



Last time, in "What to do in a Dog Eat Dog World," I advised pet owners on what to do if their dog (or cat) was injured or killed by a dog belonging to someone else. This time around, we'll consider some of the things the owner of a dog accused of attacking someone else's pet can do to limit their losses, including the possible loss of their dog.

Prevention of course is the best defense. If you own a dog belonging to one of the more powerful breeds or a dog that has ever exhibited any aggressive tendencies towards people or other animals, be sure to always have your dog securely leashed when off your own property, and fenced or otherwise secured when on your property. Taking reasonable measures to restrain your dog is one of the best ways to avoid liability. It's also important to provide proper training. Owning a dog is one of life's true pleasures, but it is also a responsibility. Be sure to socialize your dog with people and other animals from a very early age and actively discourage any forms of aggressive behavior.

To better understand when you, as the owner of an attacking dog, could be liable for harm your dog causes to another animal, a review of the applicable laws is useful.

The Honolulu Revised Ordinances § 7-7.1 defines a "dangerous dog" as: any dog, which, *without provocation, attacks a person or an animal*. A dog's breed shall not be considered in the determining whether or not it is dangerous.

Thus, the same standard applies to a Chihuahua as a Rottweiler. Under the ordinance, the word "attack" is defined as "any aggressive physical

# Defending Citizen Canine

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contact with a person or animal initiated by the dog, which may include, but is not limited to, the dog jumping on or leaping at or biting a person or animal." Your dog, therefore, may be considered a "dangerous dog" if, *without provocation*, it engages in any aggressive physical contact with another animal or a person.

Conversely, the law provides that if your dog attacks when provoked by either a person or an animal, it cannot be considered a "dangerous dog". Thus, it is important to tell others when you feel your dog is being provoked by the actions of another animal (or person).

One circumstance when your dog cannot be held liable for harm caused to another animal includes situations where the other animal enters your property and approaches your dog, uninvited and off-leash. This type of situation would likely provoke your dog, such that he/she would not be deemed dangerous under the Honolulu ordinance.

If an attack does occur, and your dog is believed to have acted aggressively towards another animal, unprovoked, and injury to the other animal occurs, you should be aware that from both a practical and a legal standpoint, your dog will be considered "dangerous". Your legal position will have changed such that there can be immediate and long-term consequences.

For instance, under Honolulu Revised Ordinance § 7-7.2, an owner commits the offense of negligent failure to control a dangerous dog if he or she fails to reasonable measures to restrain his or her dog (e.g. violates the leash law) and the dog attacks an animal or a person. A violation of this ordinance is a petty misdemeanor for first time offenses and a misdemeanor for subsequent offenses, each offense carrying escalating fines and penalties. If your dog has a "record" with the police or the Hawaiian Humane Society, it can be difficult to escape liability for subsequent incidents—and prevail against both criminal and civil claims that may be brought against you.

In the aftermath of an attack, the owner or person(s) in control of the attacking dog should do everything in his or her power, from that day forward, to ensure that other incidents will not follow. Steps an owner can take

to mitigate his or her losses and/or liabilities are to:

- 1) Post a "beware of dog" sign prominently on your property;
- 2) Have your dog spayed or neutered, if it hasn't been already, as intact dogs (of both sexes) are more prone to aggressive acts;
- 3) NEVER (EVER) allow your dog to leave your property without being on a secure leash and accompanied by someone who is able to effectively control the dog;
- 4) Walk the dog with a muzzle, if they are prone to attack or chase animals or people;
- 5) Enroll the "accused" in an obedience class. This will teach the dog that chasing and attacking animals and people is wrong;
- 6) Make sure the attacking dog is properly socialized with other dogs and animals, if it hasn't been already. This should be done in a carefully controlled environment, such as a class or a dog park- but again, make sure the attacking dog is securely leashed;
- 7) Have the dog evaluated for illnesses if the attack seems especially unusual for the dog. Often, dogs who are ill are more prone to attack than they otherwise would be;
- 8) Without admitting liability or fault on your part express to the owner(s) of the dog or cat your dog attacked that you feel truly sorry about what happened. The owner of the "victim" animal will have to make a decision about pursuing you for damages. Lack of remorse or concern has often been cited as a reason for seeking legal recourse;
- 9) If the owner of the injured companion animal does file a lawsuit against you, report the incident to your homeowner's or professional liability insurer. This can prevent damages from coming out of your personal pocket and provide you with legal representation.

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