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Town orders Brazilian Avenue surgeon to get rid of dog



By **WILLIAM KELLY**
Daily News Staff Writer

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A surgeon who lives on Brazilian Avenue must remove his dog or have it destroyed after losing his appeal of a town order issued after his mixed-breed pet mauled three smaller dogs.

The Town Council voted 5-0 Tuesday to reject Dr. Richard Lynn's appeal of the Police Department's June 20 order that he get rid of the dog, a 50-pound mixed breed named Duke. Lynn did not attend the hearing but was represented by Palm Beach Gardens lawyer James Merola.

Council and audience members saw graphic pictures of two of the three dogs seriously injured by Duke in separate attacks that occurred near Lynn's home since March 2004. Each dog required one or more surgeries.

The council also heard from Brazilian Avenue residents who say Duke has terrorized their neighborhood.

"I live in daily fear of Duke," said Vivian Dorris, whose beagle-basset hound mix, named Charlie, was attacked by Duke on May 11 as she was walking it near Lynn's home. Charlie's veterinary bills have topped \$8,000, of which Lynn has paid \$1,500, Dorris said.

"I should not have to carry a stun gun or pepper spray to feel safe in my neighborhood," said neighbor Laura Klein of 130 Seaspray Ave.

Klein said the gate to Lynn's property is often left open and she worries Duke will escape.

Wayne Gerl of 149 Brazilian Ave. said Duke bit him three years ago and that his family still looks for the dog before leaving his property. He said he didn't report the attack because he knows the Lynns.

Duke has been declared dangerous under a town law, and under state and county laws by Palm Beach County Animal Care and Control.

The county recently ordered Lynn to keep Duke muzzled and on a 6-foot leash while being walked, and to cage him when he is outdoors on Lynn's property. But the county has said it will not remove the dog unless it attacks another animal or a human, or unless the restrictions are violated.

Under state law, the dog cannot be destroyed unless it is declared vicious, and that can't happen unless it attacks a human or another animal again, Diane Saure, director of county Animal Care and Control, has said.

Under the town's law, however, dogs must be removed from town or euthanized if the town declares them dangerous. The town can declare a dog dangerous after it attacks and seriously injures a person or another animal twice.

Merola did not dispute the facts of the case or that Duke is legally dangerous.

But he argued that the town, like the county, is legally bound to wait for Duke to attack another animal or person before further action can be taken.

Council members weren't persuaded.

Councilman Denis Coleman said the town's law is tougher than the county and state laws, and that is why the council adopted it in the first place.

"By your own admission the dog is dangerous," Councilwoman Gail Coniglio told Merola. "I cannot wait until another dog or person is hurt to make a decision."

"I find it amazing that this resident is a doctor and that he has allowed this to go on for so many years," Councilwoman Susan Markin said.

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But it was still unclear when or if Duke will be leaving town anytime soon. The town has no provision for enforcement of its own law, Merola pointed out.

Merola said the next step in the fight would be "a separate action in court."

Anticipating resistance, the council voted 5-0 to authorize Town Attorney John Randolph to seek an emergency court order compelling Lynn to comply with the law.

George Klein of 130 Seaspray Ave. said after the meeting that it is too soon to celebrate Duke's departure, given the prospect of a court battle between Lynn and the town.

"We were very happy with the verdict," Klein said. "But when I thought about it, I don't know what it really means."

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