

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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IN THE MATTER OF THE
APPLICATION OF the

VERIFIED ANSWER

JUNIPER PARK CIVIC ASSOCIATION, INC.,

Index No.: 7888/06

Petitioner,

-against-

The CITY OF NEW YORK,
ADRIAN BENEPE, COMMISSIONER, of
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION, and
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION,

Respondents.

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Respondents, the City of New York (the "City"), Adrian Benepe, the Commission of the New York City Department of Parks and Recreation (the "Commissioner"), and the New York City Department of Parks and Recreation ("Parks & Recreation"), by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, hereby answer the Verified Petition ("petition") and, upon information and belief, respectfully allege as follows:

1. Deny the allegations set forth in paragraph 1 of the petition, except admit that petitioner purports to proceed as described therein, and respectfully refer the Court to the New York City Health Code ("Health Code") §161.05 and the Parks & Recreation Rules and Regulations ("Parks Rules") for their full content and meaning.
2. Deny the allegations set forth in paragraph 2 of the petition, except admit that the correspondence and Notice of Claim referenced therein were received by respondents.
3. Deny the allegations set forth in paragraph 3 of the petition.

4. Deny the allegations set forth in paragraph 4 of the petition, except admit that this Court has jurisdiction over this proceeding.

5. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations set forth in paragraph 5 of the petition.

6. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations set forth in paragraph 6 of the petition.

7. Deny the allegations set forth in paragraph 7 of the petition, and aver that property in Elmhurst, Queens was conveyed to the City as a gift from its former owner, a gas company, and is being considered to be developed as a park sometime in the future.

8. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations set forth in paragraph 8 of the petition.

9. Deny the allegations set forth in paragraph 9 of the petition.

10. Deny the allegations set forth in paragraph 10 of the petition.

11. Deny the allegations set forth in paragraph 11 of the petition.

12. Deny the allegations set forth in paragraph 12 of the petition and aver that the City is a municipal corporation duly organized and existing pursuant to the laws of the State of New York.

13. Admit the allegations set forth in paragraph 13 of the petition.

14. Deny the allegations set forth in paragraph 14 of the petition and aver that Parks & Recreation is the City Department authorized to manage and care for all parks within the City pursuant to Chapter 21 of the New York City Charter and has published the Parks Rules for that purpose, and Parks & Recreation is one of the City departments authorized to enforce provisions of the Health Code including §161.05.

15. In response to the allegations set forth in paragraph 15 of the petition, repeat and reallege the responses to paragraphs 1 through 14 of the petition.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the petition, except admit that the correspondence and Notice of Claim referenced therein were received by respondents.

17. Deny the allegations set forth in paragraph 17 of the petition and aver that Parks & Recreation enforces at all times the requirement in §1-04 of the Parks Rules that no dog may be unleashed or out of control in any park, except as permitted by the Commissioner, and further aver that the Commissioner's permission to have dogs off leash is limited to specified areas in some parks for the limited hours of 9:00PM to 9:00AM..

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the petition.

19. Deny the allegations set forth in paragraph 19 of the petition except admit that the recreational facilities identified therein exist in Juniper Valley Park and aver that Juniper Valley Park consists of 55 acres which also includes open spaces and areas for passive recreation.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 20 - 25 of the petition.

21. Deny the allegations set forth in paragraph 26 of the petition.

22. Deny the allegations set forth in paragraph 27 of the petition, and respectfully refer the Court to the Health Code §161.05 and the Park Rules for their full content and meaning.

23. Admit the allegations set forth in paragraph 28 of the petition.

24. Deny the allegations set forth in paragraph 29 of the petition, except admit that most areas within City parks, including Juniper Valley Park, are open to the public subject to the Parks Rules.

25. Deny the allegations set forth in paragraph 30 of the petition and aver that respondents' enforcement authority is not ministerial but discretionary, and that the enforcement of the leashing requirements for dogs in parks is performed in a manner that best serves the needs of the community and is in accordance with law.

