

BOARD OF ADMINISTRATIVE APPEALS ADMINISTRATIVE REVIEW PANEL

Date: Thursday, August 3, 2023

Time: 3:00 P.M.

Place: Antioch City Hall – Council Chambers

200 'H' Street

Antioch, CA 94509

BOARD MEMBERS

Ademuyiwa "Ade" Adeyemi, Chairperson Antwon Webster, Vice Chairperson Marie Livingston

> Vacant Vacant Vacant, Alternate

PLEASE TURN OFF CELL PHONES BEFORE ENTERING THE MEETING LOCATION.

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Antioch to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at the number or address below at least 72 hours prior to the meeting or when you desire to receive services. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City's ADA Coordinator can be reached @ Phone: (925) 779-6950, and e-mail: publicworks@antiochca.gov.

BOARD OF ADMINISTRATIVE APPEALS SPEAKER RULES

NOTICE OF OPPORTUNITY TO ADDRESS THE BOARD

This agenda is a summary of the discussion items/actions proposed to be taken by the Board of Administrative Appeals. The public has the opportunity to address the Board on each agenda item. The Board can only take action on items that are listed on the agenda. Comments regarding matters <u>not</u> on this Agenda may be addressed during the "Public Comments" section on the agenda. No one may speak more than once on an agenda item or during "Public Comments".

Members of the public wishing to provide <u>public comments</u>, may do so one of the following ways:

- 1) WRITTEN PUBLIC COMMENT Written comments may be submitted electronically to the City Clerk at the following email address: cityclerk@antiochca.gov, prior to 1:00 p.m. the day of the Board of Administrative Appeals Meeting. Please indicate the agenda item and title in your email subject line. All comments received before 1:00 p.m. the day of the meeting, will be provided to the Board Members before the meeting.
- 2) <u>IN PERSON</u> Fill out a Speaker Request Form, available near the entrance doors, and place in the Speaker Card Tray near the City Clerk before the meeting begins. Speakers will be notified shortly before they are called to speak.
 - When called to speak, please limit your comments to the time allotted (up to 3 minutes, at the discretion of the Chair/Vice Chairperson).

After hearing from the public, the agenda item will be closed. Deliberations will then be limited to members of the Board.

NOTICE OF AVAILABILITY OF REPORTS

The Board of Administrative Appeals' Agendas, including Staff Reports, are posted onto the City's Website 72 hours before each meeting. To view the agenda information, click on the following link: https://www.antiochca.gov/government/agendas-and-minutes/board-of-administrative-appeals/.

Copies are available for inspection (and copying for a fee), at the City Clerk's Office, City Hall, 200 'H' Street, Antioch, CA 94509, Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding holidays. Copies are also made available at the Antioch Public Library for inspection.

NOTICE OF OPPORTUNITY TO ADDRESS THE BOARD

The public has the opportunity to address the Board on each agenda item. Please see the Speaker Rules on the inside cover of this Agenda for additional information on public participation.

AGENDA

Vacant. Alternate

3:00 P.M. ROLL CALL

Ademuyiwa "Ade" Adeyemi, Chairperson Antwon Webster, Vice Chairperson Marie Livingston Vacant Vacant

PLEDGE OF ALLEGIANCE

<u>PUBLIC COMMENTS</u> – Only unagendized issues will be discussed during this time.

1. CONSENT CALENDAR

A. APPROVAL OF BOARD OF ADMINISTRATIVE APPEAL MEETING MINUTES OF APRIL 6, 2023

Recommended Action: Motion to approve the Meeting Minutes

B. APPROVAL OF BOARD OF ADMINISTRATIVE APPEAL SPECIAL MEETING MINUTES OF JUNE 15, 2023

Recommended Action: Motion to approve the Special Meeting Minutes.

C. APPROVAL OF THE LEVY OF SPECIAL ASSESSMENTS ON CERTAIN PROPERTIES FOR UNPAID ADMINSTRATIVE SUMMARY ABATEMENTS AND LIEN PROCESSING FEES FOR FEBRUARY AND MARCH 2023

Recommended Action: T

The Board of Administrative Appeals shall confirm each assessment and the amount thereof, as proposed or as corrected and modified, and order it assessed against the property. The Board shall also direct that the same be recorded with the Contra Costa County Recorder's Office and thereafter the assessment shall contribute a special assessment and lien against the property.

