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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FELICIDAD ANANDA, an individual, Plaintiff,	)	
vs.	)	No.: 93 CH 11411
The VILLAGE OF GLENVIEW, a municipal corporation, DAVID J. KELLY, as Chief of Police of the Village of Glenview; and JUDY MARSH, as Animal Control Warden of the Village of Glenview, Defendants.	)	

MOTION TO TRANSFER OWNERSHIP OF ANIMAL AND TO LIMIT IMPOUNDMENT FEES

Plaintiff, FELICIDAD ANANDA, through counsel, moves this Court to enter an Order transferring ownership of Plaintiff's companion animal and limiting impoundment fees. In support of her Motion, Plaintiff states as follows:

1. Plaintiff was and is a resident of the VILLAGE OF GLENVIEW ("VILLAGE"). Further, Plaintiff was and is the owner of a two-year old companion animal dalmatian dog named "Bong."

2. The VILLAGE informed Plaintiff by letter, on November 5, 1993, that the Animal Control Officer had conducted an investigation, pursuant to the Illinois Animal Control Act ("ACT"), 510 ILCS 5/15(a)(5), of the circumstances surrounding an alleged dog biting incident, and that the VILLAGE had declared Bong a "vicious dog" as defined by the ACT, and that Bong was subject to confinement by enclosure. The letter further stated that the dog must be confined in an approved enclosure at all times. (See Exhibit "A"; Group Exhibit No. 1, of accompanying Memorandum of Law.)

3. As discussed in the accompanying Memorandum of Law, the VILLAGE's "investigation" consisted of nothing more than speaking with the mother of the child allegedly bit. At no time did any representative of the VILLAGE speak with any witnesses to the alleged incident, or to ANANDA. Furthermore, at no time did any representative, including the VILLAGE's Animal Control Warden, approve the enclosure as required by the Act. 510 ILCS 5/15(b).

4. On December 15, 1993, Bong escaped from the unapproved enclosure, was found running unattended, was impounded by the VILLAGE's Animal Control Officer, and has been boarded at the Carriage Hill Kennel ("Kennel"), located in the VILLAGE. The Kennel charges a daily impoundment fee.

5. Plaintiff ANANDA wishes to transfer ownership of Bong to Ms. Lynn Doherty ("Doherty"), a resident of Lake Forest. Ms. Doherty desires to take custody, care, and control of Bong. Upon transfer of ownership, Ms. Doherty has promised to provide professional retraining for Bong. Nevertheless, counsel for the VILLAGE has indicated that the VILLAGE is unwilling to release Bong from the Kennel, or to otherwise permit transfer of ownership, unless this Court approves the transfer first.

WHEREFORE, for the reasons stated in the accompanying Memorandum of Law in Support of Plaintiff's Motion to Transfer Animal and Limit Impoundment Fees, Plaintiff prays Judgment as follows:

a. That this Court enter an Order voiding the VILLAGE's classification of Bong as a "vicious dog" since such a

classification would be in violation of the Animal Control Act and the Constitutions of the United States and the State of Illinois.

b. That this Court enter an Order requiring the VILLAGE to release Bong from the Kennel into the custody of Plaintiff and/or Doherty immediately, and approve a transfer of ownership from Plaintiff to Doherty.

c. That this Court void any impoundment fees the VILLAGE has charged, or may seek to charge, and that the VILLAGE be ordered to return any sums forwarded to the VILLAGE in the past to cover impoundment fees, in that the VILLAGE exceeded its authority pursuant to the ACT by impounding Bong for so long.

d. That this Court declare Section 365 of the Animal Control Act to be illegal, void, and unconstitutional on its face and as applied under the Constitutions of the State of Illinois and the United States.

Respectfully submitted,

FELICIDAD ANANDA

By: _____
One of her Attorneys

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FELICIDAD ANANDA, an individual, Plaintiff, vs. The VILLAGE OF GLENVIEW, a municipal corporation, DAVID J. KELLY, as Chief of Police of the Village of Glenview; and JUDY MARSH, as Animal Control Warden of the Village of Glenview, Defendants.	)	No.: 93 CH 11411

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO TRANSFER ANIMAL AND TO LIMIT IMPOUNDMENT FEES

Plaintiff, FELICIDAD ANANDA ("ANANDA"), through counsel, in support of her Motion to Transfer Animal and to Limit Impoundment Fees, states as follows:

INTRODUCTION

"This is a death penalty case." Phillips v. San Luis Obispo County Department of Animal Regulation, 183 Cal.App.3d 372, 228 Cal.Rptr. 101, 102 (2 Dist. 1986).

