

HEARINGS, MEETINGS, LICENSES
6-1-09

Middleborough Animal Control
20 Center Street
Middleborough MA

April 23, 2009

Att: Selectmen's Office
Re: Nuisance Loose Dog Complaint

I am sending this letter, Hearing Request Form, Animal Control Incident Reports and recommendation concerning a Nuisance Loose Dog complaint for:

Mr. & Mrs. Valadao – 42 Lane Street

Mr. & Mrs. Verre – 40 Lane Street

Mr. & Mrs. Lynch – 35 Lane Street

Against a dog owned by Sherilyn Shurtleff – 37 Lane Street. Any other information or paperwork will be provided upon request.

Jayson Tracy
Middleborough Animal Control
508 946 2455



TOWN OF MIDDLEBOROUGH
Animal Complaint Form



MIDDLEBOROUGH POLICE DEPARTMENT
99 NORTH MAIN STREET
MIDDLEBOROUGH, MA 02346-2493

FAX (508) 947-1009

ANIMAL CONTROL OFFICER

COMPLAINT OF VICIOUS OR BARKING DOGS
(Massachusetts General Laws Chapter 140, Section 157)

Date 4/22/09

To: Animal Control Officer
Board of Selectmen

I hereby make complaint hereon, that an animal(s) Dog
owned or harbored by: 37 Lane Street - Shurtleff
residing in my vicinity on or near 37 Lane Street
is a nuisance by reason of: Continually loose
Name & Address.
Street or Locality
Pick from List Below

1.) Vicious Disposition:
(State Facts)

2.) Excessive Barking:
(State Facts)

3.) Other Disturbance: Loose all the Time
(State Facts)

4.) Source of Annoyance to a Sick Person Residing in the Vicinity:
(State Facts)

This complaint is made under the penalties of perjury.

Voladao - 42 Lane St
Vere - 40 Lane St
Lynch - 38 Lane St

Complainant's Signature

Date 4/22/09

Animal Control Incident Report

Incident Log					
Last Name	First Name	Nmbr	Address	Home Phone	Breed
Shurtleff	Sherilyn	37	Lane Street		Choc Lab

Incident/s
<p>5/30/07 Loose Dog.. ACO received call from passing motorist that there is a choc lab that lives at 37 Lane Street that is continuously loose.</p>
<p>5/31/07 ACO visit to the address and witnessed a choc lab in a fenced in yard. ACO contacted the Clerks Office and was told the dog is licensed. ACO found no one home and left call tag with loose dog letter.</p>
<p>5/15/07 ACO received anon complaint about a lab continuously loose from 37 Lane Street. PT ACO went to location and found no dog loose at time of arrival.</p>
<p>6/23/07 ACO received call from The Delivery Manager of the Post Office reporting that for the second time in 2 weeks, the dog at 37 Lane Street was loose and the Postal Carrier was unable to deliver to the houses on the street. The ACO was informed that the residents at 37 Lane no longer have mail delivered due to the constant loose dog issue.</p>
<p>6/23/07 ACO visited the address and found no one home and no dog was seen. ACO left call tag</p>
<p>9/4/08 ACO received complaint that the dog living at 37 Lane Street is loose.</p>
<p>9/5/08 ACO received complaint that the dog from 37 Lane Street was loose again. PT ACO arrived and witnessed a choc lab unmetered in the front yard. PT ACO spoke to unidentified man in the yard and informed him of the complaint.</p>
<p>9/8/08 ACO received a call from the Post Office complaining that the dog at 37 Lane Street left the yard and was aggressing towards one of the carriers on 9/4/08 and that the street was not getting mail.</p>
<p>9/9/08 ACO visited the address and spoke to an unidentified man and explained that the dog has to stay in the yard and that he would ensure that if the dog was out it would be tied up so the residents could get their mail. The man agreed to remedy the situation and cable the dog.</p>
<p>9/9/08 ACO contacted the Post Office and relayed that conversation and that the resident claims they will tie the dog.</p>
<p>9/11/08 Police Dispatched the ACO to 37 Lane Street for a loose dog complaint. ACO arrived and witnessed the dog in the front yard on a cable restraint. ACO knocked but found no one home.</p>
<p>2/9/09 ACO received call from 40 Lane Street about the dog from across the street being loose. ACO visited the address and found no dog and no one answered the door. ACO left Hearing Request form at 40 Lane Street.</p>
<p>4/9/09 ACO received call about the dog being loose and charging postal carriers. ACO arrived and saw no dog loose. ACO spoke to an unidentified young woman at the address who claims the dog never left the yard and was only barking at the carriers.</p>

Incident/s

4/11/09 ACO was contacted by a few residents who have been informed that their mail will no longer be delivered because of the dog. ACO informed the callers of the routed to take to resolve the issues.

4/23/09 ACO received letter from residents and will submit paperwork for Hearing.