WRITTEN/ORAL COMMUNICATIONS

MOTION TO ADJOURN: After Written/Oral Communications, the Chairperson/ Vice

Chairperson will make a motion to adjourn the meeting. A second of the motion is required, and then a majority vote is

required to adjourn the meeting.

BOARD OF ADMINISTRATIVE APPEALS ADMINISTRATIVE REVIEW PANEL

Regular Meeting April 6, 2023 3:00 P.M. Council Chambers

Chairperson Adeyemi called the meeting to order at 3:01 P.M. on Thursday, April 6, 2023.

ROLL CALL:

Present: Board Members Webster, Livingston and Chairperson Adeyemi

Staff Present: Assistant City Attorney, Rachel Hundley

Administrative Analyst, Vanessa Rosales Animal Control Officer, Melissa Ethridge

Minutes Clerk, Kitty Eiden

PLEDGE OF ALLEGIANCE

Board Member Webster led the Pledge of Allegiance.

PUBLIC COMMENT - None

1. CONSENT CALENDAR

A. APPROVAL OF ADMINISTRATIVE APPEALS MINUTES FOR JANUARY 5, 2023

On motion by Board Member Livingston, seconded by Board Member Webster, the Board of Administrative Appeals unanimously approved the Minutes for January 5, 2023.

B. APPROVAL OF ADMINISTRATIVE APPEALS MINUTES FOR MARCH 2, 2023

On motion by Board Member Livingston, seconded by Board Member Webster, the Board of Administrative Appeals unanimously approved the Minutes for March 2, 2023.

2. REGULAR AGENDA

Assistant City Attorney Hundley explained the manner in which the proceedings would be conducted.

OATH for all intending to testify

Acting City Clerk Rosales administered the Oath to all intending to testify.

A. ANIMAL SERVICES CASE NO. A22-077965 / ADMINISTRATIVE CITATION NO. 29885 - APPEAL FILED BY KATHY ALMEIDA, ANTIOCH, CA - VIOLATION OF ANTIOCH

MUNICIPAL CODE: § 6-1.501(C) UNLAWFUL ACTS – ALLOW AN ANIMAL TO BE AT LARGE

Animal Control Officer (ACO) Ethridge presented the staff report dated January 24, 2023, recommending the Board of Administrative Appeals deny the appeal and uphold Administrative Citation No. 29250.

In response to Board Member Webster, ACO Ethridge confirmed the citation being discussed today was #29250 for \$1000.00 for one animal at large. She noted this was the third violation regarding this animal and the time between the first and third violations was approximately three years. She explained that the information referencing feces and food attracting rodents was not part of the violation.

In response to Board Member Livingston, ACO Ethridge stated there was no issue with the fence so there had not been a follow-up investigation of the property.

In response to Board Member Webster, ACO Ethridge reiterated that since the December 20, 2022, citation there had been no follow-up investigations since the dog was placed securely back onto its property at that time. She noted the fence was in working order and she assumed the dog was loose due to human error. She further noted there had been no other incidents since 2022.

Kimberly Acosta, Appellant, explained the reason for the lack of maintenance in the yard was due to her mother being hospitalized for two weeks. She noted during that time they had focused on cleaning the house for her when she returned home. She reported that her mother was diagnosed with cancer, had less than three months to live and she did not have the funds to pay the fine. She expressed her appreciation to Animal Services for their professionalism. She stated Mutley was not aggressive, and they had been unsuccessful at locating the person who reported him. She explained that they had repaired and reinforced the gate latch. She offered her time or services to help pay for the fine. She stated she wanted to remain in good standing with Antioch Animal Services because they had been so helpful to her in several situations. She provided the Board with photos of the reinforced fence and gate latches.

Kathy Almeida, Appellant, stated that her dog was well behaved, and she had been unable to determine who reported him to Animal Control. She noted that when her dog got loose, he remained at her house. She stated she was unable to pay the fine and only had 3-5 months to live.

In response to Chairperson Adeyemi, Ms. Acosta clarified that they received the citation the day Ms. Almeida was discharged from the hospital.