At all times relevant, ANANDA was and is the owner of a certain two-year old Dalmatian dog named "Bong".[1] As noted in Defendants' Answer, the VILLAGE OF GLENVIEW ("VILLAGE") has, in the past, received complaints regarding the failure of ANANDA to comply with the Animal Control Act. 510 ILCS 5/1., et seq. ("ACT"). (Answer, Count I, Para. 9; Group Exhibit No. 1; a copy of which is enclosed herein as Exhibit "A".) However, a review of these

[1] The word "Bong" is a Filipino term of endearment.

complaints indicates they were limited exclusively to problems involving barking, running loose, and failure to obtain proper tags.

At no time did Bong exhibit any behavior indicating that he was "vicious" within the meaning of Section 365 of the ACT. 510 ILCS 5/15 (a copy of Section 365 is enclosed herein as Exhibit "B".) Rather, these problems indicate, at worst, that ANANDA failed to properly train and control Bong. Accordingly, the VILLAGE's enforcement efforts were directed at ANANDA, and not Bong.

It was not until October of 1993 that the VILLAGE began directing its efforts against Bong rather than ANANDA. On or about October 13, 1993, Bong was allegedly involved in a biting incident. Over three weeks later, the VILLAGE's Animal Control Warden, Co-defendant JUDITH MARSH ("MARSH"), described her "investigation" of the alleged biting incident in a "Supplementary Incident Report" dated November 5, 1993:

> R/O had interviewed victim's mother who stated that her son was with his friend after school at dog owner's house. The boys were sitting on the floor when the dog unprovokingly bit the victim twice on the right shoulder.

Exhibit "A"; Group Exhibit No. 1.[2]

MARSH's "investigation" consisted entirely of speaking with the mother of the boy who was allegedly bit, even though the Mother was not even present at the time of the incident. At no time did MARSH speak with either the boy allegedly bit, any other witnesses,

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[2] It was not until Defendants filed their Answer that ANANDA was given a copy of these "findings", presumably made pursuant to Section 365.

or even anyone else who was in the ANANDA household at the time of the alleged incident. Further, to this date, MARSH has not made any factual findings as to whether the incident was provoked, except to assume it was not since the boy's mother said so. In addition, at no time has MARSH held any type of hearing in order to determine whether Bong is "vicious" within the meaning of the ACT, or whether Bong should be put to death.[3]

Nevertheless, on the same date as the Supplemental Incident Report, November 5, 1993, Co-defendant DAVID J. KELLY ("KELLY"), Chief of Police of the VILLAGE, and MARSH's superior, mailed correspondence to ANANDA stating:

> [O]ur Animal Control Officer conducted an investigation into the circumstances surrounding that alleged dog bite. Upon completion of that investigation it has been determined that your dalmatian fits the criteria established by State Law of a "vicious and dangerous dog", and has been so defined by our Animal Control Officer.
>
> Please be advised that your dog must be confined within an "enclosure" at all times. Said enclosure must meet the definitions established by law. I have enclosed a copy of the law for your review, (see Section 365(b)). You cannot let your dog run loose. It must be confined in an approved enclosure at all times.

Exhibit "A"; Group Exhibit No. 1.

The VILLAGE released Bong despite the express language in Section 365 stating that a dog found to be vicious shall not be released until the enclosure is approved by the Animal Control Warden. At no time did MARSH or any VILLAGE official approve the enclosure in ANANDA's backyard.

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[3] As discussed below, the ACT does not provide for any hearing prior to a finding of viciousness and a decision to destroy a dog.

Unsurprisingly, Bong escaped from the unapproved enclosure. Subsequently, on December 15, 1993, Bong was found running loose and impounded. In correspondence dated the same day, KELLY notified ANANDA that, since Bong was not confined to an enclosure, he would be put to death within seven days.

