bit him and pushed him against the wall to which he replied: "Yes. I told her everything that I told you."

ARTEAGA asked RAYOS if he remembered the name of the Humane Society Officer. RAYOS did not, but reported that that one officer arrived at the scene first (later identified as Pasadena Police Department G. Krikorian (KRIKORIAN) and then a few minutes later a second officer arrived (HENDRIKSEN.) RAYOS confirmed reported that one was a police department officer and the other was a humane society officer.

RAYOS reported that he had neither called the Pasadena Police Department nor the Pasadena Humane Society and was uncertain, but was under the impression that one of the neighbors had placed the call. RAYOS was uncertain whether the call to the police department had been to report the bite incident or to report a verbal confrontation that had erupted between several neighbors and VENER. RAYOS stated that several of the neighbors had walked up to VENER'S address and confronted him, yelling to a degree that a verbal confrontation ensued and quickly escalated to the point where neighbors and VENER were using foul language and yelling profanities at each other.

ARTEAGA asked if any neighbors had witnessed the incident to which RAYOS reported that neighbors could not have witnessed it because it happened in the small, confined porch area of the house where the neighbors don't have visibility. RAYOS mentioned that prior to the incident he had noticed a nearby neighbor who was performing lawn work but that the neighbor could not have witnessed the incident because it happened inside the small porch area and the two stucco walls on each side of the porch blocked the neighbor's view. RAYOS mentioned that the neighbor who was working on the lawn had learned of the attack because he saw him picking up pieces of mail from the ground, which had fallen out of his bag as he was backing away from the porch.

ARTEAGA asked RAYOS if he told KRIKORIAN that PAXMAN was involved in the incident and that BUDMAN was the dog that had bitten him and pushed him against the wall, to which he responded "Yes!" ARTEAGA asked RAYOS if he had retold the details of the incident the same to both KRIKORIAN and HENDRIKSEN. RAYOS stated that he could not remember the exact words he used to describe the incident to each of the two officers, stating that he might have explained the incident in greater detail to one officer (KRIKORIAN) and might have left out a few words when he spoke with the other officer (HENDRIKSEN.) When asked why he would provide more details to one officer and less to the other, RAYOS responded, "I had already talked to one officer and told the full story. I didn't think it would be necessary to repeat the whole thing again!"

RAYOS stated that that he might have provided more details to KRIKORIAN because he believed the police would take a police report and the Humane Society officer was there to quarantine the dog. ARTEAGA asked RAYOS if he had told LOPEZ that he had spoken to more than one officer to which he responded, "No. He didn't ask." RAYOS reported that he had been delivering mail to the 1500 block of Rose Villa for approximately nine years and in the last three to five years he was unaware that dogs lived at 1595 Rose Villa. RAYOS stated that three to five years ago he knew of a Pitbull that lived at 1595 Rose Villa however he believed that the dog died and he had not seen or heard any dogs at the residence since then.

ARTEAGA asked RAYOS if he had heard any barking coming from inside the house prior to ringing the doorbell to which he responded, "No. If I had known that there were dogs in the house I would not have stood in front of the door after I rang the doorbell."

ARTEAGA asked RAYOS if he knew whether PAXMAN and BUDDY had ever been at large or involved in an incident prior to the incident that involved him. RAYOS stated that he had never seen the dogs and did not know anything about them prior to the day of the incident. RAYOS stated that initially did not wish to pursue the matter but had changed his mind several days after the incident, when one of VENER'S neighbors provided him with a business card to an attorney and told him she had sued VENER in the past due to a previous attack involving the same Pitbull. RAYOS also stated that when the neighbor gave him the business card she encouraged him to contact the attorney to seek legal action against VENER.

ARTEAGA TELEPHONE INTERVIEW WITH CARMALT

ARTEAGA made several attempts to contact VENER by telephone and was unsuccessful. However ARTEAGA was able to reach CARMALT by telephone and advised CARMALT that he was conducting a follow-up investigation regarding the incident that took place on October 3rd and would like to meet with him and VENER for a brief interview. CARMALT declined the offer to meet stating that he and VENER could not discuss the matter due to litigation that was pending. CARMALT stated that the only thing he and VENER would be able to state is that the incident took place inside the residence and that VENER had already made it clear to HENDRIKSEN that the incident would have been prevented if RAYOS had not stepped into the house.

ARTEAGA FOLLOW-UP WITH HENDRIKSEN

After speaking with RAYOS, ARTEAGA spoke with HENDRIKSEN and asked her whether while interviewing RAYOS she had knowledge that he had given a statement to KRIKORIAN. HENDRIKSEN stated that when she arrived at the scene KRIKORIAN was already there and she (HENDRIKSEN) had no knowledge that RAYOS had given a statement to KRIKORIAN.