Board Member Livingston questioned if Animal Services could confirm the gate had been repaired and was now secure.

ACO Ethridge stated that they could send an officer out to confirm that repairs were completed.

In response to Assistant City Attorney Hundley, ACO Ethridge reiterated that this appeal was for citation #29250.

In response to Board Member Webster, ACO Ethridge explained that they assigned the citation to an animal id number in their system and each incident had involved the same dog.

In response to Board Member Webster, Assistant City Attorney Hundley added that staff's recommendation was to uphold the citation for \$1000.00. She clarified the hardship waiver was approved so the appellant did not have to deposit the fine amount prior to the hearing and if the citation was upheld, the fine would have to be paid at that time. She explained the Board had the authority to consider whether the citation was properly issued as a result of a code violation and whether the amount should be reduced or waived.

The Board Members agreed that the citation was properly issued as a result of a violation.

Board Member Livingston questioned if they could determine whether to uphold the appeal after inspection of the property.

Chairperson Adeyemi explained that the Board had to consider the condition of the property at the time the citation was issued.

Board Member Webster commented that there were no citations regarding the condition of the property, so there was no need to inspect the gate. He noted there had been no further incidents at this location since December 2022. He spoke in support of reducing the citation to \$75.00 to help cover staff hours and noted that he had compassion for the dog owner.

On motion by Board Member Webster, seconded by Board Member Livingston the Board of Administrative Appeals denied the appeal and upheld Administrative Citation No. 20250 reducing the citation amount to \$75.00. The motion carried the following vote:

Ayes: Webster, Livingston Noes: Adeyemi

WRITTEN/ORAL COMMUNICATIONS

Acting City Clerk Rosales announced the next Board of Administrative Appeals meeting was tentatively scheduled for the first Thursday in May.

ADJOURNMENT

On motion by Board Member Webster, seconded by Board Member Livingston the Board of Administrative Appeals unanimously adjourned the meeting at 3:38 P.M.

Respectfully submitted:

<u>Kútty Eúdenv</u>

KITTY EIDEN. Minutes Clerk

BOARD OF ADMINISTRATIVE APPEALS ADMINISTRATIVE REVIEW PANEL

Special Meeting June 15, 2023 3:00 P.M. Council Chambers

Chairperson Adeyemi called the meeting to order at 3:01 P.M. on Thursday, June 15, 2023.

ROLL CALL:

Present: Board Members Livingston, Webster and Chairperson Adeyemi

Staff Present: Assistant City Attorney, Rachel Hundley

Administrative Analyst, Vanessa Rosales Executive Legal Assistant, Rakia Grant Smith

Animal Services Supervisor, Cat Cottle

Minutes Clerk, Kitty Eiden

PLEDGE OF ALLEGIANCE

Board Member Webster led the Pledge of Allegiance.

PUBLIC COMMENT - None

REGULAR AGENDA

Assistant City Attorney Hundley explained the manner in which the proceedings would be conducted.

OATH for all intending to testify

Acting City Clerk Rosales administered the Oath to all those intending to testify.

A. ANIMAL ID# A143699 "Bear" (dog) – Appeal filed by Samuel and Vanessa Tuivailala, 5292 Mohican Way, Antioch, CA 94531, to overturn the determination made by Antioch Animal Services – Antioch Municipal Code §6-1.805(A)(2): ACTIONS AFTER DETERMINATION: VICIOUS.

Animal Services Supervisor Cottle presented the staff report dated June 15, 2023, recommending the Board of Administrative Appeals deny the appeal and uphold the order to surrender "Bear" A143699, a Vicious Dog to an Animal Control Officer for euthanizing. At the request of Chairperson Adeyemi, she played the 911 calls for service related to this incident. She explained that they had initially declared the animal vicious with provisions; however, after additional findings and prior to a decision being finalized by payment and permits granted, they rescinded the initial declaration with an order to surrender the animal for euthanasia. She noted

that that decision was based on the severity of injuries, unknown provocation as well as not knowing how to correct the behavior in the future. Photos were presented to Board Members.

In response to Board Member Webster, Animal Services Supervisor Cottle clarified that it took additional time to acquire responses from the public and hospitals and since it involved family members, they were not forthcoming immediately. She noted additional findings were included in the staff report and were the basis for changing the determination from containment to euthanasia.

