



**BOARD OF ADMINISTRATIVE APPEALS
ADMINISTRATIVE REVIEW PANEL**

**Council Chambers
200 "H" Street**

**NOVEMBER 6, 2014
3:00 P.M.**

3:00 P.M. ROLL CALL Diana Busenbarrick, Chairperson
Deborah Simpson, Vice Chairperson
Andrew Schleder
Mike Schneider
Frederick Rouse
Ademuyiwa "Ade" Adeyemi, Alternate

PLEDGE OF ALLEGIANCE

1. CONSENT CALENDAR

**A. APPROVAL OF ADMINISTRATIVE APPEALS SPECIAL MEETING MINUTES FOR
AUGUST 28, 2014 (*NO QUORUM*)**

Recommended Action: Motion to approve the minutes

MINUTES

**B. APPROVAL OF ADMINISTRATIVE APPEALS CONTINUED MEETING MINUTES FOR
SEPTEMBER 4, 2014**

Recommended Action: Motion to approve the minutes

MINUTES

**C. APPROVAL OF THE LEVY OF SPECIAL ASSESSMENTS ON CERTAIN
PROPERTIES FOR UNPAID ADMINISTRATIVE CITATIONS & ABATEMENTS FOR
THE MONTHS OF JULY AND AUGUST 2014**

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. 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.

STAFF REPORT

PUBLIC COMMENTS—*Only unagendized issues will be discussed during this time*

WRITTEN/ORAL COMMUNICATIONS

ADJOURNMENT

Notice of Availability of Reports

This agenda is a summary of the discussion items/actions proposed to be taken by the Board of Administrative Appeals. Materials provided regarding the agenda items will be available at the following website: <http://www.ci.antioch.ca.us/CityGov/Agendas/default.asp> or at the City Clerk's Office located on the 3rd floor of City Hall, 200 H Street, Antioch, CA 94509, Monday through Thursday, for inspection and copying (for a fee). Copies are also made available at the Antioch Public Library for inspection. The meetings are accessible to those with disabilities. Auxiliary aides will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.

Notice of Opportunity to Address the Committee

The public has the opportunity to address the Board on each agenda item. To address the Board, fill out a yellow Speaker Request form, available on each side of the entrance doors, and place in the Speaker Card Tray. This will enable us to call upon you to speak. Each speaker is limited to not more than 3 minutes. Comments regarding matters not 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".

PLEASE TURN OFF CELL PHONES BEFORE ENTERING COUNCIL CHAMBERS.

**BOARD OF ADMINISTRATIVE APPEALS
ADMINISTRATIVE REVIEW PANEL**

**Special Meeting
3:00 P.M.**

**August 28, 2014
Council Chambers**

ROLL CALL:

Present: Board Member Simpson and Chairperson Busenbarrick
Absent: Board Members Schneider, Schleder, Rouse and Adeyemi

Due to the lack of a quorum, the special meeting was adjourned at 3:23 P.M. to be continued on September 4, 2014 at 3:00 P.M.

Respectfully Submitted,

Kitty Eiden
Minutes Clerk

**BOARD OF ADMINISTRATIVE APPEALS
ADMINISTRATIVE REVIEW PANEL**

**Continued Regular Meeting
3:00 P.M.**

**September 4, 2014
Council Chambers**

Chairperson Busenbarrick called the meeting to order at 3:06 P.M. on Thursday, September 4, 2014 in the Council Chambers.

ROLL CALL:

Present: Board Members Schneider, Simpson, Rouse and Chairperson Busenbarrick
Absent: Board Members Schleder and Adeyemi

Staff Present: City Attorney, Lynn Tracy Nerland
Animal Control Supervisor, Monika Helgemo
Animal Control Officer, Ada Gomez
Animal Control Officer, Andrea Sutherland
Minutes Clerk, Kitty Eiden

PLEDGE OF ALLEGIANCE

Chairperson Busenbarrick led the board, staff and public in the Pledge of Allegiance.

1. CONSENT CALENDAR

A. APPROVAL OF ADMINISTRATIVE APPEALS SPECIAL MEETING MINUTES FOR JULY 24, 2014

On motion by Board Member Schneider, seconded by Board Member Simpson, the Board of Administrative Appeals approved the Minutes for July 24, 2014.

Ayes: Schneider, Simpson, Busanbarrick Absent: Schleder, Adeyemi Abstain: Rouse

B. APPROVAL OF ADMINISTRATIVE APPEALS MEETING MINUTES FOR AUGUST 7, 2014

On motion by Board Member Simpson, seconded by Board Member Rouse, the Board of Administrative Appeals unanimously approved the Minutes for August 7, 2014.

Ayes: Schneider, Simpson, Busenbarrick, Rouse Absent: Schleder and Adeyemi

Board Member Rouse stated that he was not present for the previous hearing on this item; however he had read all the information and felt he could render a decision based on the testimony given.

City Attorney Nerland provided Board Member Rouse with a letter from James Morrison on behalf of the appellants and copies of vaccination certificates that were presented at the previous meeting, which he reviewed prior to the staff report.

