

IN THE MATTER OF  
SAMUEL SCHNITZKER  
12703 PONDEROSA ROAD  
BALTIMORE, MARYLAND 21057

RE: Citation No. E56803

Animal Hearing Board Case No.: 5174

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No.: CBA-24-004

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Baltimore County Board of Appeals (“Board”) as an on-the-record appeal from the June 13, 2023 Opinion and Order of the Animal Hearing Board upholding citations E59324A finding that a dog named Tito belonging to Appellant, Samuel Schnitzker, exhibited aggressive or dangerous behavior; and therefore, is a menacing animal as described under §12-3-108(a)(2) of the Baltimore County Code (“BCC”). The Animal Hearing Board also upheld citations E59324B (Tito) and E59325 (Buck) against Mr. Schnitzker for animals at large in violation of §12-3-108 of the Baltimore County Code.

Oral arguments were heard before this Board via Webex on September 21, 2023. Respondent, Samuel Schnitzker, failed to appear for the hearing due to a work commitment, but his father, Greg Schnitzker, property owner, appeared on his behalf. Marvin Bryan, Assistant County Attorney, appeared on behalf of Baltimore County.

As this case comes before this Board as an on-the-record Appeal, no new evidence is presented. The Board, in connection with this matter, has appellate jurisdiction. §32-4-281(e) of the Baltimore County Code authorizes the Board, in its appellate jurisdiction, to:

- (i) remand the case;
- (ii) affirm the decision; or
- (iii) reverse or modify the decision if the decision,
  - (a) exceeds the statutory authority or jurisdiction of the ALJ;

- (b) results from an unlawful procedure;
- (c) is affected by any other error of law;
- (d) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
- (e) is arbitrary or capricious.

The Board does not make independent findings of fact or substitute its judgment for that of fact-finder below.

### **Facts Presented**

On April 25, 2023, Complainant, Joan Jurkowski, appeared before the Animal Hearing Board and testified that on January 7, 2023, as she was walking down the opposite side of the street of the above-referenced residence, two dogs came off their property into the street. They initially were just barking without making any contact with her; however, the bulldog-type dog attacked her, biting her leg. The attack resulted in 4 puncture wounds to the area that drew blood. The dog owner's mother, Kelly Schnitzker, drove the Complainant home, and thereafter Complainant went to an urgent care center for medical treatment. Upon reviewing the filed Affidavit of Complainant, the Animal Hearing Board issued citations for three Baltimore County Code violations involving a Menacing Animal (E59324A) and two Animal at Large violations (E59324B and E59325).

At the hearing conducted by the Animal Hearing Board, Appellant, Samuel Schnitzker, testified that he was visiting his mother's house when his dog, Tito, ran out of the yard, and the Complainant began swatting at Tito causing the dog to bite the Complainant. He states the other dog, Buck, did not leave the property during the incident. He testified that his dog, Tito, was a rescue animal and was unleashed at the time of the incident. Complainant requested that the Appellant's dog, Tito, be leashed and confined by a physical fence. Tito does not live on the property where the incident occurred; however, Tito is said to now be leashed when outside and

is confined by an invisible fence. The Animal Hearing Board determined that the Appellant violated the "Animal at large" provisions of Baltimore County Code, §12-1-101(c), and his dog's Tito's behavior was that of a menacing animal in violation of Baltimore County Code, §12-3-108. Citations (E59324A, 59324B, and E59325) were issued and fines imposed in the amount of \$530.00.

### **Discussion**

The Appellant contests the findings of the Animal Hearing Board, especially the finding that his dog, Tito, is a menacing animal. The main issues noted by the Appellant in the Notice of Appeal to this Board is that his dog is a rescue animal, and rescue animals sometimes have behavioral issues. He previously offered that his dog has no prior history of aggressive behavior, and he considers the fines imposed to be excessive.

Pursuant to Baltimore County Code, §12-3-108,

- (a) Menacing Animal is defined as any animal that:
  - (1) Attacks or injures a person or domestic animal or
  - (2) Exhibits aggressive or dangerous behavior and is not adequately confined or restrained.
- (b) Basis for declaration. The declaration shall be based on:
  - (1) Personal observation;
  - (2) Observations of animal control officers;
  - (3) Citizen affidavits concerning the citizen's personal experience with the animal;
  - (4) Animal control records; or
  - (5) Other documented information.
- (c) Citation.
  - (1) If an animal is declared a menacing animal, the Health Officer shall issue a civil citation to the owner declaring the animal a menacing animal.

This is a strict liability test. The Complainant appeared before the Animal Hearing Board and testified that on the day of the attack the Respondent's dog "Tito" was off the owner's property, not restrained on a leash and attacked her causing injuries to her leg. The Appellant provided similar testimony before the Animal Hearings Board. The Animal Hearing Board

determined that the actions of the Appellant's dog, Tito, biting the Complainant's leg as evidenced by the four puncture wounds and bleeding in that area requiring medical attention at an urgent care center, met the legal elements of a "Menacing Animal" in violation of citation E59324A as defined in Baltimore County Code §12-3-108 (a)(2).