Vanessa Tuivailala, Appellant, reported she had received a text on May 23, 2023, from Animal Services indicating that they had declared Bear a vicious dog and she received documents via email on May 25, 2023. She stated she arrived at Animal Services on May 27, 2023, to pay the fees outlined in the declaration; however, Officer Ethridge explained the fees should be paid after Bear's guarantine since there would be additional days due to neutering and inspection processes. She reported that she was then informed neutering would take place on May 30, 2023, so she paid those fees; however, on May 30, 2023, Animal Control Manager Harding decided neutering would not be done until June 5, 2023, after an inspection on June 2, 2023. She reported that they then had received a call from Officer Melander on June 2, 2023, who stated she could not do the inspection because the fees had not been paid and then informed her that Bear would be neutered on Monday and inspection would follow the same day. She reported when her husband arrived at Animal Services to pay the fees, Animal Services Supervisor Cottle stated that she would not be releasing Bear; however, one-hour prior Officer Melander had stated neutering and the inspection would take place on Monday. She stated they felt Animal Services had been untruthful and reported they had met all of the requirements of the declaration signed on May 28, 2023. Speaking about the incident that occurred, she explained that her mother was present at the time and indicated that the victim's tantrum initiated the event. She commented that they accepted the regulations, fees and guidelines because they would not jeopardize their dog's life or others. She stated they were taking this matter very seriously with full confidence Bear would never do this again.

Katrina Tuivailala, Julie Tuivailala, Erica Alandor, Steven Garbutt and Sam Tuivailala discussed Bear's gentle demeaner and requested the Board let the vicious dog determination stand and allow the owners to take the steps necessary to ensure public safety.

Julia Emego Kwue, Antioch resident, spoke in support of denying the appeal and upholding the order to surrender "Bear" for euthanasia.

Public comments submitted in writing were entered into the record from the following individuals: Frenchy, Alexandra Medina, Alyssa Chaulklin, Sylvia D. Commons, Dominic Tejo, Lisa Rodriguez, Jazmyn Jackson, Alexis Morales, Ericka Delgado and Michael.

In response to Board Member Webster, Animal Services Supervisor Cottle explained that she was on vacation at the time communication was occurring between Animal Control Officers and the appellants. She stated when she returned, she was given an update of the severity of the injuries sustained by the child and had a conversation with Animal Control Manager Harding that based on that information, she had decided it was not safe to release the animal. She explained

Animal Control Manager Harding wrote the letter ordering the surrender for euthanasia, which was hand delivered to the owner. She noted the basis of that decision was relayed verbally to the owners. She confirmed that all fees were paid when the appeal was filed except for the neuter fee that was paid previously. She explained that the inspection was not done because the fee was not paid, which was a miscommunication by the Animal Control Officers who were trying to expedite the process because the shelter was overcrowded. She confirmed that the fees should have been paid in full for the process to begin. She explained the appellant attempted to pay the fees at the time she was presented with the change in decision.

In response to Chairperson Adeyemi, Animal Services Supervisor Cottle stated she could not conclusively say that the dog's behavior would become a pattern; however, she was concerned that he was described as a trained dog in good care and the incident involved a person who was familiar to him. Additionally, she noted the second dog did not react the same way.

In response to Board Member Webster, Animal Services Supervisor Cottle confirmed the receipt dated June 2, 2023, was for all fees including the filing fee for the appeal.

Assistant City Attorney Hundley clarified that to file an appeal the appellant had to pay the appeal fee plus any outstanding balance.

In response to Board Member Webster, Appellant Tuivailala stated they had spent approximately \$600.00 on corrective items. She reiterated the timeline of their interactions with Antioch Animal Services regarding the inspection and neuter dates as well as the change in declaration. She stated they were appealing the decision to surrender the dog for euthanasia and asking that the City revert back to the prior decision signed on May 27, 2023.

Assistant City Attorney Hundley clarified the current decision was that the dog be euthanized due to the severe injury and the appellant was asking to go back to the prior decision outlined in the terms and conditions in the Vicious Animal Declaration signed on May 27, 2023.

