

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

258



FROM: Community Health Agency, Department of Animal Services

SUBMITTAL DATE:
 September 16, 2010

SUBJECT: Appeal of Denial of Class II Kennel License; District 1

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Conduct a hearing and receive comment from both Karen Duet and the Department of Animal Services (the Department) for reconsideration of the Department's denial of renewal of the Class II Kennel License on August 5, 2010.
- 2) Affirm, modify, or reverse the denial of the Department pursuant to Riverside County Ordinance No. 630.

BACKGROUND:

George and Karen Duet are owner operators of a Class II Kennel, called K-9 Companions, located at 13703 Cajalco Road, Perris, California, pursuant to land use approval issued to Levern and Geraldine Freeman in 1995. The land use approval established the maximum number of dogs allowed at the property at 20 dogs. As the Kennel License was due to expire, Mr. and Mrs. Duet applied for a renewal of the existing Class II Kennel License. (Continued.)

Robert P. Miller

Robert Miller, Director for Animal Services

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	

C.E.O. RECOMMENDATION: APPROVE
 BY: *Debra Cournoyer*
 Debra Cournoyer
 County Executive Office Signature

Dept't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: _____ District: 1 Agenda Number: _____

After performing both announced and unannounced inspections on their property, the Department of Animal Services concluded that a denial of the kennel application permit was warranted based on the Duets' failure to comply with local laws and regulations, as follows:

- Excessive number of dogs maintained in a Class II Kennel in violation of RCO No. 630;
- Excessive number of dogs maintained in violation of land use approval issued by the County of Riverside (Plot Plan 13992, as Amended), thus constituting a violation of RCO No. 348; and
- Property is not in compliance with other conditions of land use approval issued by the County of Riverside as Plot Plan 13992, as Amended, thus constituting separate and additional violations of RCO No. 348.

KAREN DUET
13703 Cajalco Road
Perris, California 92570
Telephone: (951) 780-5810

August 23, 2010

Clerk of the Board of Supervisors
4080 Lemon Street, First Floor
Riverside, California 92501

Re: Appeal of Denial of Class II Kennel License
Premises: 13703 Cajalco Rd, Perris, CA 92570
Application No. K10-095213

Dear Clerk,

I hereby appeal the denial of my application for renewal of a Class II Kennel license. The grounds for the appeal are that the Department of Animal Control denial of the renewal was unwarranted, is in violation of due process, was taken by surprise, and is essentially a revocation of the license without Notice or a Hearing.

The Department of Animal Control has licensed my kennel for 35 dogs since 2002 (see copies of licenses attached). It regularly inspected my kennel and found no problems. My business has grown and in 2008 I applied to have more dogs. Animal Control told me that I needed to get the approval of the Planning Department so I went there and applied. I continue with the process of getting the Planning Department's approval for expansion.

In April, 2010, County Counsel came into the picture and said that I could have only 20 dogs on the property. This was quite a surprise to me because for years my contact with the County has been Animal Control and it said I could have 35 dogs. We assumed Animal Control knew all the correct rules and regulations for the kennel. County Counsel said that Animal Control had no right to authorize me to have 35 dogs because Planning had limited us to 20 dogs. County Counsel also said that I should have known that I could only have 20 dogs because I was present when Planning authorized me for only 20 dogs. Truthfully, it is quite confusing because one department has told me I could have 35 dogs and another said I could have only 20 dogs. My application was to get planning's approval for more than 35 dogs.

My kennel license expired in May, 2010. Prior its expiration I applied for a renewal. Animal Control came out to the kennel and inspected it in May and June, 2010. At that time Animal Control did not say there was any problem with the renewal. I did

2010-08-108548

Clerk of the Board of Supervisors

August 20, 2010

Page 2

not receive the formal written license but I did not give this a second thought because we never received a formal written license when I renewed in 2008.

In late July Animal Control, Code Enforcement and the Sheriff's office raided the kennel on a Saturday morning. They were there for three hours. When they were there they counted every dog nose on the premises, including the dogs that we keep as pets and dogs that were brought onto the grounds for short evaluations or for one-on-one training. Every time a new dog came on the premises they counted it as a dog on premises even though dogs they had previously counted had left.

When they were there they wrote citations for too many dogs on the premises, for having an unpermitted guard dog, and for various minor code violations.