April 17, 2009

United States Postal Office
Middleboro, MA 02346

Dear Post Master:

I am a concerned resident of Lane Street in Middleboro, MA. I was approached by our Letter Carrier, who notified me that he would no longer be delivering mail to any of the houses in a selected section of our street, because there was a dog loose in our neighborhood.

I find it unfair that we are being penalized for the actions of one house and dog owner, especially when none of the houses involved own the dog. The appropriate action would be to communicate with the dogs' owner and let the consequences fall on their shoulders.

I would appreciate it if you could review this matter at your earliest convenience and see to it that the rest of the neighborhood does not have there mail service interrupted.

Sincerely

Joe Valadao
Bonnie Valadao
Mary Jane
Thomas J. Bennett

Kevin Fitzgerald

Melissa Lynn

D & B

Time Cell

Patrick Lynch
Valerie Lynch



Postal Customer
35, 41, 46, 42, 40 Lane Street
Middleboro, MA 02346

Re: mailbox location

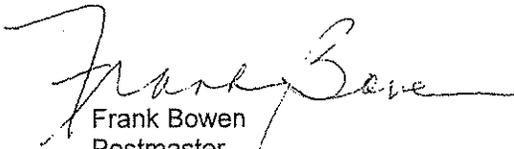
Dear Customer,

The postal letter carrier that delivers your mail has been confronted by a loose dog three times over the past week. Our efforts to convince the customer to restrain the dog have been in vain. This customer has not received home delivery for years because of this exact issue. On 4/13/09 the dog was sitting under the mailbox at 41 Lane. We contacted animal control but they are unable to assist us.

We are now forced to require you to relocate your mailbox to the area of 31 Lane to protect the letter carrier by keeping him from walking down your street.

Effective today, 4/14/2009, we will begin holding your mail at the Lakeville Carrier Annex, 15 Riverside Drive, Lakeville MA until such time as we see you have moved your mailbox. At that time we will resume delivery to your mailbox.

I apologize for any inconvenience this will cause you.



Frank Bowen
Postmaster
Middleboro, MA 02346
508 923 6427

Middleborough Animal Control
20 Center Street
Middleborough MA

April 23, 2009

Att: Selectmen's Office
Re: Recommendation for Nuisance Loose Dog Complaint of the dog owned by
Sherilyn Shurtleff -37 Lane Street.

I am submitting this summary and recommendation, per request of the Board, regarding the continually loose dog residing at 37 Lane Street.

The Animal Control Department has been dispatched numerous times over the past two years concerning the dog residing at 37 Lane Street. The owners either secure the dog or bring the dog into the house before the officer arrives on scene, however, there is little doubt the dog is chronically left to wander out of the yard as the complaints range from multiple residents to the Postal Workers who are delivering the mail to the area. As a result of the dog being loose Ms. Shurtleff, and now most recently, the entire neighborhood has no mail delivery service.

My department has been to the residence on several occasions and met with denials of the problem or tacit agreement to restrain the dog. It has become obvious the owners of the dog have little regard for the Leash Law or the department's attempt to work with them to restrain the dog. It is the Animal Control Departments recommendation that the dog be placed on a Permanent Restraining Order and be kept inside the house or on a maintained cable restraint at all times.

Jayson Tracy
Middleborough Animal Control
508 946 2455

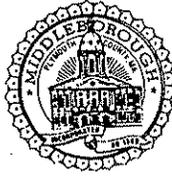
Town Seal

A public hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, June 1, 2009 at 8 PM for the purpose of discussing the request made by Ralph & Barbara Holton d/b/a Tispaquin Family Campground for a Family Type Campground Permit for property located at 68 Purchase Street, Middleboro, MA. Anyone desiring to be heard on this matter should appear at the time and place designated.

BOARD OF SELECTMEN
Patrick E. Rogers
Muriel C. Duphily
Marsha L. Brunelle
Alfred P. Rullo, Jr.
Stephen J. McKinnon
BOARD OF SELECTMEN

Publish: May 21, 2009

Incorporated 1669



CRANBERRY CAPITAL
OF THE WORLD



**Town of Middleborough
Massachusetts**

HEALTH DEPARTMENT
508-946-2408

20 CENTRE STREET
MIDDLEBOROUGH, MA 02346

**Town of Middleborough
Health Department**

**Jeanne Spalding
Health Officer
Hours 8 a.m.-5 p.m.**

**Phone: (508) 946-2408
FAX: (508) 946-2321**

Memo

**To: The Board of Selectmen/Board of Health
From: Catherine Hassett, Health Inspector
Date: May 7, 2009
Re: 382 Center Street, Bill and Patricia Marzelli**

My apologies to the Board for not being able to attend the meeting of April 27, 2009 due to pressing personal obligations. As the Health Inspector for the Town of Middleboro, I would like to respond to the accusations made about me by Bill Marzelli and the handling of the potential rooming house owned by Bill Marzelli and his wife Patricia Marzelli.

