

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS**

<b>IN THE MATTER OF THE</b>	)	<b>Index No.:</b> _____
<b>APPLICATION OF the JUNIPER PARK</b>	)	
<b>CIVIC ASSOCIATION,</b>	)	<b>ARTICLE 78 PROCEEDING</b>
<b>        Petitioner,</b>	)	
	)	
<b>        - against -</b>	)	
	)	<b>(Mandamus to Compel)</b>
	)	
<b>THE CITY OF NEW YORK, ADRIAN</b>	)	
<b>BENEPE, COMMISSIONER, NEW YORK</b>	)	
<b>CITY DEPARTMENT OF PARKS AND</b>	)	
<b>RECREATION, and the NEW YORK</b>	)	
<b>CITY DEPARTMENT OF PARKS AND</b>	)	
<b>RECREATION</b>	)	
<b>        Respondent(s).</b>	)	
	)	

**MEMORANDUM OF GARO ALEXANIAN , AS *AMICUS CURIAE* IN SUPPORT  
OF RESPONDENT(S).**

**INTERESTS AND QUALIFICATION OF *AMICUS***

*Amicus* **GARO ALEXANIAN** is an expert in the field of animal control, in particular in the City of New York and all its boroughs. He is a resident of Queens for over 40 years, living a few miles away from Juniper Park in Forest Hills most of that time. He founded the first and still only 24 hr HelpLine for animal related calls in 1983, which has now been incorporated into the New York City Center for Animal Care & Control (“NYCACC”), the official pseudo-government agency of New York City providing animal control services to New York City’ residents, including the regions in and around Juniper Park. Mr. Alexanian still operates, administers and oversees the HelpLine, now referred to as the “Safety Net Program” by the NYCACC.

Since founding the HelpLine Garo Alexanian has serviced between 5,000 and 7,000 calls per year from New York City residents, totaling approximately 100,000 calls. Some of those calls have been about incidents in or around New York City parks, including Juniper Park. Many calls have been from various New York City personnel such as the Police, Fire, Sanitation, and Parks Departments, as well as the offices of many New York City Councilmembers, State Legislators, etc. Mr. Alexanian has been profiled and/or featured in news reports in the New York Times, New York Daily News, New York Post, Newsday, Channels 2,4,5,7,9,11, New York 1, and virtually all of the smaller community newspapers. He hosted his own live call-in television program on Time Warner cable for 7 years which was distributed to 14 major markets from coast to coast, reaching 4.5 million viewers. He also hosted a live call-in program on radio. He has done sensitivity training for the New York City Police Department on the issues of stray dogs in the streets and parks. He has addressed several civic associations in Queens, Manhattan, and Brooklyn on issues pertaining to stray dogs and dog ownership issues. His efforts to assist and educate the various New York City agencies, their employees, and the City Council was recognized and credited in Resolution 985 passed by the Council on Nov 12, 1992.

Mr. Alexanian was a formal advisor on animal control to State Senator Frank Padavan and to Herb Rickman, former Deputy Mayor under the Koch Administration, on animal control services, and an informal advisor to Mayor Rudy Giuliani during his first mayoral term, advising the Giuliani administration during the transition of animal control services from the ASCPA to NYCACC. Mr. Alexanian is currently an advisor to 14 Louisiana

counties (called Parishes) in the Hurricane Katrina affected region. He was dispatched during Katrina and acted as Logistics Coordinator for the Humane Society of the United States (“HSUS”), promulgating policies for the rescue of dogs and dog packs within the days and week following the disaster. He trained other HSUS workers the techniques of assessing a dog’s temperament, the techniques of collaring and/or trapping wild and lost and stray dogs, the techniques of calming and rehabilitating aggressive dogs. He also trained NYCACC personnel on how to educate the public in the proper and safe ownership of dogs. In short, Mr. Alexanian is one of the “dog whisperers” who have recently received national media and attention. He has made five trips to New Orleans and his services have been increasingly demanded by more and more municipalities in that region.

Mr. Alexanian currently also administers animal control support program services for the above-mentioned Parishes of Louisiana, the North Shore Animal League and the Humane Society of the United States. He is also a formal advisor to the Mayor of Yerevan, the capital city of the country of Armenia, on animal control issues pertaining to the 20,000 dogs which roam that city’s streets. Mr. Alexanian’s 133 page report to the Mayor on how to solve Yerevan’s stray dog problem was recently accepted and its recommendations are now formal policy, resulting in the first change in animal control policy ever in the history of Armenia.