26. Deny the allegations set forth in paragraph 31 of the petition and respectfully refer the Court to the Parks Rules for their full content and meaning.

27. Deny the allegations set forth in paragraph 32 of the petition, aver that the Parks Rules explicitly provide that the Commissioner may determine exceptions to the requirement for maintaining dogs on leash and provide, in section 1-05(s)(3), one such exception to apply to certain fenced areas in parks designated as Dog Runs, and respectfully refer the Court to the Parks Rules for their full content and meaning.

28. Deny the allegations set forth in paragraph 33 of the petition and aver that respondents' enforcement authority is not ministerial but discretionary, and that the enforcement of the leashing requirements for dogs in parks is performed in a manner that best serves the needs of the community and meets the requirements of law.

29. Admit the allegations set forth in paragraph 34 of the petition.

30. Deny the allegations set forth in paragraph 35 of the petition and aver that the partial quotation from a portion of the Parks & Recreation website contained therein does not include the preceding sentence that provides, "Parks & Recreation enforces the health code laws

for the following reasons:” and respectfully refers the Court to the Parks & Recreation website, www.nycgovparks.org, for its full content.

31. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36 of the petition.

32. Deny the allegations set forth in paragraph 37 of the petition and aver that petitioner attempted to commence a proceeding seeking the same relief by order to show cause presented to this Court in April, 2006, which application was denied.

**FOR A STATEMENT OF PERTINENT AND MATERIAL FACTS AND
LEGAL PROVISIONS RESPONDENTS RESPECTFULLY ALLEGE:**

33. Article 161 of the Health Code, Title 24 of the Rules of the City of New York (“RCNY”) §161.01 et seq., contains various provisions for the ownership and management of live animals within the City. Until repealed in 1996, 24 RCNY §161.25 provided the requirements to maintain dairy cows within the City, and there continues to be provision for the “Yarding of horses, cattle, swine, sheep and goats” in 24 RCNY §161.21. The provisions regarding the management of dogs historically required that all dogs in public places must be muzzled, and currently include requirements for where dogs may excrete wastes, 24 RCNY §161.03; the requirement that all dogs must be licensed and wear the license on a collar, 24 RCNY §161.04; the requirement that all dogs must be restrained by a leash in public places, 24 RCNY §161.05; and, the requirement that prior to any transfer of ownership a dog must be vaccinated against rabies and treated for parasites, 24 RCNY §161.06; set forth as follows:

§161.03 Control of dogs and other animals to prevent nuisance. (a) A person who owns, possesses or controls a dog, cat or other animal shall not permit the animal to commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway or roof of any public or private premises used in common by the public, or

on a fence, wall or stairway of a building abutting on a public place.

(b) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Department of Sanitation and Parks and Recreation, or successor agencies.

§161.04 Dog licenses. (a) A dog license obtained in accordance with Chapter 115 of the New York State laws of 1894, as amended, shall be issued by the Department.

(b) Every person who owns, possesses or controls a dog shall not permit it to be in any public place, or in any open or unfenced area abutting on a public place, unless the dog has a collar about its neck with a currently valid metal tag attached thereto bearing the number of the license obtained for such dog in accordance with Chapter 115 of the Laws of 1894 of the State of New York, as amended or §§109 and 112 of the Agriculture and Markets Law.

(c) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Department of Sanitation and Parks and Recreation, or successor agencies.

§161.05 Dogs to be restrained. (a) A person who owns, possesses or controls a dog shall not permit it to be in any public place or in any open or unfenced area abutting on a public place unless the dog is effectively restrained by a leash or chain not more than six feet long.

(b) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Department of Sanitation and Parks and Recreation, or successor agencies.

§161.06 Dogs and cats to be vaccinated and treated prior to change in ownership. No person shall offer for sale, sell or give away a dog or cat unless such animal has been vaccinated against rabies in accordance with §11.65 of the Code, and treated for parasites or certified in writing by a duly licensed veterinarian to have been tested and found to be free of parasites.