DISCUSSION

The Defendants' handling of this matter violated ANANDA's rights to Due Process under both the Fourteenth Amendment of the United States Constitution and Article I, Section 2 of the Illinois Constitution. In particular, the VILLAGE is without authority to destroy ANANDA's dog since the VILLAGE failed to follow the required procedures set out in the ACT. In addition, ANANDA's due process rights have been violated since the ACT, both on its face and as applied to ANANDA, permits the VILLAGE to declare Bong to be vicious, and to destroy Bong, without affording ANANDA a hearing. Finally, the ACT is unconstitutionally vague in that numerous terms and procedures are confusing and conflicting, to the point that persons of ordinary intelligence are forced to guess at their meanings.

I. THE VILLAGE FAILED TO FOLLOW THE PROCEDURES SET OUT IN THE ANIMAL CONTROL ACT.

Section 365 of the ACT states, in part:

> (5) "Found to be a vicious dog" means (i) that the Administrator, an Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in paragraph (1) of subsection (a) and, based upon that finding, the Administrator, an Animal Control Warden, or the Director has declared in writing that the dog is a vicious dog... (Emphasis added).

A. The Animal Control Warden's investigation was a sham.

It is well-settled that administrative investigations, like other administrative proceedings, are subject to due process considerations. Scott v. Assoc. for Childbirth at Home, Inc., 88 Ill.2d 279, 430 N.E.2d 1012 (1982). Accordingly, decisions based upon investigations that are arbitrary or in excess of statutory authority violate due process if such decisions effect property interests. United States v. Powell, 379 U.S. 48, 58 (1964). In Illinois, animals are legally considered to be the property of their owners, and therefore owners must be afforded due process prior to the destruction of an animal. See Kyle v. City of Rolling Meadow, 494 N.E.2d 766 (1st Dist. 1986).

In the instant matter, the VILLAGE must be prohibited from killing Bong since MARSH's investigation was clearly inadequate. Prior to deciding to kill Bong, it was MARSH's obligation to at least determine the operative facts. In State v. Hartley, 790 S.W.2d 276 (Tenn. 1990), the Tennessee Supreme Court addressed this issue in refusing to approve the destruction of a dog. In Hartley, the State's Attorney filed a petition, based upon "information and belief", for Court approval to euthanize a dog. The Court expressly held that it would be a violation of fundamental due process to destroy a dog since the evidence was not based upon personal knowledge. Id., at 278.[4]

[4] See also People v. McWorter, 113 Ill.2d 374, 498 N.E.2d 1154 (1986), wherein the Illinois Supreme Court held that an investigative subpoena issued to the owner of a dog kennel violated the owner's due process rights since it was issued "on the basis of nothing more than a complaint from a consumer or customer without knowing the merits of the matter." 498 N.E.2d at 1157.

Similarly, the VILLAGE seeks to put Bong to death based upon nothing more than the rankest form of hearsay. As discussed above, it is clear, based upon the VILLAGE's own Answer and Exhibits, that MARSH never spoke with any witnesses to the alleged biting incident. Instead, MARSH spoke only with the mother of the child who was allegedly bit. It is hard to imagine a more biased source of information.

Nevertheless, based upon the mother's statements, and apparently nothing else, the VILLAGE declared Bong to be "vicious." Since this finding was based upon a fatally defective investigation, the VILLAGE's declaration is without authority and must be nullified. See Gregory v. City of Chicago, 394 U.S. 111 (1969) (findings made without evidentiary support violate due process).

B. The VILLAGE failed to make the required findings.

The VILLAGE's declaration of viciousness is also defective for the reason that no appropriate written findings were made or communicated to ANANDA. Section 365, quoted above, clearly requires written findings and a written declaration. While the declaration was communicated to ANANDA, no written findings were ever communicated.

In addition, the only "findings" of any sort made by MARSH were in her Supplementary Incident Report, which contains only the mother's conclusion that the alleged biting incident was unprovoked. (Exhibit "A"; Group Exhibit No.1.) However, this report contains no findings whatsoever as to the surrounding

factual circumstances. Nor does the report contain any justification for the legal conclusion that Bong was not provoked.[5]

C. The VILLAGE improperly released Bong after the declaration of viciousness.

Even if MARSH's investigation and findings were sufficient, which ANANDA denies, the VILLAGE is still without authority to kill Bong since the VILLAGE did not follow procedures required pursuant to the ACT. Section 365 states:

> A dog found to be a vicious dog shall not be released to the owner until the Administrator, an Animal Control Warden, or the Director approves the enclosure as defined in this Section.

