

Minutes
City of Roseville
Hearing Panel
July 27, 2017 at 3:00 p.m.
City Council Chambers
311 Vernon Street

1) Call to order

Chairperson Pete Constant called the meeting to order at 3:00 p.m. in the City Council Chambers.

The following Hearing Panel members were present:

Pete Constant
Dan Myers
Scott Sanford

The following Staff members were present:

Joseph Speaker	Deputy City Attorney
Pamela Sisk	Legal Clerk

2) Designation of Chair

Chairperson for the July 27, 2017 hearing was Pete Constant.

3) Pledge of Allegiance

Chairperson Constant led the audience in the Pledge of Allegiance.

4) Public Comment

No one from the public offered any comments.

5) Swear In

Chairperson Constant administered the Oath to those in attendance who would be offering testimony at the hearing.

6) Matters to be Heard

Citation #1096

Appellant: Tanya Yelenskaya

Roseville Municipal Code Section 7.12.010, Animal at Large

A. Staff Report and Complainant's Statement:

Animal Control Officer Sarah DeRego offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

Complainant Patci Esparza and her husband Anthony Esparza offered testimony in support of the complaint and answered panel questions.

B. Appellant's Response:

Exhibit B:

(The appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on June 9, 2017

Tanya Yelenskaya offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

Anthony Esparza offered rebuttal testimony.

Tanya declined to offer rebuttal testimony.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 1096 for one count of violating Roseville Municipal Code Section 7.12.010, Animal at large.

A motion was made by Scott Sanford and was seconded by Dan Myers to uphold the citation but waive the fine in the interests of justice.

AYES: Pete Constant, Dan Myers, Scott Sanford

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 1096, the panel decided to uphold the citation but waive the fine in the interests of justice on one count of violating Roseville Municipal Code section 7.12.010, Animal at large, based on the testimony and evidence presented before them at the July 27, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that she may file a petition for review with the Superior Court in Placer County within 20 days.

Citation #12449

Appellant: Sandra Toste

Roseville Municipal Code Section 7.12.010, Animal at large

Roseville Municipal Code Section 7.16.010, Failure to License

A. Staff Report and Complainant's Statement:

Animal Control Officer Sarah DeRego offered testimony in regards to the staff materials in Exhibit A and answered panel questions. Officer DeRego stated that the City's third party animal licensing administrator, Petdata, is now showing that the animal license is current and requested that the charge for the licensing (RMC 7.16.010) be dismissed.

The panel had procedural questions for Deputy City Attorney Joe Speaker.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

Complainant Bob Oliver presented Exhibit B and offered testimony in support of the complaint and answered panel questions.

Exhibit B:

- Two photographs of the front of subject properties

B. Appellant's Response:

Exhibit C:

(The appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on June 26, 2017

Sandra Toste and her husband, Robert Toste, offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

Bob Oliver declined to offer rebuttal testimony.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 12449 for one count of violating Roseville Municipal Code section 7.12.010, Animal at large, and one count of violating Roseville Municipal Code section 7.16.010, Failure to license.

In regards to RMC section 7.16.010, the appeal was granted and the charge dismissed at the request of the City.

In regards to RMC section 7.12.010, a motion was made by Dan Myers to grant the appeal and dismiss the charge because the Complainant did not prove by a preponderance of the evidence that the violation(s) occurred; and/or that the appellant is the responsible party. No second was made, the motion died.

In regards to RMC section 7.12.010, a motion was made by Scott Sanford and was seconded by Dan Myers to uphold the citation but waive the fine in the interests of justice.

AYES: Pete Constant, Dan Myers, Scott Sanford

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 12449, the panel decided to uphold the citation but waive the fine in the interests of justice on one count of violating Roseville Municipal Code section 7.12.010.

The charge of violating Roseville Municipal Code section 7.16.010 was dismissed at the request of the City, and the appeal granted.

These decisions were based on the testimony and evidence presented before them at the July 27, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that she may file a petition for review with the Superior Court in Placer County within 20 days.

Citation #12443

Appellant: Daniel Palos

Roseville Municipal Code Section 7.25.010, Animal noise, third offense

A. Staff Report and Complainant's Statement:

Animal Control Officer Sarah DeRego offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.606(D), the Staff Report was submitted to the City of Roseville Attorney's office prior to the hearing, and was provided to the appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

Complainant Theresa Kawel presented Exhibit B and offered testimony in support of the complaint and answered panel questions.

Exhibit B:

- RMC Section 7.25.010 (A) – (E), Animal Noise
- Copy of Assessor's Map Bk. 472 Pg. 09
- Two Google Maps of subject properties/neighborhood
- Four photos of the backyard at 2208 Vernon Street
- 22 letters from neighbors in support of the complaint
- 10/27/16 Appeal Hearing Staff Report submitted by S. DeRego, Badge #3009
- Appeal Hearing Agenda – October 27, 2016
- Appeal Hearing Minutes – October 27, 2016
- 2/23/17 Appeal Hearing Staff Report submitted by S. DeRego, Badge #3009
- Appeal Hearing Minutes – February 23, 2017
- Letter to Theresa Kawel from Pamela Sisk dated June 21, 2017, RE: NOTICE OF RESCHEDULED HEARING DATE
- Appeal Hearing Agenda - July 27, 2017

- Letter to Theresa Kawel from Pamela Sisk dated June 21, 2017, RE: NOTICE OF RESCHEDULED HEARING DATE
- Appeal Hearing Agenda – July 27, 2017
- Typed dog barking log from 2/23/17 to 7/26/17 (20 pages)
- Typed dog barking log from 11/5/16 to 2/22/17 (12 pages)
- Copies of 20 pages of hand-written dog barking log from 6/21/16 to 8/2/16

B. Appellant's Response:

Exhibit C:

(The appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's office on May 26, 2017
- Email correspondence with attachment from Daniel Palos to Pam Sisk dated June 22, 2017 9:28 AM, Subject: Writ for City review
- Fax from Daniel Palos, received by the Roseville City Attorney's office on July 3, 2017 (4 pages)
- Fax from Daniel Palos, received by the Roseville City Attorney's office on July 17, 2017 (2 pages)

Daniel Palos offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

Theresa Kawel offered rebuttal testimony.

Daniel Palos offered rebuttal testimony.

The panel had procedural questions for Deputy City Attorney Joe Speaker.

D. Panel Discussion:

The panel discussed the evidence and testimony presented before them at the hearing in regards to Administrative Citation No. 12443 for one count of violating Roseville Municipal Code Section 7.25.010, Animal noise, third offense.

A motion was made by Scott Sanford and was seconded by Dan Myers to deny the appeal and uphold the charge because the Complainant proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

AYES: Pete Constant, Dan Myers, Scott Sanford

NOES: none

E. Panel Decision:

Regarding the appeal of Citation No. 12443, the panel decided to deny the appeal and uphold the charge because the Complainant proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party on one count of violating Roseville Municipal Code section 7.25.010, Animal noise, third offense, based on the testimony and evidence presented before them at the July 27, 2017 hearing.

Chairperson Constant signed the decision form and asked the appellant to see staff for the paperwork and informed the appellant that he may file a petition for review with the Superior Court in Placer County within 20 days.

7) Adjournment

A motion was made by Dan Myers, and was seconded by Scott Sanford to adjourn the July 27, 2017 Appeal Hearing meeting.

AYES: Pete Constant, Dan Myers, Scott Sanford

NOES: none

Chairperson Constant adjourned the July 27, 2017 hearing at 4:01 p.m.

PAMELA SISK
Legal Clerk