Mr. Alexanian’s 20 plus years of statistics gathering, experience, and first hand knowledge of dog ownership issues, in particular pertaining to the interaction between

people, children, and dogs in public areas such as streets and parks are on-point facts which are integral to the core of the issues surrounding the instant action. Namely, the benefit vs the risk associated with interactions between people and dogs in public areas and policies which either encourage or discourage the propensity and probability of dog related incidents in a given community.

### ***AMICUS' POSITION REGARDING OFF LEASH DOG WALKING***

Mr. Alexanian has always been an opponent of off leash dog walking unless confined to an enclosed fenced area with 5 foot fencing with no holes. Unfortunately, too many dog guardians become lazy over time and begin to simply let their dogs out the front door to do their business on the sidewalk or around the corner, which provides an opportunity for dogs to 1) attack one another

2) attack people and children

3) cause traffic accidents

### **PROPENSITIES OF DOGS TO ATTACK**

Various university studies have proven that dogs are social animals and that they thrive on interaction. In fact, the first introduction of a dog to a cat, or a dog to another dog, or

to a human, is the single most important factor in determining whether or not the dog relates to the other as friend or foe. Similar to the idiom we are all familiar with as it applies to humans, “you only get one chance to make a good first impression,” dogs are the same, and their first impression acts as a guide as to their future disposition with regards to their relationship with the other party, be it adult human, child, cat, or dog. That is why dogs will generally chase a cat outdoors but not in a home.

Consequently, when dogs are introduced to another party, be it an adult human, child, or another dog or cat, and if the dog has previously been confined for days, weeks, or months without the capability to express its natural needs of running, playing, and roaming, it becomes pent up and stressed to the point of no return. Thus, when taken out for a lashed walk after such a confinement, the dog will pull and tug and try to do what has long been overdue. If at that moment, a person or another dog approaches the dog, being already frustrated, the likelihood of the dog becoming aggressive is likely. This is why chained dogs have the highest propensity to attack and/or bite and/or threaten. Recognition of this simple fact has now begun a movement in many communities to pass local regulations against the chaining of dogs in yards, etc.

However, if the dog is used to receiving sufficient off leash roaming opportunities in a fenced in area or a private back yard, when that dog is taken for a walk the likelihood that it will attack or threaten a passerby or someone who approaches it, be they human or animal, is greatly reduced.

Therefore, for the safety of the community at large, it is imperative that dogs be provided with either off leash walking rights or fenced in areas, commonly referred to as dog runs. The denial of both lays the seeds of discontent in pet dogs and causes all the necessary factors to create a dangerous and volatile situation in the community.

#### AMICUS' FACTS REGARDING DOG INCIDENTS IN PARKS

Of the approximately 5-7,000 calls Mr. Alexanian's HelpLine receives every year approximately 100 are regarding dog bites. Of that approximately 2,500 calls of dog bite incidents he has handled in the past 20 plus years not one had its location of occurrence be inside or near a park. When examined thoroughly this makes sense as per the above paragraph's examination of the reasons and obviously cannot be a coincidence. In fact, the greatest majority of the calls for dog bite incidents were reported to have occurred on or near New York City Housing Authority ("NYCHA") buildings. Why? Because residents in those types of buildings have a much greater propensity to manage their dogs off leash, and the public areas of hallways, elevators, lobbies are all inside buildings, not outdoor park land. Housing building resident dogs are penned up inside small apartments all the time with no opportunity to be walked off leash in a fenced in dog run, and are thus awaiting for the first opportunity to turn aggressive.

## HISTORY OF SIMILAR CONTROVERSIES IN NY CITY

In the mid 1990s, when Housing Authority Chairman Ruben Franco changed long standing policy of not enforcing no-pet clauses in NYCHA buildings to enforce a 0 tolerance policy and requiring housing tenants to “get rid” of their dogs, Mr. Alexanian predicted on television news interviews with Channel 9 and NY 1 and various newspapers that there would be a rash of dog attacks on or near NYCHA buildings due to residents’ abandonment of their dogs. Within six weeks there were five such attacks, and one NYCHA employee was killed as a result. Subsequently, Mayor Giuliani called Chairman Franco to Gracie Mansion at midnight and ordered him to rescind his new policy and not enforce the no-pet clauses in NYCHA buildings, and maintained the status quo as it was previous to the new policy.

Since then, the NYCHA has formally adopted a pet allowed policy, with appropriate reasonable guidelines, which has worked well for the public housing community, and has decreased the reported numbers of dog bites and attacks.