As discussed above, neither MARSH, KELLY, nor any other representative of the VILLAGE ever approved the enclosure as required. Accordingly, not only was MARSH's investigation arbitrary, but the VILLAGE exceeded its authority in releasing Bong. Thus, the VILLAGE would be acting beyond its authority pursuant to the ACT if it destroyed Bong. See United States v. Powell, 379 U.S. 48, 58 (1964) (it is a violation of due process to take action in excess of statutory authority). Furthermore, it would be grossly unjust to permit the VILLAGE to destroy Bong, based upon the dog's escape from the enclosure, since it was the VILLAGE's duty to ensure that the enclosure was escape-proof.

II. THE ANIMAL CONTROL ACT IS UNCONSTITUTIONAL.

The Animal Control Act is unconstitutional, both on its face and as applied to ANANDA, in that it fails to provide for a

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[5] Of course, it was not possible for the Supplemental Incident Report to contain an explanation of the surrounding circumstances since MARSH never spoke with any witnesses.

hearing, in violation of due process. In addition, the ACT is impermissibly vague in that it contains a number of terms and procedures which leave persons of ordinary intelligence to guess at their meanings.

A. The ACT fails to provide for a hearing, as required by due process.

As noted above, the VILLAGE, acting pursuant to the ACT, must afford ANANDA due process prior to destroying Bong. People v. McWorter, 113 Ill.2d 374, 498 N.E.2d 1154 (1986). It is well-settled that, among other things, basic due process requires notice and an opportunity to be heard prior to destruction of ANANDA's dog. Ciechon v. City of Chicago, 686 F.2d 511, 517 (7th Cir. 1982). Where a statute permits the destruction of property without hearing, the portions of the statute so permitting must be voided. Matthews v. Eldridge, 424 U.S. 319, 333 (1976).

In Phillips v. San Luis Obispo County Department of Animal Regulation, 183 Cal.App.3d 372, 228 Cal.Rptr. 101 (2 Dist. 1986), the California Appellate Court voided an Animal Control Warden's declaration of viciousness, and decision to destroy a dog, since the applicable statute failed to provide for a hearing. In Phillips, the dog allegedly bit three people, and the County provided a "courtesy" hearing. Nevertheless, the Court expressly held that the statute's failure to provide for a hearing was fatal to the County's attempts to destroy the dog. The Court reasoned:

> "The rule is well settled that to constitute due process of law in regard to the taking of the property the statute should give the parties interested some adequate remedy for the vindication of their rights." [Citation omitted.] A provision in the statute or ordinance

> providing a hearing ensures that the response of the administrative entity will be a settled and uniform, and not an hap-hazard, procedure.

228 Cal.Rptr. at 106.

A review of Section 365 of the ACT indicates that no hearing is required, or even provided for, before or after the decision to declare a dog vicious and to destroy it. (See Exhibit "B".) The ACT simply provides that the Animal Control Warden is to conduct an "investigation", and then make findings and a declaration.[6] In the instant matter, ANANDA was never given an opportunity to question MARSH's "single-minded" investigation, Ciechon, 686 F.2d at 517, or to otherwise protect the life of her family pet. Accordingly, the ACT, both on its face, and as applied to ANANDA, fails to afford due process and must be voided -- at least as to the VILLAGE's attempts to destroy Bong.

B. The ACT is impermissibly vague.

In addition to requiring a hearing prior to destroying Bong, due process also requires that the ACT itself not be so vague in key terms such that persons of ordinary intelligence are left to guess at their meanings. People v. Taylor, 138 Ill.2d 204, 240, 501 N.E.2d 667, 670 (1990); Kolender v. Lawson, 461 U.S. 352, 358 (1983). The United States Supreme Court, in Kolender, explained that, if a statute is vague in its key terms, then too much discretion is left to those who enforce the law:

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[6] Just as in Phillips, the provision in Section 365 for an appeal to the courts is not a sufficient "hearing" for purposes of due process. To hold otherwise would mean that an appeal of an administrative decision is always a sufficient hearing. Such reasoning would render the concept of procedural due process meaningless at the administrative level.