On August 5, 2010 I received the attached letter from Animal Control telling me that our kennel permit had not been renewed. The letter states four grounds for the non-renewal: 1) Excessive number of dogs maintained in a Class II kennel, 2) Excessive number of dogs maintained in violation of land use approval, 3) Property not in compliance with other conditions of land use approval, and 4) two unpermitted guard dogs on the premises. This came as quite a shock to me because the County had consistently told me that they would work with me to obtain approval for our business expansion and had never told me that they would revoke our license and shut us down. I have written signoffs dating back to 1995 for many of the items that are now alleged to be violation of land use approvals. Frankly, if I had known that the county wanted to shut us down we would have done what they wanted us to do because I cannot afford to lose my business.

The County has also filed a lawsuit against us to obtain an injunction to limit the number of dogs on the premises to 20 dogs, to remove the guard dogs, and to limit the business on the premises. This case went to the judge for hearing on August 13th and the judge refused to grant the County's requests. He has scheduled the next hearings for dates in September.

Our business is my source of income. It also employs 17 people. My family and I have invested hundreds of thousands of dollars into it. I cannot afford to lose the business and my employees need their jobs.

Since I received my notice that Animal Control has revoked my license I have made meeting their conditions with regard to the number of dogs, the guard dogs, and the conditions of approval my top priority. I will shortly be in compliance with all of their rules even though I think that some of them are not legally justified. For example, we have been accused of keeping guard dogs without permits. Riverside County has no program for issuing guard dog permits despite the existence of state law passed in 2001 which requires the county to have a permit program. I also disagree with the County's interpretation of that ordinance. I disagree with Code Enforcement's interpretation of the land use approvals. These legal issues will be submitted to the judge for his

Clerk of the Board of Supervisors

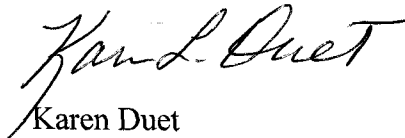
August 20, 2010

Page 3

interpretation as part of the ongoing court case. In the meantime, I am abiding by the County's interpretation because I need to keep my business alive.

The August 5, 2010 notice from Animal Control states that I am not permitted to apply for a new kennel license for one year. This seems especially harsh when I can bring ourselves into compliance with the County's interpretation of our conditions of approval in a very short period of time. There seems no reason to put me out of business for a year other than pure vindictiveness on someone's part. County Ordinance 630 permits the Board of Supervisors to shorten or eliminate that period. If the Board wants to revoke our license then I am asking at least for the right to immediately reapply. If the license is not in effect 17 people will lose their jobs. It is fair that we be given the right to be back in business as soon as all of the County's conditions are met.

Very truly yours,

A handwritten signature in cursive script that reads "Karen L. Duet". The signature is written in black ink and is positioned above the printed name.

Karen Duet

KENNEL LICENSE

NON-TRANSFERABLE

Class II

LICENSE ISSUED 5/8/02
LICENSE EXPIRES 5/8/04

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	35 MAX

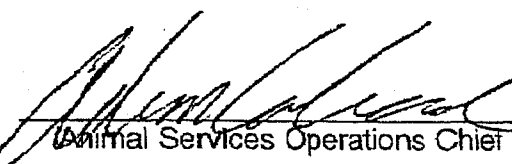
LICENSE NUMBER K02-095213
FEE \$220.00
PENALTY
TOTAL \$220.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Duet
Name of Kennel	K-9 Companions
Fed	
Location	13703 Cajalco Rd
Mailing Address	same
City and State	Lake Mathews, Ca 92570

Janice Upstone
Director of Animal Services



Animal Services Operations Chief

KENNEL LICENSE

NON-TRANSFERABLE

Ken 2 Un 2

LICENSE ISSUED 5/8/04
LICENSE EXPIRES 5/8/06

APPLICABLE TO:
DOGS <input checked="" type="checkbox"/> CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>
NUMBER <u>35 Max</u>

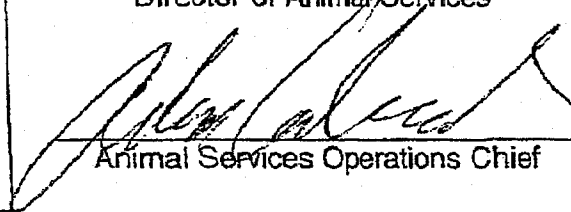
LICENSE NUMBER K02-095213
FEE \$650.00
PENALTY
TOTAL \$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	<u>Karen Duet</u>
Name of Kennel	<u>K-9 Companions</u>
Address	<u></u>
Location	<u>13703 Cajalco Rd.</u>
Mailing Address	<u>same</u>
City and State	<u>Lake Mathews, CA 92570</u>