In 1993, a similar controversy arose in the community of Coney Island, regarding the New York City Parks department’s rescinding of its long-time waiver of its Rules and

Regulations forbidding the walking of dogs on or off leash on the Boardwalk in Coney Island. Dog owners protested when the Parks Department suddenly reversed its long-standing policy of permitting dogs on leashes on the Boardwalk, and began a ticketing blitz after giving timely notice to residents that the walking of dogs on the Boardwalk would no longer be allowed.

Contentious Community Board meetings were held, pitting neighbor against neighbor, Parks Department Commissioners, managers and staff, whose only interest is to manage the cacophony of citizens' opinions and phobias into a workable, effective, and fair policy for all, including dogs. It caused an ugly scar in the community, deepening rifts in culture, divisiveness, and animosity. It forced the involvement of the N.Y. City Department of Sanitation and the N.Y. City Police Department, draining manpower and resources of the upper level management at all three city agencies over a minor issue, making a "mountain out of a mole-hill" (see annexed Exhibit A).

After numerous news reports, and the involvement of local politicians (see annexed Appendix B) and the spewing of mountains of vehemence, the Parks Department arrived at a compromise which it imposed upon both sides with its discretionary powers granted to it by the New York City Charter. The policy was changed to not permit dogs on or off leash on the Boardwalk during the summer months of May to September, but to allow dogs on and off leash on the Boardwalk between the hours of 7 AM and 9 AM during those months. During the months of September and May dogs on and off leash would be allowed on the boardwalk. This policy was not codified as it would not be practical for



every city agency to wait the 1-3 years it takes the City Council and the Mayor to update the Administrative Code of the City of New York every time changes in one community require slight modifications in policy in that community but not in others.

This well-balanced and well-construed compromise policy was arrived at by the warring sides upon suggestions by *AMICUS* Garo Alexanian during meetings with the Superintendent of the Parks Department for the region, and perfected by the Parks Department Borough commissioner and his staff. This policy, arrived at in a fair and unbiased manner of deliberation, has since worked effectively with no known major incidents of dog attacks as a result of dogs being walked either leashed or unleashed on the Boardwalk.

#### AMICUS' CONCLUSIONS

Owned dogs can be a threat to any community if not properly managed by their owners. Government agencies, by utilizing codified Rules and Regulations, and their jurisdictional discretion to modify and variate from those Rules and Regulations in order to promulgate effective policies in a given community with its own specific set of unique factors, have a ministerial duty to take into consideration the needs of both dog owners and non dog-owners.

In the specific case of Juniper Park, encompassing a very large 55 acre area, it is clear that either a fenced dog run or reasonable off leash walking policies must be promulgated

by the Parks Department in order to minimize the possibilities of dog incidents. If “0” tolerance” off leash dog walking rules were to be enforced the propensity of dog attacks and incidents would be encouraged and fermented, setting up a stage which would be very dangerous to the community. In short, it would accomplish exactly what the stated purpose of the instant action claims to seek to prevent. Namely, guarantee that dog bites and attacks and threats in the community would increase at the very least nominally, and perhaps even drastically.

Therefore, unless and until a fenced in dog run is constructed inside of Juniper park, not 1 and 1/2 miles away where it is too far for seniors and the disabled to reach, Mr. Alexanian strongly recommends to this court that Petitioners’ requested relief be denied.

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# Dog Owners Unleash Fury at Boardwalk & Beach Ban

By Alex Masriev

A Community Board 13 meeting went to the dogs recently, as Coney Island and Brighton Beach pooch owners howled about a slew of fines that were recently given to area residents caught walking their dogs on the Boardwalk.

A Parks Department ordinance forbids the walking of dogs on the Boardwalk or the beach. The Parks Enforcement Patrol, the enforcement arm of the Parks Department, recently initiated a crackdown on people walking their dogs on the Boardwalk in Coney Island and Brighton Beach.

Raymond Brown, the borough director of the Parks Enforcement Patrol, said that his officers would continue heading the hap-

less pooches and their pedestrian partners who persist in prowling the seaside planks.

"There are signs clearly posted that there should be no dogs on the Boardwalk or the beach," said Brown at the meeting held in the second floor auditorium at Coney Island Hospital on Ocean Parkway.

He pointed out that he handed out warning notices to Brighton Beach residents several weeks before the summer ticketing initiative began. The officer stated that the Parks Department put the bite on dogs on the boardwalk recently because many more people visit the seashore during the summer.