> [T]he more important aspect of the vagueness doctrine "is not actual notice, but the other principle element of the doctrine -- the requirement that a legislature establish minimal guidelines to govern law enforcement." When the legislature fails to provide such minimal guidelines, a statute may permit a "standardless sweep [that] allows policemen, prosecutors and juries to pursue their personal predilections." (Citations omitted.)

461 U.S. at 358.

The Animal Control Act contains a number of vague and contradictory terms. For instance, MARSH, KELLY and the VILLAGE declared that Bong was "vicious" since the alleged biting incident was "unprovoked" within the meaning of Section 365. However, the ACT contains no definition, guidelines, or standards indicating what "unprovoked" means. Reasonable and intelligent minds could easily differ as to what constitutes sufficient provocation. Is it provocation if a child hits another child with whom the dog lives? Is it provocation if a child purposefully steps on the tail of the dog? What if a child accidentally steps on the dog's tail? Should a dog be put to death if a child, meaning no harm, pulls on the dog's ears in fun?

These questions are particularly relevant to the instant matter since the VILLAGE has declared Bong to be vicious, even though MARSH never spoke with any witnesses to the alleged biting incident. Instead, MARSH simply relied on the child's mother's opinion that the biting was unprovoked. This is exactly the "standardless sweep" of unfettered discretion feared by the United States Supreme Court in its opinion in Kollander, quoted above.

In addition, the term "bites" is undefined. However, Section 2.12, 510 ILCS 5/2.12, defines "has been bitten" as follows:

> "has been bitten" means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin.

This definition is vague. It includes many situations the legislature surely did not intend to include as prohibited contact -- including most play with puppies. In the instant matter, the VILLAGE has given no indication of the nature of the alleged "bite." Instead, MARSH simply stated, in her Supplementary Incident Report, that the child was bitten twice on the shoulder. Accordingly, this definition is too broad.

Furthermore, Section 365(a) of the ACT states:

> (5) "Found to be a vicious dog" means (i) that the Administrator, an Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in paragraph (1) of subsection (a) and, based upon that finding, the Administrator, an Animal Control Warden, or the Director has declared in writing that the dog is a vicious dog...

This subsection alone contains numerous vague terms and subclauses. First, experience tells us that the term "conducted an investigation" is vague. Common sense indicates that the investigation must be at least fundamentally sufficient. Nevertheless, in the instant matter, MARSH apparently felt that it was permissible, pursuant to Section 365, to declare Bong to be "vicious" based upon rank hearsay.

In addition, the term "made a finding in writing" is vague. Section 365 does not require an Animal Control Warden to set out sufficient facts to enable review of the decision. Nor does it require these findings to be made available to the owner of the

dog. This leaves unfettered discretion to the Warden since, as in the instant matter, the findings may become substantively identical to the "declaration" which is also required, and this leaves the owner with no effective means of challenging the "findings."

CONCLUSION

For the reasons stated above, the VILLAGE's declaration that Bong is a "vicious" dog within the meaning of the Animal Control Act must be voided. Accordingly, ANANDA respectfully prays Judgment as follows:

a. That this Court enter an Order voiding the VILLAGE's classification of Bong as a "vicious dog" since such a classification would be in violation of the Animal Control Act and the Constitutions of the United States and the State of Illinois.

b. That this Court enter an Order requiring the VILLAGE to release Bong to Plaintiff and/or Doherty immediately, and approve a transfer of ownership from Plaintiff to Doherty.

c. That this Court void any impoundment fees the VILLAGE has charged, or may seek to charge, and that the VILLAGE be ordered to return to ANANDA any sums forwarded to the VILLAGE within fourteen (14) days.

d. That this Court declare Section 365 of the Animal Control Act to be illegal, void, and unconstitutional on its face and as

applied under the Constitutions of the State of Illinois and the United States.