First of all, I did not refuse to acknowledge that the initial inspection conducted on December 22, 2008 was requested by The Middleborough Police and by the owner's of this building, however, I did want to respect the privacy of the tenant so I did not go into great detail about his situation. This is the reason that Joan Stone the Public Health Nurse and I went out to this property and this is where Bill Marzelli's recollection and my recollection of the how the events transpired starts.

Bill Marzelli was not present at the initial inspection, however, Patricia Marzelli was. By the time that Joan Stone and I arrived at this property the ambulance drivers had already placed the tenant on a car chair and were in the process of taking him downstairs. Joan Stone and I had to actually move out of the way in order to let all of them by. I never declared him at risk as Bill Marzelli stated. While Joan Stone and I were standing in the kitchen area, I noticed at least three people sitting at the kitchen table and they were smoking. This is when I first thought that this could possibly be operating as a rooming house. Joan Stone and I looked at the condition of the sleeping room that the tenant had been removed from and told Patricia Marzelli what needed to be done and she agreed. She also said that she wanted a witness to the condition of this room and the contents in case the tenant had any questions. I then told Patricia Marzelli that this area appeared to be operating as a rooming house and she replied that she would have to speak to her husband about this. I told her that when she wanted a re-inspection of the room, to call me at the Health Department. Patricia Marzelli said the tenant was going to the hospital for treatment but she wanted a re-inspection in a few days so the tenant could return if he was released.

The next time I spoke with the owner Bill Marzelli was on the phone and an inspection time was set, there was no mention of the rooming house issue. The re-inspection was set for December 30, 2009.

Both Patricia and Bill Marzelli were present at this inspection. The room had been cleaned, the walls painted, and the rug and mattress replaced. Bill Marzelli then stated that they had told the tenant that I had condemned this room and when I told them that I never condemned the room, they both said that they just told the tenant that to get him the go to the hospital. I then brought up the subject of the potential rooming house. Bill Marzelli stated that he was concerned that some of the rooms were not going to meet the state requirements and he asked where he could find the regulations and I informed him of the website where he could find the housing code which also had the definition of a rooming house. I did state that the room we were standing in would have to be measured for square footage because of the sloped ceiling and I did not know if it would meet the regulation as far as square footage. This is routine for these inspections and sleeping areas have to be measured to determine if they do meet the housing code. Bill Marzelli asked if he just paid the fee then he would be all set but I told him that an inspection would be required. Bill Marzelli stated that he would look up the regulations and if he felt that if anything in this area did not meet the regulations then he would not allow an inspection. Bill Marzelli then said that he would call the Health Department on Monday January 5, 2009. No calls were received by either of the owners of 382 Center Street on January 5, 2009 so a letter was sent to the Marzellis. The letter dated January 16, 2009 asked for the owners to respond within 90 days. No response was received so another letter was sent on March 24, 2009 and the owner's were given 5 days to reply.

I had attempted to obtain any information of inspections done prior to December 22, 2008. I had contacted the Fire Department and Captain Debra Burke found and sent a copy of a Certificate of Compliance and a permit for smoke detectors from 2000. The Building Department had hand written notes from Bill Gedraitis the Building Commissioner from an 11-13-95 inspection regarding a coffee shop proposal. The Health Department does not have any information regarding any inspections prior to December 22, 2008.

On March 25, 2009 Bill Marzelli came into the Health Department and I asked him if he had received the letter. He was quite agitated and he stated that, "You have not done your homework", twice. He said that he had a letter from the Fire Department and I stated that I never said that any town departments had never inspected just that I had no records that the departments had conducted inspections on this area as a rooming house. Bill Marzelli never offered to show any of his paperwork to me nor did he offer the application or fee at this meeting. Bill Marzelli then stated very loudly that, "You have no common sense," and that he was not going to comply with the regulation because he felt the use should be grandfathered, he then stated "FIRE UP THE LAWYERS."

From the initial inspection on December 22, 2008 until the Board of Health meeting on April 27, 2009, Bill Marzelli never asked once to speak with the Health Officer Jeanne Spalding regarding the rooming house issue or about my conduct on this matter. I feel that I treated Bill Marzelli with the same respect that I always use with any members of the public.

I NEVER STATED AT ANY TIME THAT THIS PROPERTY WAS NOT GOING TO MEET THE HOUSING CODE REGULATIONS, OR THAT I WAS NOT GOING TO ALLOW HIM TO RENT ROOMS. THE APPLICATION INFORMATION WAS NEVER OFFERED.

The issue remains as to whether this is a rooming house or not. No one is disputing the Marzelli's rights under zoning to have rental units but whether these units comply with the State Sanitary Code, Chapter II.

Thank you for your attention.