Based on the testimony presented, the Animal Hearing Board upheld citation numbers E59324B and E59325 and the related penalties imposed for having an animal off the premises of its owner and not under the control, cage, or possession of the owner or other responsible person in violation of the "Animal at large" provisions of Baltimore County Code §12-1-101(c):

(c) Animal at large.

(1)

(i) "Animal at large" means any animal off the premises of its owner and not under the control, charge, or possession of the owner or other responsible person.

(ii) "Animal at large" includes any dog off the premises of its owner and not under the control of the owner or other responsible person by a leash, cord, or chain.

(2) "Animal at large" does not include:

(i) A dog on the premises of another property owner with the permission of the property owner or lessee;

(ii) A dog being used for hunting or being trained for hunting except within a county owned or Board of Education property;

(iii) A feral cat with an eartip; or

(iv) A dog authorized to be within the fenced area of a designated Baltimore County dog park operated by the Animal Services Division, the Department of Recreation and Parks or any other person authorized by the county.

The Animal Hearing Board also upheld the fines imposed for failing to have the proper licenses for the animals as noted in the citations pursuant to Baltimore County Code §12-1-201:

(a) *In general.* Except as otherwise provided in this subtitle, a person who owns a dog or cat shall have the dog or cat licensed as provided in this title when the dog or cat reaches 4 months old.

### Conclusion

Before the Animal Hearing Board, the Complainant testified that on the day of the attack the Respondent's dogs left his property and entered the road where she was walking. The Appellant did not appear before the Baltimore County Board of Appeals; however, his father, Greg Schnitzker, provided similar testimony to that of the Complainant's testimony before the Animal Hearing Board regarding the dog, Tito, admitting that his son's dog attacked the Complainant, Ms. Jurkowski. He questioned whether the attack was unprovoked and disputes the finding that the other dog, Buck, left the property in violation of any Baltimore County laws.

Consequently, based on the arguments presented, this Board, pursuant to BCC §32-4-281(e) affirms the Animal Hearing Board's decision in part, finding the Appellant in violation of the "Menacing Animal", "Animal at large", and "Licensing" laws of Baltimore County Code §§12-3-108(a)(2), 12-1-101(c), and 12-1-201(a) for citation numbers E59324A and E59324B relating to the actions of Appellant's dog, Tito. The County does not dispute the Appellant's contention that the second animal, Buck, was not an "Animal at Large." Thus, this Board hereby dismisses Citation E59325. Since, the fine assessed for Citation E59325 was dismissed by the Animal Hearing Board, no further reduction is warranted. Therefore, fines totaling \$530.00 are due to be paid by the Appellant.

**ORDER**

**THEREFORE, IT IS THIS** 25th day of January, 2024, by the Board of Appeals of Baltimore County, it is:

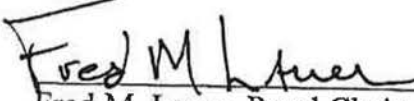
**ORDERED** that the June 13, 2023 decision of the Animal Hearing Board upholding citations E59324A for “Menacing Animal” and E59324B for “Animal at Large” relating to Tito are **AFFIRMED**; and it is further

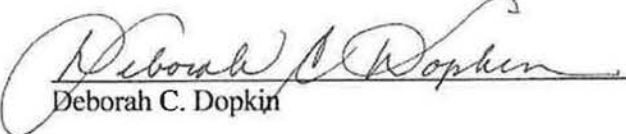
**ORDERED**, that Citation E59325 for “Animal at Large” relating to Buck, is **DISMISSED**; and it is further

**ORDERED** that the total civil penalty assessed in the amount of \$530.00 is **AFFIRMED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
Fred M. Lauer, Panel Chair

  
Deborah C. Dopkin

  
Sharonne R. Bonardi



## Board of Appeals of Baltimore County

JEFFERSON BUILDING  
SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
410-887-3180  
FAX: 410-887-3182

January 25, 2024

James R. Benjamin, Jr., County Attorney  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204

Samuel Schnitzker  
12703 Ponderosa Lane  
Glen Arm, Maryland 21057

RE: In the Matter of: *Samuel Schnitzker*  
Case No.: CBA-24-004

Dear Mr. Benjamin and Mr. Schnitzker:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Sunny Cannington".

Krysundra "Sunny" Cannington  
Legal Administrative Secretary

KLC/taz  
Enclosure  
Duplicate Original Cover Letter

c: Joan Jurkowski  
Glen Schnitzker  
Bernard J. Smith, Chairman/AHB  
April Naill/Animal Services Division