Respectfully submitted,

FELICIDAD ANANDA

By: _____
One of her Attorneys

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FELICIDAD ANANDA, an individual,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 93 CH 11411
	)	
The VILLAGE OF GLENVIEW, a municipal corporation, et al.,	)	
	)	
Defendants.	)	

ANSWER

Defendants, VILLAGE OF GLENVIEW, DAVID J. KELLY, as Chief of Police of the Village of Glenview, and JUDY MARSH, as Animal Control Warden of the Village of Glenview (hereinafter sometimes collectively referred to as "Glenview"), through their attorneys, ROBBINS, SALOMON & PATT, LTD., by Jeffrey M. Randall, in answer to Plaintiff's appeal, state:

INTRODUCTION

1. Glenview admits that it is a municipal corporation duly organized and existing according to law. Glenview admits that Defendant JUDI (incorrectly denominated as "Judy") MARSH was and is the Animal Control Officer for the VILLAGE OF GLENVIEW; however, Glenview makes no answer to the remaining allegations concerning Defendant JUDI MARSH for the reason that the Animal Control Act referred to in said allegation speaks for itself. Glenview admits the remaining allegations of Paragraph 1.

EXHIBIT "A"

2. Glenview admits that Plaintiff is a resident of the VILLAGE located in Cook County. Glenview admits that Plaintiff is the owner of a dalmatian dog named "Bong" (the "Dog"). Glenview has no knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 2 and as a consequence neither admits nor denies same but demands strict proof thereof.

3. Glenview denies the allegations of Paragraph 3. Glenview further states that the Dog was running at large and unattended on public streets within the VILLAGE at the time that it was impounded by Glenview.

4. Glenview makes no answer to the allegations in Paragraph 4 which refer to Exhibits "A" and "B" attached to Plaintiff's complaint for the reason that the exhibits speak for themselves. Glenview makes no answer to the remaining allegations of Paragraph 4 as to whether or not the appeal was timely filed for the reason that said allegations state a conclusion of law and Glenview is not required to respond to same.

5. Glenview makes no answer to the allegations of Paragraph 5 for the reason that the subject Act speaks for itself.

COUNT I

1. Glenview admits that on October 13, 1993, Plaintiff's Dog, while in Glenview, bit a child.

2. Glenview makes no answer to the allegations of Paragraph 2 for the reason that the exhibit referred to therein speaks for itself.

3. Glenview makes no answer to the allegations of Paragraph 3 for the reason that same contain conclusions of law and Glenview is not required to respond thereto.

4. Glenview denies that Plaintiff is likely to be successful on the merits of its appeal. In response to Paragraphs 4(a), 4(b), and 4(c), Glenview states that said paragraphs restate the provisions of the Animal Control Act and Glenview is not required to respond to said allegations. Glenview makes no answer to the allegations of Paragraph 4(d) as same relate to Exhibit "D" and Exhibit "B" for the reason that said exhibits speak for themselves. Glenview further states that it complied with the provisions of the Animal Control Act and as a consequence, if this Court deems appropriate, Glenview is legally authorized to destroy Plaintiff's Dog. Glenview denies the remaining allegations of Paragraph 4(d). Glenview denies the remaining allegations of Paragraphs 4(e) through 4(j).

5. Glenview has no knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and as a consequence neither admits nor denies same but demands strict proof thereof.

6. Glenview has no knowledge or information sufficient to form a belief as to the truth of the allegations concerning Plaintiff's substantial and irreparable harm and as a consequence

neither admits nor denies same but demands strict proof thereof. Glenview further states that it will take no action to destroy Plaintiff's Dog pending a determination and conclusion of this lawsuit by the court.

7. Glenview further states that on or about October 13, 1993, Plaintiff's Dog bit the right shoulder of a 10 year old girl who was transported to Glenbrook Hospital for treatment.

8. Glenview further states that the 10 year old girl did not provoke the Dog and that the attack by the Dog was vicious.

9. Glenview further states that there have been repeated complaints against Plaintiff's Dog over a long period of time in conformance with the various reports attached hereto as Group Exhibit No. 1.

10. Glenview further states that either Plaintiff is not able to control her Dog and that the Dog is vicious, or that Plaintiff has not trained her Dog, or both situations exist.

WHEREFORE, Glenview prays that the Court dismiss Plaintiff's complaint and permit Glenview to proceed with the destruction of the Dog.

COUNT II

1. Glenview incorporates by reference as if fully set forth herein all previous allegations in answer to Plaintiff's appeal.