

THE STATE OF SOUTH CAROLINA  
IN THE SOUTH CAROLINA SUPREME COURT

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MAR 06 2017

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APPEAL FROM BEAUFORT COUNTY  
Marvin H. Dukes III, Master-in-Equity

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S.C. SUPREME COURT

Appellate Case No 2014-000636

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Mare Baracco,

PETITIONER

vs.

Beaufort County

Respondent

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MOTION TO VACATE AND DISMISS  
AS MOOT WITH PREJUDICE

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Mare Baracco, *Pro Se*  
1006 Madrid Avenue  
Port Royal, South Carolina 29935

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mlohr@hghpa.com  
Counsel for Respondent

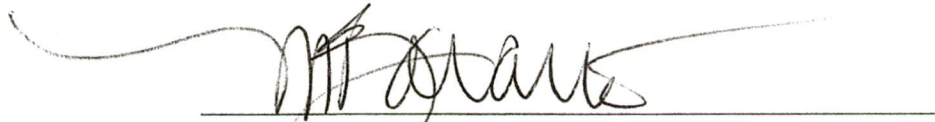
Mare Baracco, the Appellant herein, moves this Honorable Court, pursuant to the South Carolina Rules of Civil Procedure, to Vacate and Dismiss as Moot, with Prejudice, as follows:

The subject of this controversy was a “Dangerous Animal Notice” (Exhibit 1) issued to Appellant July 9, 2012, pursuant to Beaufort County Animal Control Ordinance 14-35 “Dangerous Animals”, and subsequent Appeal Hearings of this “Notice” by the Beaufort County Magistrate. The Appellant contends as a Town of Port Royal resident, she was not subject to the County’s Ordinance, because at that time the County’s Animal Control Ordinance had not been adopted by the Town of Port Royal; further, these hearings lacked Subject Matter Jurisdiction because Magistrate Courts cannot hear Administrative Appeals or act as Administrative Hearing Officers.

While this matter has been on appeal, Beaufort County deleted and amended their Animal Control Ordinance in October of 2015; therefore, Section 14-35 “Dangerous Animals” no longer exists (Exhibit 2, Ordinance 2015 / 27, page 1). The Appellant contends the County’s deletion of Section 14-35 renders this case moot.

WHEREFORE, for this reason, the Appellant prays this Honorable Court finds the matter moot and dismisses this case in its entirety, with prejudice, and orders such relief as is just and proper.

Respectfully submitted, this the 4th day of March 2017.



Mare Baracco, Pro Se  
1006 Madrid Avenue  
Port Royal South Carolina 29935  
(843) 592-1062

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OTHER AUTHORITIES

Exhibit 1 - BCSO "Official Notice" of July 9, 2012

Exhibit 2 - Beaufort County Amended Ordinance 2015 / 27, Page 1

# Exhibit 1

## This is an Official Notice

Section 14-35 of the Beaufort County Ordinance States:

"Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals.

The animal described below has hereby been declared dangerous. You are required by law to comply with the following requirements within seventy-two (72) hours of:

Date / Time July 9, 2012 / 2:30 PM  
 Species: Canine Breed: Rhodesian Ridge Back mix  
 Name: Bodi Age: 3 yrs Gender: M  
 Description: Red w/ white chest  
 Owner / Address / Location of Animal: Mare Baracco  
1006 Madrid Avenue, Port Royal SC 29935

### Requirements:

(1) The dangerous animal shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel appropriate to the size of the animal. All pens or structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure floor (such as concrete) attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal.

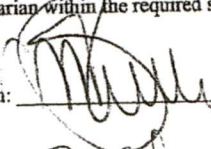
(2) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) The dangerous animal must not go outside its kennel or pen unless the animal is securely leashed and muzzled with a leash no longer than six feet in length and under the actual physical control of a person 18 years of age or older. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(4) The person owning, keeping, sheltering or harboring the animal must register the animal with the Beaufort County Animal Shelter within the required seventy-two hour timeframe and provide proof of liability insurance of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. The Beaufort County Animal Shelter will issue Dangerous Animal tags which must be displayed on the animal's collar at all times. The dangerous animal must also display its current rabies tag on its collar at all times. The person owning, keeping, sheltering or harboring the dangerous animal shall have an identification microchip implant placed under the animal's skin by a licensed veterinarian within the required seventy-two hour timeframe.

Signing under duress; app

Receipt left with:



Date

7/9/12

Deputy:

Lcp B. Chaplin

Date

7-9-12

### Penalties:

Failure to comply with these requirements within seventy-two (72) hours of the date and time listed on this notice will result in the responsible party being fined in the amount up to \$1092.50. The dangerous animal will be removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-35 of the Beaufort County Ordinance pending the decision of the Court.

Reasons for declaration of dangerousness:

Reference case # 12-01444 (PRPD)  
and 20120709-508 (BCSO) involving an  
animal attack which the victim's K9 died.

# Exhibit 2

## ORDINANCE 2015 / 27

### AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA TO AMEND SECTION CHAPTER 14 OF THE BEAUFORT COUNTY CODE OF LAWS REVISING BEAUFORT COUNTY ANIMAL CONTROL

WHEREAS, Beaufort County Code Chapter 14, Article II, Section 14.26 – 14.37 shall be deleted and Standards included within this ordinance shall be added text; and

WHEREAS, the County Council of Beaufort County adopted the current Animal Control Ordinance in 2010; and

WHEREAS, the County Council of Beaufort County deems it appropriate to modify the Animal Control Ordinance to better address the health and safety of Beaufort County Citizens.

NOW, THEREFORE, BE IT ORDAINED by County Council of Beaufort County in a meeting duly assembled, the Beaufort County Code of Laws Section 14.26 et. seq., is hereby amended to read as follows:

#### **ARTICLE II. ANIMAL CONTROL**

**Sec. 14.26 Authority for and Enactment of Chapter.**

**Sec. 14.27 Definitions.**

**Sec. 14.28 County Pet License; Rabies Vaccination Tags.**

**Sec. 14.29 Lifetime/Annual Pet License Issuance and Fees and Exemptions.**

**Sec 14.30 Declaration of Restricted Dog, Appeal of Breed Determination**

**Sec. 14.31 Pet Breeder License, Inspections and Fees.**

**Sec. 14.32 Dangerous Animals.**

**Sec. 14.33 Running at Large.**

**Sec. 14.34 Nuisance Pets or Livestock.**

**Sec. 14.35 Animal Cruelty.**

**Sec. 14.36 Sale of Animals, Pets, or Livestock.**

**Sec. 14.37 Seizure and Right of Entry to Protect Abandoned, Neglected, or Cruelly Treated Pets or Livestock.**

**Sec. 14.38 Impoundment.**

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**Beaufort County**

**Respondent**

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**PROOF OF SERVICE**

I certify I have served the Motion to Vacate and Dismiss as Moot with Prejudice on the Respondent by depositing copies in the United States Mail, postage prepaid, March 4, 2017, addressed as follows:

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**Mare Baracco, *Pro Se*  
1006 Madrid Avenue  
Port Royal, South Carolina 29935  
843-592-1062  
PETITIONER**

**Mary Bass Lohr  
Howell, Gibson & Hughes PA  
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Beaufort SC 29901  
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Counsel for Respondent**