Brown worried that barefooted bathers might

blunder into some unscoped pooch poop. "It is a quality of life issue," he said.

### "Fear Of Death"

Local dog owners growled that the fines, which can reach \$100, showed the city's intolerance toward man's best friend.

"The Boardwalk is a public venue," said Sheila Gorsky, "but since the beginning of May residents of Brighton Beach have been harassed by the Parks Department police."

She added that the Parks

Enforcement Patrol is "actually putting the fear of death [in dog owners] for walking dogs off the leash on the beach."

Bashara Cowan agreed. "If people are walking a dog and the dog is leashed then why can't people continue to walk a dog on the boardwalk?" she asked.

Dorota Walker, an area resident and dog owner, said, "We should be allowed a time and a place where dogs can run free."

Brown responded by saying, "We know dogs need exercise. On grass

areas, as long as it's from 7 a.m. to 9 a.m., we won't issue a summons for having a dog off its leash."

### Beag-Goose Serious

Gino Alexanian, a member of the Companion Dog Network, a dog advocacy group, stated that preventing dogs from enjoying the Boardwalk was a national concern.

"This is not just a dog issue," he explained. "Everyone in the United States has a stake in this issue."

"This issue is about your private rights," he said. "If you allow city politicians to

squeeze you this way, it will drive people out."

Alexanian added, "If we don't take control of our own city, we will never have happiness."

The Parks Department's Brown did throw the dog-loving crowd a bone. He promised that from September to May no fines would be issued to people walking their dogs on the Boardwalk.

"Before and after the summer we extend the courtesy of no fines to dog owners," he said. "It is a courtesy, just a courtesy."



"...There should be no dogs on the Boardwalk or the beach," said Raymond Brown, borough director of the Parks Enforcement Patrol. Photo by Alex Masriev

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• Clapping • Dancing •

By Lanchlin MacNeil  
Coney Island dog owners are howling after a pack of city enforcement agents issued summonses to residents walking their dogs on the Coney Island boardwalk.

The hounded pals of pooches recently rallied at the foot of the boardwalk at Coney Island to vent their anger and lick their wounds after the \$100 summonses. Over the past several weeks, explained Brighton Beach resident and dog owner Sheila Gorsky, enforcement agents from the Department of Sanitation and Department of Parks and Recreation have vigorously enforced leash laws.

Local dog owners, she explained, have been walking their dogs in the streets and cleaning up after their pets before walking their leashed dogs along the boardwalk for the return home. She pointed to the boardwalk as the scene of numerous confrontations.

Another dog owner at the rally, Lev Shteyn, recalled how several agents stopped him and began witting him a summons without informing him of what violation he had apparently committed. When he asked what the fine will be, he recalled being told, "I don't know. You'll find out," and was then handed his summons for \$100.

Milton Petchenik bristled at the "Gesapo" tactics, as he referred to them, being used by some agents on the boardwalk to enforce the law. In one incident, he described how one elderly woman walking her chihuahua was allegedly stopped by several agents riding

agents, according to Petchenik, surrounded the woman who had picked up her unleashed dog into her arms, and issued her a summons.

Noting the many dog owners who are elderly or on fixed pensions, Petchenik was angered by the steepness of the fines for a seemingly minor infraction. Based on the dollar figure, the city deems dog owners on the boardwalk more of a danger to the citizenry than speeding motorists.

Like Gorsky, he, too, agreed that unleashed dogs and owners who fail to clean up after their pets should be subject to penalties, but to be docked \$100 for walking on the boardwalk was beyond reason.

Jane Cowan held her fluffy poodle Lulu in her arms and vented her anger at receiving a \$100 summons which was later thrown out of court when the judge, she claimed, could not find the Administrative Code to justify the ticket.

The rationale behind the policy puzzled her. "As a young, single woman, walking alone after the work or in the morning, a dog is a deterrent [to crime]," she said.

Several residents pointed to a sign posted overhead at the foot of Coney Island Avenue and the boardwalk which declared in English and Russian, "No Dogs On Beach Or Boardwalk." Pointing to the sign, they asked, "Who put it there, and by whose authority?"

No Paws Policy

"I have no idea," replied Herb Eisenberg, district

manager for Community Board 13, when questioned about the mysterious appearance of the sign. "I don't know who did it. I have no authority -- all I do is oversee the delivery of city services."

But a growing problem in the community prompted him to act.

