



Charles G. Bakaly IV

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August 19, 2020

VIA ELECTRONIC MAIL & U. S. MAIL

Peter Gordon  
308 32nd Street  
Manhattan Beach, California 90266  
E-mail: [peter.s.gordon@gmail.com](mailto:peter.s.gordon@gmail.com)

Re: Notice of Public Hearing on Appeal of Determination of Vicious Animal

Dear Mr. Gordon:

This office serves as the City Attorney's Office for the City of Manhattan Beach (the "City"). On August 11, 2020, the City's Chief of Police issued a determination (the "Determination") that the male mixed-breed dog named "Oliver" (the "Dog"), which you own, possess, or have the custody or control of, constitutes a "vicious animal" under the Manhattan Beach Municipal Code (the "Municipal Code").<sup>1</sup> (Manhattan Beach Mun. Code, §§ 5.01.240, 5.01.250.) On that same day, a Notice of Determination of Vicious Animal and Public Nuisance (the "Notice") was hand-delivered to you.<sup>2</sup>

On August 13, 2020, you notified our office of your desire to appeal the Determination. (Manhattan Beach Mun. Code, § 5.01.250(C).) There are two outstanding requirements for your appeal. First, you must send written notice of your appeal to the City Clerk's Office, setting forth fully the grounds upon which your appeal is based. (*Id.*, § 1.06.050(B).) Second, along with the above-referenced written notice, you must submit an appeal fee of twenty-five dollars (\$25) to the City Clerk's Office. (*Id.*, § 5.01.250(C).)

Please take notice that the public hearing on your appeal will be held before the Manhattan Beach City Council (the "City Council") **at 4:30 p.m. on September 1, 2020**. The hearing will be conducted over the Zoom videoconferencing platform. Further information on how to access the hearing via Zoom (e.g., meeting ID, password, etc.) will be provided as soon as possible.

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<sup>1</sup> The Municipal Code can be accessed online at <https://www.citymb.info/departments/city-clerk/municipal-code>.

<sup>2</sup> A true and correct copy of the Notice is enclosed with this letter.

Pursuant to the Municipal Code, the decision of the City Council on this matter shall be final and binding. (Manhattan Beach Mun. Code, § 5.01.250(C).)

You may contact our office if you have any questions or concerns regarding this matter.

Sincerely,

*/s/ Charles G. Bakaly IV*

Charles G. Bakaly IV

Encl.: Notice of Determination of Vicious Animal and Public Nuisance, issued August 11, 2020

cc: Quinn M. Barrow, City Attorney (via e-mail)

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**CITY OF MANHATTAN BEACH  
POLICE DEPARTMENT**

**420 15th Street  
Manhattan Beach, California 90266**

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August 11, 2020

VIA HAND DELIVERY

Peter Gordon  
408 32nd Street  
Manhattan Beach, California 90266

Re: Notice of Determination of Vicious Animal and Public Nuisance

Dear Mr. Gordon:

This letter serves to notify you that I have determined that the male mixed-breed dog named "Oliver" (the "Dog"), which you own, possess, or have the custody or control of, constitutes a "vicious animal" and a public nuisance under the Manhattan Beach Municipal Code (the "Municipal Code"). By law, you must remove the Dog from the City limits within seven days from the date of this letter.

The City is informed and believes that the Dog poses a physical threat to human beings and other animals within the City limits. The City is also informed and believes that the Dog has molested passersby, attacked other animals, and is repeatedly at-large. The City's position is supported by, in part, numerous written complaints and allegations regarding various instances involving the Dog that have taken place over the course of several years. Most recently, on or about July 29, 2020, the Dog physically attacked another animal while being walked in public without a leash.<sup>1</sup> The other animal sustained numerous bite wounds from the Dog and, as a direct result of this attack, has since died.

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<sup>1</sup> Under the Municipal Code, it is "unlawful for any person owning or having possession, charge, custody, or control of any animal to cause, permit, or allow the same to stray, run, or in any other manner to be at large in or upon any public place or property of another in the City." (Manhattan Beach Mun. Code, § 5.01.030.) It is also "unlawful for any person to suffer or permit any dog, when harbored or controlled by him, to run at large on any public place or property of another in the City unless such dog is restrained by a substantial chain or leash not exceeding six (6') feet in length and is in charge, care, custody, or control of a competent person." (*Id.*, § 5.01.040.)





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**420 15th Street  
Manhattan Beach, California 90266**

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The right and power of the City to regulate vicious animals is necessary to "protect the public peace, health, and safety of the City and its inhabitants, not only on account of physical danger from vicious and dangerous animals, but also because of the suppression and combating of the menace of rabies." (Manhattan Beach Mun. Code, § 5.01.250(E).) A "vicious animal" is one that poses "a physical threat to human beings or other animals." (*Id.*, § 5.01.240.) The City's Director of Animal Control retains the "right and power to determine, upon written complaint from a citizen or a Community Services Officer, whether an animal is vicious."<sup>2</sup> (*Id.*, § 5.01.250(A).) Further, any animal that molests passersby, attacks other animals, and/or is repeatedly at-large constitutes a public nuisance. (*Id.*, § 5.01.280.)

Based on the above-referenced complaints and allegations, I have determined that the Dog constitutes a "vicious animal" and a public nuisance. Accordingly, you must remove the Dog from the City limits within seven days from the date of this letter. (Manhattan Beach Mun. Code, § 5.01.250(A).) If the Dog is not removed within seven days, the City's Animal Control Department shall have the right and power to impound the Dog and you will be responsible for all impound-related costs. (*Id.*, § 5.01.250(B).)

Please take notice that it is now unlawful for you or any other person to own, possess, or have the custody or control of the Dog within the City limits, and your failure to remove the Dog as provided above is a misdemeanor and punishable by law. (Manhattan Beach Mun. Code, §§ 5.01.240, 5.01.250(D).)

Please take further notice that you have the right to a public hearing before the City Council on this matter.<sup>3</sup> (*Id.*, § 5.01.250(C).)

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<sup>2</sup> As the Chief of Police of the Manhattan Beach Police Department, I have the authority to act as the City's Director of Animal Control.

<sup>3</sup> "The decision of the City Council shall be final and binding, and if the determination is that of a vicious animal, the owner, possessor, or one having custody or control of said animal shall have three (3) days to remove said animal from the City limits. This hearing shall be held as soon after an appeal is filed as is reasonably possible. An appeal fee of twenty-five dollars (\$25.00) shall be paid at time appeal is filed." (Manhattan Beach Mun. Code, § 5.01.250(C).)




**CITY OF MANHATTAN BEACH  
POLICE DEPARTMENT**

**420 15th Street  
Manhattan Beach, California 90266**

If you have any questions or concerns regarding this letter, please contact Charles G. Bakaly IV with the Manhattan Beach City Attorney's Office at (213) 626-8484.

Sincerely,

 Tim Hagemoen-Caprio

FOR Derrick G. Abell, Chief of Police

cc: Quinn M. Barrow, City Attorney (via e-mail)