

STATE OF MAINE
CUMBERLAND, ss:

DISTRICT COURT
Location: Portland
Docket No. PORDC-CV-14-603

TOWN OF WINDHAM,

Petitioner/ Applicant

vs.

**DECISION AND ORDER
(Animal Welfare-17 M.R.S. § 1021)**

ELINOR WEHNER,

Respondent

This matter came before the court for hearing today on the Town of Windham's application/ petition¹ for a possession order pursuant to 17 M.R.S. § 1021(5)-A). An assistant District Attorney represented the Town of Windham. The respondent appeared as an unrepresented litigant. The subject animals, are 13 Chihuahua dogs² who are identified by names and information set forth at Exhibit #18, which is attached hereto and incorporated herein. The animal control officer seized these 13 dogs on December 11, 2014 and the application for an ex parte possession order was filed and approved the following day.

The statute requires the respondent to show cause why the animal should not be seized permanently. The respondent testified as the only witness presented on her behalf. The Town of Windham presented the expert testimony of Dr. Douglas Kern (veterinarian), the animal control officer, Trista Comtois and Patsy Murphy, the Director of the Animal Refuge League. After consideration of the testimony and evidence, the court finds that respondent has not met her burden to show cause why the animal should be returned to her as requested. Instead, the court finds that the evidence establishes that the respondent was unable to properly care for the large number of dogs and that as a result the dogs suffered from neglect and mistreatment. Specifically, one dog had two broken

¹ The petition was filed by Trista Comtois, the animal control officer for the Town of Windham. Whether the caption of this case should be "In re Elinor Wehner" or some variation of Town of Windham (Animal Control Officer on behalf of Town of Windham) is left for another day.

² The petition was filed on behalf of 17 dogs. However, the animal control officer testified that between the time she prepared the petition and the actual filing of the petition, respondent's daughter had picked up 4 dogs and brought them to live with her in Standish. The petition is amended to reflect the 13 dogs identified above.

paws for which respondent had failed to seek or obtain proper treatment and the majority of the dogs had serious periodontal problems and hygiene issues (excess nail growth due to lack of proper grooming). Respondent is 74 years old and testified that she was homeless and on a fixed lower income. She is well meaning and there is no doubt that she loves her animals "as if they were her children." However, it is clear that at present she is not able to care properly for these dogs and her neglect, even if not intentional, constitutes cruel treatment of the animals.

Based on the testimony and evidence presented, the application of the Town of Windham is **GRANTED** and it is **HEREBY ORDERED** that the Town of Windham is authorized to take permanent possession of the 13 Chihuahua dogs, identified on Exhibit #18, and respondent's ownership rights are declared forfeited. The Town of Windham is hereafter authorized to provide for the animals, sell or transfer the animals, place the animals for adoption or make other permanent placement plans for the animals. A writ of possession may issue upon request to the court by the petitioner/ applicant. A lien is further established in the amount expended for the care of the animals as provided for by statute.³

The Clerk of Court is instructed to incorporate this order by reference by a notation made upon the civil docket pursuant to M.R.Civ. P. 79(a).

Dated: _____

2/26/15



Hon. Peter Darvin
Judge, District Court

STATE OF MAINE
Cumberland ss. Clerk's Office

FEB 27 2015

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³17 M.R.S. § 1021 (6).

Animal Refuge League of Greater Portland

PO Box 336

Westbrook, ME 04098-0336

Phone # 207-887-7217 www.arlgp.org



Invoice

Date	Invoice #
1/20/2015	14-2731

Town of Windham
8 School Rd.
Windham, ME 04062

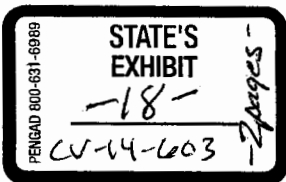
Due Date
2/19/2015

Confiscation billing

Description	Qty	Rate	Amount
Partial Invoice through 01/11/15			
Andy A072327-boarding	31	20.00	620.00
Buff A072326-boarding	31	20.00	620.00
Buff A072326-meds		20.00	20.00
Copper A072338-boarding	31	20.00	620.00
Copper A072338-meds		50.00	50.00
Copper A072338-vet visit		25.00	25.00
Elvis A072334-boarding	31	20.00	620.00
Elvis A072334-meds		55.00	55.00
Elvis A072334-vet visits		50.00	50.00
Figi A072328-boarding	31	20.00	620.00
Gumby A072336-boarding	31	20.00	620.00
Gumby A072336-med		60.00	60.00
Gumby A072336-vet visits		50.00	50.00
Juniper A072333-boarding	31	20.00	620.00
Juniper A072333-med		50.00	50.00
Juniper A072333-vet visit		25.00	25.00
Kit A072331-boarding	31	20.00	620.00
Juniper A072333-meds		40.00	40.00
Juniper A072333-vet visit		25.00	25.00
Violet A072330-boarding	31	20.00	620.00
Violet A072330-vet visit		25.00	25.00
Piper 072332-boarding	31	20.00	620.00
Piper 072332-meds		20.00	20.00
Piper 072332-vet visit		25.00	25.00

Everyone Deserves a Happy Home

Total



PENICAD 800-631-6989

Animal Refuge League of Greater Portland
 PO Box 336
 Westbrook, ME 04098-0336
 Phone # 207-887-7217 www.arlgp.org



Invoice

Date	Invoice #
1/20/2015	14-2731

Town of Windham
 8 School Rd.
 Windham, ME 04062

Due Date
2/19/2015

Description	Qty	Rate	Amount
Onyx A072335-boarding	31	20.00	620.00
Onyx A072335-meds		55.00	55.00
Onyx A072335-vet visits		50.00	50.00
Marigold A072329-boarding	31	20.00	620.00
Marigold A072329-meds		60.00	60.00
Marigold A072329-vet visits		50.00	50.00

Everyone Deserves a Happy Home

Total	\$8,175.00
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