Janice McLaughlin
Director of Animal Services


Animal Services Operations Chief

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED 5/8/06
LICENSE EXPIRES 5/8/08

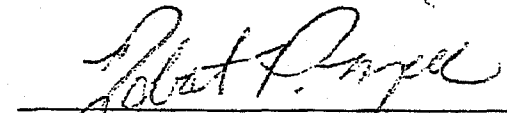
APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	35

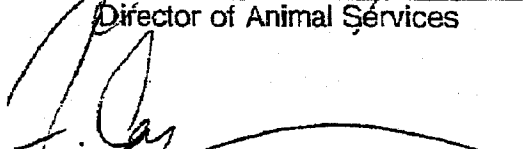
LICENSE NUMBER K06-095213
FEE \$650.00
PENALTY \$0.00
TOTAL \$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Duet, Karen
Name of Kennel	
Phone	
Location	13703 Cajalco Road A
Mailing Address	13703 Cajalco Road A
City and State	Lake Matthews, CA. 92570


 Director of Animal Services


 Deputy Director of Animal Services



**DEPARTMENT OF
ANIMAL SERVICES**

Riverside County Community Health Agency

*Department of Animal Services
Robert Miller, Director*

August 5, 2010

George and Karen Duet
13703 Cajalco Rd.,
Perris, CA 92570

Re: **Notice of Denial of Class II Kennel License**
Premises: 13703 Cajalco Rd., Perris, CA
Application No. K10-095213

Dear Mr. and Mrs. Duet:

The Riverside County Department of Animal Services has completed the processing and consideration of your recent application for a renewal of a Class II Kennel License, including performing announced and unannounced inspections of the above-described premises located in the unincorporated area of Riverside County.

We regret to inform you that your application for license renewal is denied at this time because the conditions of your property are not in compliance with applicable laws and regulations of the State of California and ordinances adopted by the Riverside County Board of Supervisors, specifically Riverside County Ordinance (RCO) Nos. 630 and 348. The denial of your application is based on the following:

- (X) Excessive number of dogs maintained in a Class II Kennel in violation of RCO No. 630. (71 dogs in the kennel at the time of last inspection);
- (X) Excessive number of dogs maintained in violation of land use approval issued by the County of Riverside as Plot Plan 13992, as Amended, thus constituting a violation of RCO No. 348;
- (X) Property is not in compliance with other conditions of land use approval issued by the County of Riverside as Plot Plan No. 1 3992, as Amended, thus constituting separate and additional violations of RCO No. 348; and
- (X) Two (2) unpermitted Guard/Attack dogs are kenneled and/or maintained on the property in violation of *California Health and Safety Code §§ 121875 et seq.*

Riverside County Community Health Agency
DEPARTMENT OF ANIMAL SERVICES - Administrative Offices
5950 Wilderness Avenue, Riverside, California 92504
(951) 358-7387 □ FAX (951) 358-7300 □ TDD (951) 358-5124

Correspondence to George and Karen Duet
August 5, 2010
Page Two

Pursuant to Riverside County Ordinance No. 630, the effective date of this denial is thirty (30) days after notice hereof. Furthermore, an application for a new license shall not be considered by our department for a period of one (1) year from the effective date.

Request For Appeal

You may appeal this denial by filing a written Request For Appeal which includes a brief statement of any reasons which support your allegation that this denial is improper. **The Request For Appeal must be filed with the Clerk of the Board of Supervisors (4080 Lemon Street, 1st Floor, Riverside, CA 92501 (951.955.1060)) within fifteen (15) days after notice of this denial.** Thereafter the Clerk of the Board shall set a hearing in front of the Riverside County Board of Supervisors. Please note that in conducting the hearing, the Board of Supervisors shall not be limited by the technical rules of evidence, as applicable in courts of law, however all evidence shall be of the type upon which responsible persons are accustomed to rely in the conduct of serious affairs.

You are further noticed that although an appeal may stay the denial, during the pendency of the appeal the Director may take such action as he deems appropriate under RCO 630 or other law respecting the subject kennel, including but not limited to the abatement of public nuisances, inspection of the kennel premises or the prosecution of any violation of RCO No. 630 or any other provision of law not related to the failure of the subject kennel to be currently and otherwise validly licensed.

Enclosed please find Six Hundred Fifty Dollars (\$650.00) which represents reimbursement of the licensing fees previously submitted by you concerning the above-referenced application.

You are welcome to contact my office if you would like to further discuss this matter.

Respectfully,

Animal Services Department



Robert Miller
Director

Cc: Leverne and Geraldine Freeman, property owners

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Riverside County Community Health Agency
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