34. Article 161 of the Health Code also contains provisions regarding “vicious or dangerous animals”, which menace, attack or bite a person, that permit extreme measures of control of such animals; 24 RCNY §161.07 provides in pertinent part:

§161.07 Vicious or dangerous animals. (a) A “vicious or dangerous animal” shall mean any animal ... which threatens, attacks or bites a person.

(b) The owner of a dog or other animal which is the subject of a report pursuant to §11.03 [Animal Bite] or of a complaint of viciousness or dangerousness shall make such animal available for examination by the Department.

(c) If, upon examination of the animal, or consideration of its history of the circumstances of the report made pursuant to §11.03, or the complaint concerning said animal, the Department finds the animal to be vicious or dangerous, it may order:

(1) The animal to be surrendered for the purpose of humane destruction;

(2) The animal to be permanently removed from the City;

(3) The animal to be muzzled whenever the animal is in a public place or in any open or unfenced area abutting on a public place;

(4) Such other action as the Department deems sufficient to insure control of the animal and protection of the public.

35. The Health Code §11.03 includes in the list of diseases and conditions that are required to be reported to the Department "Animal Bite, or exposure to rabies". Notably, the number of dog bites in the City reported for 2004 was 4,082, and for 2005 was 3,956. The number of those dog bites reported as occurring in City parks was: 2004 – 93, or 2.2% of the total; and 2005 – 86, or 2.1% of the total number of dog bites reported. *See*, Affidavit of Edgar Butts, Assistant Commissioner of the City Department of Health and Mental Hygiene, dated June 21, 2006 ("Butts Affidavit"), attached hereto as Exhibit A.

36. Additionally, the City Department of Health and Mental Hygiene administers the Dangerous Dog Regulation and Protection Law, New York City Administrative Code ("NYCAC") §17-342 et seq., which provides for a process of determination that a dog is "dangerous" after which an owner may be required to register the dog, muzzle or confine the dog, provide liability insurance against injury from the dog, and other measures intended to protect the public from any harm. "Dangerous dog" is defined within that legislation as follows:

c. "Dangerous dog" means (1) any dog that when unprovoked, approaches, or menaces any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, upon the streets, sidewalks, or any public grounds or places; or (2) any dog with a

known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or (3) any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or (4) any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

37. The City's Commissioner of Parks and Recreation is authorized by Chapter 21 of the New York City Charter ("City Charter") to manage all City parks, to provide for the recreation of the public, and to establish rules and regulations for the use of public parks.

The City Charter provides, in pertinent part:

§533 Powers and duties of the commissioner. ... the commissioner shall have the power and it shall be his or her duty:

a. Parks 1. to manage and care for all parks, squares and public places, the sidewalks immediately adjoining the same and all playgrounds, playground fixtures and other recreation properties

3. to maintain the beauty and utility of all parks, squares, public places, playgrounds and other recreational properties ... for the beneficial uses of the people of the city;

9. to establish and enforce rules and regulations for the use, government and protection of public parks and of all property under the charge or control of the department, which rules and regulations so far as practicable shall be uniform in all boroughs and shall have the effect of law.

b. Recreation 1. to plan, acquire, construct, improve and manage facilities for the recreation of the public;

38. The Parks Rules, set forth at RCNY Title 56, provide extensive direction about the activities permissible throughout City parks or in specially designated areas within the parks in order to maintain the parks for public enjoyment. The Parks Rules relating to dogs in City parks require that the dogs be controlled at all times and leashed – except as permitted by the Commissioner, that dogs are prohibited from certain areas including playgrounds, and that dog owners remove any fecal wastes discharged within parks. The Park Rules also provide for

the designation of fenced areas within parks to be used as dog runs in which dogs may be unleashed. The Park Rules provide, in pertinent part:

§1-04 Prohibited Uses.

