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	AGENCY NAME & ADDRESS	Baltimore City Law Department City Hall, Room 168
	SUBJECT	Dog Parks

CITY of
BALTIMORE
MEMO



TO

DATE:
September 30, 2003

Israel Patoka, Director
Mayor's Office on Neighborhoods
City Hall, Room 628

This memo responds to an e-mail I received from your assistant, Elizabeth Weiblen, concerning the establishment of dog parks. A second meeting with members of the public has been scheduled for September 30, 2003. The following questions raised at the first meeting concerning liability have been presented to the Law Department.

Q. What is the difference between a) having your dog on a leash in the city park and it bites a human and b) having your dog off-leash in a fenced in dog park that bites a human. What is the difference in terms of liability to the city and to the dog owner?

Q. What is Baltimore City's liability if we allow off-leash areas that are not fenced in?

Q. What is Baltimore City's liability if we allow off-leash areas/parks after dusk (after the parks close)? New York City uses this method.

Q. How is the city affected when a dog attacks another dog in a Dog Park? Is the City ultimately responsible for these dogs behavior even when they post signs stating that all dogs and humans enter at their own risk?

Baltimore City Health Code, Section 10-306 requires every owner or keeper of an animal to exercise proper care and control to prevent the animal from becoming a public nuisance. Section 10-307 requires that all animals must be restrained. All dogs must be kept confined in a building or secure enclosure or secured by a leash or otherwise.

by who?
Early on, I believe that it was agreed that an enclosed "dog park" met the above legal requirement because dogs would be in a secure enclosure. If a dog is off a leash, outside of an enclosed dog park, it is not "restrained" for purposes

of the City law. Additionally, the Park Rules prohibit a dog from being off a leash in City parks. If an owner permits his/her animal to run unrestrained anywhere in the City, at any time of the day or night, ~~the owner is liable for criminal or civil citation~~. An unrestrained dog is subject to impoundment, and if the Bureau of Animal Control reasonably believes the dog to be vicious (if it bit a human or another animal), it may be subject to euthanasia. In order for Baltimore City to permit off-leash areas in parks it would have to propose legislation to amend current law. The public would be given an opportunity to express its views before City Council would legislate a change in the law.

You have inquired about possible liability facing the City in the event that a dog causes an injury. To weigh the possibility of liability and possible theories in a hypothetical situation is not productive. All facts would be considered by a judge or jury in a civil suit by an aggrieved victim against the owner of the dog. If the injury takes place in a City-sanctioned area like an enclosed dog park, there is always the possibility that the City will also be sued. Generally, providing a municipal park is a governmental function and municipalities are afforded certain protections against suit. However, it might be argued that the City provided an inherently unsafe facility. For instance, two or three pit bulls or several 100 lb + animals may enter the park to run around unrestrained. For whatever reason, these dogs could viciously attack a person or another animal also within the enclosed area. The victim might attempt to run, and fall into a hole dug by dogs confined to the area. The gate door might be rusted shut or blocked in some way. The owner of the dog may have no money. The victim might particularly evoke sympathy. There may be a need for expensive medical care. There is no way to predict the outcome of a suit of this nature.

The Law Department and the Risk Management Department have offered advice concerning the proposed policy decision to offer to the public enclosed dog parks on parkland in the City. Research was conducted about success in other cities. Rules and regulations that other jurisdictions have used in these parks, and considerations about size and management of the parks have been evaluated. After several months of meetings and based on the collected information and the reservations expressed by Risk Management, the Administration appeared to favor the necessary expenditures for these parks and the inclusion of these areas under the umbrella of the City's self-insurance. So far, the community groups have refused to assume any liability (buy insurance) for possible injuries that may occur in these parks. It appears that the community groups do not want to sign a license agreement that requires community maintenance, clean-up, and oversight to ensure that the rules are followed. Nevertheless, it appears that a decision was made to move forward to establish these dog parks with the knowledge that the City would be providing these services and assume the liability. Finalizing the proposed rules and regulations,

Israel Patoka, Director
September 30, 2003
Page 3

and establishing the process by which community groups can petition the City to build and maintain these facilities is an appropriate next step. Hopefully this can be accomplished at the scheduled meeting.

I hope this memo addresses your concerns.

cc: Thurman W. Zollicoffer, Jr.
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Elizabeth Weiblen ✓