Board Member Schneider reported he had previously provided professional services for the appellants Attorney; however, he had not received any funds from them within the last year. Additionally, he noted their private investigator called him after the last hearing asking what to do regarding the situation. He stated he would disclose the information to the City and noted he had received no other advice or considerations from him. He stated he felt he could make a fair and unbiased decision; however, he would let Chairperson Busenbarrick determine if he should recue himself.

Chairperson Busenbarrick stated she was comfortable with Board Member Schneider participating in the hearing this afternoon.

City Attorney Nerland explained the manner in which the proceedings would be conducted and reviewed the options available for the Appeals Board. She administered the Oath for all persons present intending to testify on the appeal.

2. APPEAL

A. CITATION NO. 32355 – Continued appeal of Administrative Citation issued regarding Unlicensed Dog [§6-1.20(B)], No Rabies Proof [§6-1.12.2], No Dog Fancier's (Kennel) Permit [§6-1.24.1] (x10 dogs), and Animal Care [§6-1.28 for George/Danielle Guevara, 4724 Palomino Way, Antioch, CA

Animal Control Supervisor Helgemo presented the staff report dated August 28, 2014 recommending the Board of Administrative Appeals deny the appeal and uphold the Administrative Citation and fine of \$1900.00 (with the exception of the Animal Care Violation).

In response to Board Member Schneider, Animal Control Supervisor Helgemo stated the appellant had been warned regarding recent complaints pertaining to their kennel permit and she had attempted to get the dogs under control. She noted the complaints needed to be confirmed and there was a possibility the permit could be revoked.

In response to Chairperson Busenbarrick, Animal Control Supervisor Helgemo explained staff had not met with Mr. and Mrs. Guevara, however they had complied with obtaining nine (9) dog licenses, however, they were aware there were additional dogs.

City Attorney Nerland added that the appellants were given a kennel permit when they licensed the dogs and there had been interaction to get the appellants into compliance.

APPELLANT

Danielle Guevara, Appellant, stated they had not wanted to participate in a meeting with Animal Services and they were willing to comply without further disturbances to any party. She reported she currently owned eight (8) dogs and one (1) rescue up for adoption. She clarified her dogs had always been vaccinated and conceded that licensing them had not occurred. She noted attempts to license the dogs with Animal Services were unsuccessful because Animal Services had not been cooperative. She requested the citation dealing with no rabies be overturned and her money returned. She noted she was attempting to address current noise complaints by limiting outside time.

In response to Board Member Schneider, Ms. Guevara stated they did not have a business license and they would no longer be doing rescue.

In response to Board Member Rouse, Ms. Guevara stated she felt the City should uphold the citation for no licenses and overturn the citation for no rabies vaccinations.

In response to Chairperson Busenbarrick, Ms. Guevara stated she kept rabies certificates at her office and due to personal reasons; she had been unable to provide proof to the City.

Stacey Wright, appellant's neighbor and Veterinarian, noted that when she walked her dog past the residence, she encountered many dogs that charged the fence. She stated she had attempted to remedy the situation with Ms. Guevara; however the situation had not improved.

REBUTTAL

Animal Supervisor Helgemo reported there were two previous dog bite incidents and they had given the appellant opportunity to supply proof of rabies vaccinations which had never been provided.

REBUTTAL

Danielle Guevara stated she had attempted to license her dogs and at that time, she provided rabies certificates. She clarified Dr. Wright indicated she walked by her fence between the hours of 5:00 A.M. – 6:00 A.M., and she had been keeping her dogs in until 7:30 A.M. to accommodate her. She stated her dogs were not all outside at the same time and only one dog ran to the fence and barked. She stated she did not want to be

a burden to her neighbors and she was willing to adjust the hours the dogs were allowed outside.

In response to Board Member Rouse, Ms. Guevara clarified when she attempted to license her dogs; she had proof of sterilization and rabies vaccination however the Animal Control Officer refused to issue her licenses. Additionally, she noted she had given proof of earlier vaccinations to her Attorney for submission.

In response to Chairperson Busenbarrick, Ms. Guevara stated she did not recall the dog bite incidents.

City Attorney Nerland stated she had one copy of documentation submitted by Mr. Morrison on June 5, 2014, which had some supporting documentation regarding rabies certificates. She reported the appellant acknowledged the document showed current rabies vaccinations however, it was not historical to 2011.

Ms. Guevara added that the documentation was for 3-year rabies vaccinations and proved she had a history of vaccinating her dogs on time.

Board Member Schneider stated the record indicated "Hitler" had received his vaccination this year and there was no evidence showing he was or was not vaccinated prior to that.

Ms. Guevara stated she did not have the information for previous vaccinations with her at this time.

Board Member Schneider noted this was the opportunity for Ms. Guevara to provide that information.

Board Member Simpson stated the bite report indicated vaccination information was not provided and she felt if the appellant had that information, she should have provided it to Animal Services.

Ms. Guevara stated that she realized it was after the fact, but she would provide proof of rabies vaccinations for all of her dogs.