(i) *Failure to control animals.* Except as specified in §1-05(s)(3), no person owning or possessing any animal shall cause or allow such animal to be unleashed or out of control in any park, except as permitted by the Commissioner. Any such animal found at large may be seized and impounded. Properly licensed dogs and cats, restrained by a leash not exceeding six feet in length, may be brought into the park, except in no event shall dogs or other animals be allowed to enter any playground, zoo, bathing facilities, or other area prohibited by the Commissioner.(emphasis added)

(j) *Control and removal of animal waste.* (1) No person shall allow any dog in his custody or control to discharge any fecal matter in any park unless he promptly removes and disposes of same.

§1-05 Regulated Uses.

(s) *Exclusive areas.* Areas within the parks designated by the Commissioner for exclusive use shall include:

(3) Dog runs: Certain fenced park areas may be designated by the Commissioner as dog runs, and persons owning or possessing dogs are permitted to allow such animals to remain unleashed in these areas. Users of dog runs shall obey posted rules.

39. The Parks & Recreation rules and policies with respect to dogs in City parks has evolved to meet the needs of the public as well as to ensure public safety. As the numbers of dogs and dog owners have increased in the City¹, the need and demand for areas in which dogs could be provided exercise and active recreation has increased as well, and the open space of City parks is the only area available to most City dog owners to meet the exercise needs of their pets. At the same time, the limited resources of law enforcement personnel in City parks have been required to focus on many areas of public safety protection in addition to the enforcement of dog leash requirements. As a result, accommodations have been provided to

¹ The number of dogs licensed in the City has increased from 90,141 in the year 2000 to 101,274 in 2005. The total dog population is not known, because not all dogs are licensed.

allow limited areas and times in which dogs can be permitted off leash within City parks for the mutual benefit of the dogs, dog owners and the community. However, the requirement that dogs be under control and not present any threat to other park users or to park property is enforced at all times in all City parks. *See*, Affidavit of Parks & Recreation Deputy Commissioner Kevin Jeffrey dated June 21, 2006 (“Jeffrey Affidavit”) ¶¶2, 3, attached hereto as Exhibit B.

40. Beginning in the 1980’s, Parks & Recreation has provided “courtesy hours” for off-leash dog activity within designated areas of City parks. The off-leash “courtesy hours” extend between 9:00PM to 9:00AM during the times that the park is open to the public.² All other restrictions about where dogs are permitted in City parks and how they must behave are still in effect during the courtesy hours, and Parks Enforcement Patrol officers issue violations to dog owners for any such violations of Parks Rules regardless of the time of day. *See*, Jeffrey Affidavit, Exhibit B, ¶2.

41. Parks & Recreation also currently has more than 25 “dog runs” in parks throughout the City. These dog runs are fenced areas within the park where people can let their dogs exercise and play unleashed, subject to posted rules about maintaining good behavior and control over the dogs. Because limited resources and other restrictions do not make it possible to provide dog runs in all City parks, the courtesy off-leash hours are provided where dog runs are not available. As a general rule, in parks in which there is a designated dog run there are no further provisions for allowing dogs off-leash, but exception is made for large parks, such as Riverside Park, where the off-leash hours are extended only in areas sufficiently distant from the dog run. Parks & Recreation continues to enforce the requirement that all dogs must be under

² The Parks Rules provide that City parks are closed from 1:00AM to 6:00AM unless other open hours are posted for the particular park. 56 RCNY §1-03(a)(1).

control and not threatening to the public at all times and in all locations including these designated off-leash areas. *See*, Jeffrey Affidavit, Exhibit B, ¶4; *See also*, discussion of the rules affecting Riverside Park contained in the unpublished opinion in Grayson v. Parks and Recreation Department, (Sup. Ct., N Y Co., decided December 8, 2003), and the Dog Owners Guide to Riverside Park issued pursuant to that decision, attached hereto as Exhibit C.