According to Eisenberg, residents along the boardwalk, and merchants with shops on Coney Island Avenue and Brighton Beach Avenue had complained to his office of an increase in litter and dog feces on the sidewalks. Responding to the needs of the community, he explained, the community board notified the Department of Sanitation (DOS) of the problem.

DOS laws, according to the DOS Digest of Codes, provide for penalties under the State Public Health Law 1310 for the "Failure To Remove Canine Waste," with penalties starting at \$50 rising to \$100. Health Code Section 161.05 cites the infraction for "Unleashed Dogs" (including dogs on leashes longer than six feet) for fines of \$100 and peaking at \$1,000. However, Kathy Dawkins, spokesperson for the DOS was at a loss to find the code being enforced on the boardwalk.

Raymond Brown, borough director for the Parks Enforcement Patrol, explained the justification for the penalties. Paging through the "City of New York Parks & Recreation Rules and Regulations," he cited several paragraphs which he said substantiate the fines.

The boardwalk serves as



Dog owners heed these words, "NO Paws Allowed."



Jane Cowan, who was issued a summons for \$100, cradles the tiny offender, "Lulu," in her arms.



State Assemblyman Howard Lasher (center) listens to the complaints voiced by Brighton Beach dog owners.

PAGE 02/84

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# Local Dog Owners Unleash Their Fury

Continued from page 7

both a picnic and a bathing area, according to the definitions provided in the guide. As such, page 18(i) states, "...No person shall allow any animal in his control to produce any urine or fecal matter in any park..." Brown emphasized the need to safeguard the public against potential health hazards.

"For the most part, dog owners are a conscientious group who clean up after their pets," said Brown. "But what about the person who walks off the sand barefoot and steps into urine? And what if there's a cut on that person's foot? The possible spread of infectious disease was his

overriding concern now that the beaches are filling with summer visitors.

Brown sympathized with the dog owners. "I understand that dogs need exercise. As a courtesy, and I emphasize it is a courtesy, we will not summon owners who run their dogs off the leash in Aser Levy Park between 7 a.m. and 9 a.m.," said Brown. However, the Parks employee cautioned, "If DOS or the police stop you they will issue a summons, but as a courtesy, we will not."

He stressed that while \$100 is stiff, it is a minor annoyance when compared with a the issuance of a criminal summons which, if the person is found guilty,

carries the weight of a misdemeanor and the potential of 90 days in jail.

The summonses written by DOS and Parks Enforcement were for civil infractions authorized under the Environmental Control Board.

Cognizant of the needs of the community, Brown reported that this enforcement did not begin without public notice. "I personally handed out flyers," he said. During May, Brown said he and his agents issued verbal warnings rather than tickets, including telling dog owners of the availability of Aser Levy Park.

"We want people to use and enjoy the parks," but said public safety was his

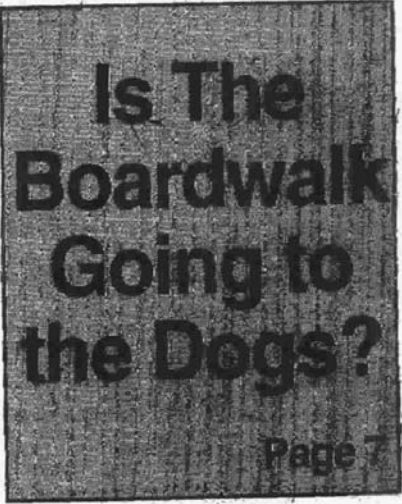
priority. Warnings and providing information was a far more effective way of changing owners' habits, but at this point in the season, summonses were a last resort, he said.

"We don't have a quota," promised Brown.

Once the season ends and the cold weather sets in, a time when the boardwalk is seldom frequented by visitors, Brown said he would lift the enforcement policy provided that owners followed the law.

He was aware of the woman ticketed with her chihuahua, and had notified the DOS of the matter.

As to the appearance of the sign, "We put it there," said Brown.





POLICE DEPARTMENT

NEW YORK, N.Y. 10018  
Patrol Borough Brooklyn South  
2520 Snyder Avenue  
Brooklyn, New York 11226

August 13, 1993

Wendy Fromer and Sheila Gorsky  
Kaioshi Realty  
915 Coney Island Avenue  
Brooklyn, New York 11226

Dear Ms. Fromer and Ms. Gorsky:

I am happy to hear of the lifting of the prohibition to  
walk your dogs on the boardwalk, and that a resolution to  
your problem was reached so quickly.

Good luck.

Sincerely,

*Michael A. Markan*  
Michael A. Markan  
Assistant Chief

NAM/wg