Board Member Simpson clarified the municipal code stated every dog owner shall show a copy of a vaccination certificate upon request of Animal Control or any other enforcement officer. She noted the applicant stating she had them was not meeting that requirement. She added that this was the second opportunity Ms. Guevara had to provide the documents and she had failed to do so.

In response to Board Member Rouse, Ms. Wright indicated the first time a dog was vaccinated for rabies was good for one (1) year and every subsequent vaccination was good for three (3) years.

Board Member Schneider stated the municipal code required rabies certificates to be displayed upon demand and that was not adhered to, therefore the City had the right and obligation to make sure the dogs were vaccinated to insure public safety. He noted given the evidence provided, he recommended the Board deny the appeal and uphold the Administrative Citation and fine of \$1900.00.

Board Member Rouse stated he had wished the appellant would have participated in discussions with City staff prior to this issue coming before the Board of Appeals.

On motion by Board Member Schneider, seconded by Board Member Simpson, the Board unanimously upheld the citation and denied the appeal (with the exception of Animal Care §6-1.28) and fine of \$1900.00.

City Attorney Nerland stated the City would refund the amount the appellant had paid associated with the Animal Care citation.

PUBLIC COMMENTS - None

WRITTEN/ORAL COMMUNICATIONS

In response to Board Member Rouse, City Attorney Nerland stated the next meeting would be held on October 2, 2014 at 3:00 P.M.; however no appeals had been filed yet. She requested the Board keep the date available in the event an appeal was filed.

ADJOURNMENT

Chairperson Busenbarrick adjourned the Administrative Board of Appeals meeting at 3:56 P.M. to the next regularly scheduled meeting on October 2, 2014.

Respectfully Submitted,

Kitty Eiden
Minutes Clerk

**STAFF REPORT TO THE BOARD OF ADMINISTRATIVE APPEALS
FOR CONSIDERATION AT THE HEARING ON NOVEMBER 6, 2014**



Prepared by: Ryan Graham, Deputy Director of Community Development
Date: October 16, 2014
Subject: Approval of the Levy of Special Assessments on Certain Properties for Unpaid Administrative Citations & Abatements for the months of July and August 2014

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 Recorders 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 July 2014 and August 2014 respectively in the amount of \$11,271.64 in unpaid Administrative Citations & Abatements.

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 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, assessors parcel number, the municipal code violation, administrative citation fine and copy of the administrative citations.

ATTACHMENT

A: List of assessments

10

11-6-14

ATTACHMENT "A"

CITATION & ABATEMENTS FOR CONFIRMATION									
AR	Case	APN	NOV	Amount	Owner Last	Owner First	Owner Address	Site Address	Paid
AR139684	CD1406-011	066-144-007	X	\$345.00	BOYD	MARK DOUGLAS	P.O.BOX460675, SF, CA 94146-0675	420 W 5TH STREET	
AR139647	CD1406-019	068-024-007	X	\$235.00	EMMERSON FEDERAL NATIONAL MTG ASSN	ALICE	1952 DEODAR AVE	1952 DEODAR AVE	
AR139696	CD1407-003	067-050-017	X	\$345.00			1800 TAPO CANYON RD., SIMI VALLEY, CA 93063	1006 G STREET	
AR139698	CD1311-012	068-012-007	X	\$1,105.14	FRANCIS	GARY	1911 A STREET	1911 A STREET	
AR139697	CD1408-002	066-193-009	X	\$455.00	FINN	RONALD R.	509 W 6TH STREET	509 W 6TH STREET	
AR139998	CD1408-002	066-193-009	X	\$785.00	FINN	RONALD R.	509 W 6TH STREET	509 W 6TH STREET	
AR140008	CD1408-002	066-193-009	X	\$1,775.00	FINN	RONALD R.	509 W 6TH STREET	509 W 6TH STREET	
AR140034	CD1408-002	066-193-009	X	\$125.00	FINN	RONALD R.	509 W 6TH STREET	509 W 6TH STREET	
AR140011	CD1408-002	066-193-009	X	\$2,696.50	FINN	RONALD R.	509 W 6TH STREET	509 W 6TH STREET	
AR139690	CE1405-028	056-090-017	X	\$1,020.00	MAU	LYNNE PHUI	5127 BROOKCREST COURT	5127 BROOKCREST COURT	
AR139686	CD1406-022	067-201-003	X	\$455.00	SANDOVAL	JONATHAN	5347 CHEROKEE WAY	612 W 16TH STREET	
AR139688	CD1405-006	067-292-007	X	\$345.00	VERA	ELVERA	600 DRAKE STREET	600 DRAKE STREET	
AR139695	CD1405-006	067-292-007	X	\$1,350.00	VERA	ELVERA	600 DRAKE STREET	600 DRAKE STREET	
AR139646	CD1405-006	067-292-007	X	\$235.00	VERA	ELVERA	600 DRAKE STREET	600 DRAKE STREET	
TOTAL				\$11,271.64					
T:\NIS\Board of Administrative Appeals\2014November\NOVEMBER SPREADSHEET ABATEMENTS-CITATIONS FOR CONFIRMATION									