ARTEAGA advised HENDRIKSEN that he had spoken with RAYOS and that RAYOS claimed that when he spoke with her he told her the incident had taken place outside the house, which contradicted what she wrote in her report. HENDRIKSEN stated that she had no doubt that RAYOS told her he had stepped into the house and that is where the

dog had attacked him. HENDRIKSEN told ARTEAGA that she could not think of a reason for him to change his later recounting of events, although she stated that she found it unusual that when she was questioning him someone who identified himself only as RAYOS' supervisor was standing next to him and appeared to not want RAYOS to answer the questions himself. HENDRIKSEN further stated that although the supervisor told her he was not at the scene when the incident happened, each time she asked RAYOS a question before RAYOS could respond, the supervisor would answer the question or would attempt to answer it before RAYOS could respond. HENDRIKSEN told ARTEAGA that she felt it was as if the supervisor was trying to prevent RAYOS from answering the questions. HENDRIKSEN stated that she eventually made it clear to the supervisor that the questions were for RAYOS and that the supervisor must allow RAYOS to answer them, where after HENDRIKSEN was able to get a statement from RAYOS.

LATE OCCURRING CONVERSATION BETWEEN ARTEAGA AND PATTY VENER

On Wednesday, March 29, 2017, ARTEAGA received a telephone call from Patty Vener (P.VENER) in which P.VENER stated that a few days after the bite incident occurred she contacted KRIKORIAN because "...she was worried and wanted to know what was going to happen next with regards to the case." P.VENER told ARTEAGA that during the conversation KRIKORIAN told her not to worry, that RAYOS had told KRIKORIAN that the incident had happened inside the home as RAYOS had stepped into the house to obtain the required signature.

LATE OCCURRING INQUIRY FROM ARTEAGA TO POLLARD

Later that day, ARTEAGA contacted Code Compliance Manager Jon Pollard (POLLARD) with P.VENER'S statement and asked that POLLARD make contact with KRIKORIAN to seek KRIKORIAN'S statement on the matter. On the evening of March 29, 2017, POLLARD sent an e-mail to KRIKORIAN asking her if she recalled any statements made by RAYOS regarding where the bite incident occurred, and particularly whether the bite incident occurred inside the house or outside.

LATE OCCURRING CONVERSATION BETWEEN POLLARD AND KRIKORIAN

At approximately 10:00 a.m. on March 30, 2017, POLLARD received a telephone call from KRIKORIAN who stated that she remembered the incident in detail and that RAYOS had told her that half of his body was inside the house and half of his body was outside the house. KRIKORIAN confirmed that RAYOS had described to her that his body was straddling the threshold when he was bitten by BUDMAN.

ANALYSIS

Based on late information obtained from Pasadena Police Officer G. Krikorian, it is the opinion of the undersigned that BUDMAN bit RAYOS while RAYOS was partially inside the VENER residence, and accordingly Section 6.18.020 (A)(1)(2)(3) is inapplicable and that there is no basis by which to charge VENER and CARMALT with violation of Pasadena Municipal Code Section 6.18.015 (Prohibited Activities.)

Recommended Findings:

It is recommended that the Code Enforcement Commission make the following findings of fact:

1. That "BUDMAN" is a neutered adult Pitbull terrier owned by Zachary Carmalt at the time of the incident described in the undersigned report;
2. That Victor Vener is the owner of the property at 1595 Rose Villa Street where the incident occurred.
3. That Zachary Carmalt and Victor Vener were notified of the alleged violations of the Pasadena Municipal Code with respect to prohibited activities and properly informed of the scheduled date of the hearing before the Code Enforcement Commission;
4. That Zachary Carmalt / Victor Vener appeared (or did not appear) at the hearing and testified;

or

That Mr./Ms. _____ appeared and testified on his behalf;

5. That the following document was received into evidence at the hearing on April 6, 2017:
 - i. Exhibit "A" – Pasadena Humane Society Staff Report
6. That _____ of the Pasadena Humane Society appeared and testified on behalf of the City of Pasadena;
7. That the Commission has considered the following items as part of the deliberative process:
 - i. Any previous history of the dog attacking, biting or causing injury to a human being or other animal;
 - ii. The nature and extent of the injuries inflicted and the number of victims involved;
 - iii. The place where the bite, attack or injury occurred;
 - iv. The presence or absence of any provocation for the bite, attack, or injury;
 - v. The extent to which property has been damaged or destroyed;
 - vi. Whether the dog exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;
 - vii. The manner in which the dog has been maintained by its owner;
 - viii. Any other relevant evidence concerning the maintenance of the dog;
 - ix. Any other relevant evidence regarding the ability of the owner, or the poundmaster, to protect the public safety in the future if the dog is permitted to remain in the city.

8. That as set forth and described in this report that the bite incident that occurred on October 3, 2016, took place in manner that was not in violation of the Pasadena Municipal Code.
9. That this Commission has received competent testimony and that after giving thoughtful and deliberate consideration to the testimony received during the course of this hearing have determined that there is insufficient evidence to show that BUDMAN constitutes a public nuisance or is a threat to public safety.

Recommended corrective action in this case:

1. None.

Attachments:

- Attachment A: Google street-view image of 1595 Rose Villa Street
Attachment B: Area map
Attachment C: Photograph of Victim Injury
Attachment D: Humane Society Report Investigative Report Dated October 3, 2016
Attachment E: Transcription of G. Hendriksen Interview Dated November 22, 2016

Date: 3/30/17


Lieutenant Nemesio Arteaga
Pasadena Humane Society & SPCA