Board Member Livingston stated based on the findings of the investigation and future safety of any person who may enter a residence where the dog may reside, she recommended Bear be euthanized.

A motion was made by Board Member Livingston, seconded by Chairperson Adeyemi, that the Board of Administrative Appeals deny the appeal and uphold the order to surrender "Bear" A143699, a Vicious Dog to an Animal Control Officer for euthanizing.

Board Member Webster requested the motion be amended to adjust for fees paid.

Chairperson Adeyemi stated they were only discussing the disposition of the dog.

Assistant City Attorney Hundley commented that some of the fees were related to the inspection so there may be a question as to what fees would be owed under the City's current decision.

Board Member Webster requested the fees be adjusted since a majority were associated with the terms and conditions of the original decision.

In response to Assistant City Attorney Hundley, Animal Services Supervisor Cottle stated all the fees for the appeal were paid upfront. She noted the dog was still in the care of Antioch Animal Services and fees were frozen during the appeal process. She further noted the fees paid were associated with boarding, impounding, administrative fees, neutering and licensing. She stated that she believed there was a stipulation that if the appeal was denied there were no refunds.

Board Member Webster stated it was his understanding that the Board could amend the fees and requested a modification to the motion on the floor.

Board Member Livingston responded that she did not wish to modify her motion.

Assistant City Attorney Hundley explained that the Antioch Municipal Code indicated the Board of Administrative Appeals may decide all issues for or against the owner of the animal.

A vote taken on the previous motion to deny the appeal and uphold the order to surrender "Bear" A143699, a Vicious Dog to an Animal Control Officer for euthanizing was approved by the following vote:

Ayes: Livingston, Adeyemi Noes: Webster

WRITTEN/ORAL COMMUNICATIONS - None

ADJOURNMENT

On motion by Board Member Livingston, seconded by Board Member Webster the Board of Administrative Appeals unanimously adjourned the meeting at 4:12 P.M.

Respectfully submitted:

<u>Kítty Eíden</u> KITTY EIDEN, Minutes Clerk



STAFF REPORT TO THE BOARD OF ADMINISTRATIVE APPEALS FOR CONSIDERATION AT THE HEARING ON AUGUST 3, 2023

Approved by: Curt Michael, Code Enforcement Manager

Date: July 24, 2023

Subject: Approval of the Levy of Special Assessments on Certain Properties

for Unpaid Administrative Summary Abatements and Lien

Processing Fees for February and March, 2023

RECOMMENDATION

The Board of Administrative Appeals shall confirm each assessment and the amount thereof, as proposed or as corrected and modified, and order it assessed against the property (Attachment "A"). The Board shall also direct that the same be recorded with the Contra Costa County Recorder's Office and thereafter the assessment shall constitute a special assessment and lien against the property.

FISCAL IMPACT

The action will enable the City of Antioch to collect outstanding receivables against properties for the months of February and March, 2023, in the amount of **\$2,656.82**

BACKGROUND INFORMATION

Pursuant to Antioch Municipal Code §1-5.09 the City may collect any past due Administrative Citation fines, Abatements or late payment charges by use of special assessment liens and all action for recovery of money.

A Notice of Intent to Record Lien (Attachment B) was sent to each property owner who is entitled to notice reflecting the property address directly connected to conditions or activities on the subject real property, assessor's parcel number, the municipal code violation, administrative citation fine and copy of the administrative citations.

ATTACHMENTS

A: List of Assessments

B: Notice of Intent to Record Lien

				LIEN PROC		OWNER			
AR	CASE#	APN	AMT	FEE	SITE ADDRESS	LAST	OWNER FIRST	MAILING ADDRESS	PAID
								5021 CRESTPARK	
								CIR ANTIOCH CA	
AR168604	CE2212-018	056-060-039	\$ 954.78	\$ 290.00	5021 CRESTPARK CIR	JOSHI	GURIND AND PUNAM	94531-7754	
								4344 WOLVERINE	
								WAY ANTIOCH CA	
AR168426	CE2205-174	053-450-055	\$ 1,122.04	\$ 290.00	4344 WOLVERINE WAY	BATES	MAURICE	94531-8905	
			\$ 2,076.82	\$ 580.00					
		Total:	\$ 2,656.82	_	_				



NOTICE OF INTENT TO RECORD LIEN

July 18, 2023

«OWNER_FIRST» «OWNER_LAST»
«OWNER_ADDRESS»

«OWNER_CITY», «OWNER_STATE» «OWNER_ZIP»

SUBJECT: NOTICE OF INTENT TO RECORD LIEN

Address: «SITE_ADDRESS»

Parcel No. «APN»
Case No. «CASE»

PLEASE BE ADVISED, the City of Antioch claims a special assessment of **\$«AMT»** pursuant to Cal. Gov't Code §38773.5 and Antioch Municipal Code §1-5.09 for unpaid Administrative Citations and penalties relating to the above referred to real property. Said fines and late penalties are not subject to appeal.

On Thursday, August 3, 2023, at 3:00 P.M. the ADMINISTRATIVE BOARD OF APPEALS will receive the proposed assessment for hearing and confirmation. Should you object to our INTENT TO RECORD LIEN and choose to challenge it at the hearing, you must submit any and all objections in writing to the City Clerk at least three (3) days prior to the date of said hearing. In addition, you will need to pay the required \$50.00 appeal fee. Failure to submit written objections to the City Clerk at least three (3) days prior to the hearing date shall constitute a waiver of any such objections.

Fines and late penalties are not subject to appeal. You may only object to the INTENT TO RECORD LIEN. Objections are on the basis that said fines and late penalties have been paid in full.

BE FURTHER ADVISED that the amount of the assessment shall be recorded with the Contra Costa County Recorder's office by **August 8, 2023**. To avoid recordation, please make payment to the City of Antioch, on or before **July 31, 2023**. Failure to respond to this notice shall not affect the validity of the proceedings. Please be aware that if a lien is recorded on your property there will be additional fees to record, and release said lien.

CITY OF ANTIOCH COST RECOVERY/COMMUNITY DEVELOPMENT P.O. BOX 5007 ANTIOCH, CA 94531-5007

It is my desire that you will comply with this final notice, thus relieving the City of any further action. If you have any questions or wish to discuss this matter, please call Code Enforcement at (925) 779-7042.

Sincerely,

Curt Michael

Code Enforcement Manager

cc: City Attorney



<u>SUPPLEMENTAL</u> STAFF REPORT TO THE BOARD OF ADMINISTRATIVE APPEALS FOR CONSIDERATION AT THE HEARING ON AUGUST 3, 2023

Approved by:

Curt Michael, Code Enforcement Manager

Date:

8/2/2023

Subject:

Approval of the Levy of Special Assessments on Certain Properties for Unpaid Administrative Citations and Lien Processing Fees for the months February and March, 2023 – As Amended to reflect

updated information

RECOMMENDATION

As previously indicated in the staff report presented to you dated July 24, 2023, a Notice of Intent to Record Lien was sent to each property owner listed on the attached spreadsheet due to outstanding receivables to the City of Antioch. As of today, August 2, 2023, one of those accounts has been paid in full.

The purpose of this supplemental report is to remove the 1 account from the list before you today for confirmation of assessment and direction to record said lien.

The adjusted grand total amount of accounts receivable before you are \$1,244.78.

ATTACHMENT

A: AMENDED List of Assessments

	200			LIE	N PROC	The state of the state of	OWNER	The second second	2 0 2 W 2	
AR	CASE#	APN	AMT		FEE	SITE ADDRESS	LAST	OWNER FIRST	MAILING ADDRESS	PAID
									5021 CRESTPARK	_
									CIR ANTIOCH CA	
AR168604	CE2212-018	056-060-039	\$ 954.78	\$	290.00	5021 CRESTPARK CIR	JOSHI	GURIND AND PUNAM	94531-7754	
									4344 WOLVERINE	
									WAY ANTIOCH CA	
AR168426	CE2205-174	053-450-055	\$ 1,122.04	\$	290.00	4344 WOLVERINE WAY	BATES	MAURICE	94531-8905	\$ 1,122.04
			\$ 2,076.82	\$	580.00					
		Total:	\$ 2,656.82							
		Payments								
		received in								
		full (1):	\$ (1,122.04)							
		\$290.00 x 1	\$ (290.00)							
		Amended								
		Total:	\$ 1,244.78							