42. Parks & Recreation has offered to work with petitioners to establish a dog run within Juniper Valley Park that could provide a space for unleashed dog activity as an alternative to unleashed dog use of the park during courtesy hours. The New York Council of Dog Owner Groups (“NYCDOG”), a large community group representing dog owners throughout the City, has offered to assist petitioner in planning a dog run and integrating it into the park and community. *See*, March 23, 2006 letter from NYCDOG to Juniper Park Civic Association, Inc., attached hereto as Exhibit D. NYCDOG has pointed out to petitioner that:

Many dog owners oppose dog runs in the mistaken belief that they are unhealthy. This could not be more incorrect. Dog parks are as safe and healthy as any areas of our parks. Since they are specifically designed for dogs, they are safer, in fact. And they create a community of dog owners that will help maintain the *entire* park while self-enforcing responsible dog ownership throughout the *entire community*. Exhibit D at page 3.

Petitioner continues to oppose the creation of a dog run in Juniper Valley Park.

43. Strong public support has been expressed for the off-leash dog exercise opportunities provided by the courtesy hours and dog runs in City parks. A sampling of such expressions of support, and responses from Parks & Recreation, are attached hereto as collective Exhibit E, including the following excerpts:

“Please keep New York City a place where dogs (and their owners) love to live, by maintaining the off-leash dispensation in our city’s parks. It is the highlight of most of these dog’s days to play freely with their own kind – visit any of our parks any morning and you’ll see how utterly harmless, and hugely satisfying

this is. Don't let a few disgruntled New Yorkers take away this privilege."

"This message is from a dog owner who uses Prospect Park offleash hours with regularity and is concerned about the proposed lawsuit from the Juniper Park Civic Association. I am also the president of Friends of Hillside Dog Park, based in Brooklyn Heights. Thank you for your support of off-leash and I hope there can be a reasonable compromise that balances the rights of the general public with the rights of the over 500,000 New Yorkers who have dogs."

"I am a responsible dog owner and take my dog to Central Park every day from 7:30 – 9:00am where she plays with other dogs, runs after her ball and gets the exercise she needs in this large crowded city. I often tell people what a wonderful place New York is for dogs because of this leash-free time. Not only do the dogs enjoy it, but it is a definite health benefit, leaving them happy and fit and less likely to cause problems in apartment buildings and on sidewalks."

44. Supporters of off-leash recreational areas cite to increasing awareness and understanding of the benefits of dog ownership to the physical and mental health of the human owner and the benefit of unleashed activity to the physical and mental health of the dog. Studies in urban animal management, reported in the University of Southern California paper, "The Case for Space", annexed hereto as Exhibit F, have concluded that:

- Dogs that exercise and run freely are not as aggressive towards people as dogs that are under-exercised.
- Allowing dogs to have an off-leash area socializes dogs. It brings them in contact with other dogs and causes them to be less aggressive in each future encounter with dogs.
- Off-leash recreational areas provide a public space for dog owners to meet and form the bonds of community, while contributing to the overall physical fitness of people by encouraging them to exercise with their dogs.

- Designated spaces for dogs and their owners reduces the likelihood that dogs will be let loose in other recreational areas where they could infringe on the rights of other park users.
- Off-leash recreational areas make the surrounding area safer. Dog owners have an interest in the safety of their community and can act as a neighborhood watch.

45. The experience of Parks & Recreation during the more than 20 years that the off-leash policies have been in effect in City parks confirms the positive effects of the policies. Neither Parks & Recreation nor the Department of Health has seen any negative impact on the public health and safety from the provision of off-leash recreational opportunities for dogs in parks. See, Butts Affidavit, Exhibit A, at ¶6, and Jeffrey Affidavit, Exhibit B, at ¶6. Furthermore, there has been widespread appreciation and enjoyment of the policies and apparent benefit to City parks and the community. Accordingly, Parks & Recreation has no intention of changing its policies, and plans on continuing the operation of dog runs and off-leash courtesy hours as currently provided. Petitioner has not provided adequate basis for this Court to interfere with this reasonable and beneficial policy and practice.

FOR A FIRST DEFENSE

46. Petitioner lacks standing to maintain this proceeding. Petitioner has not asserted any violation of a legal interest, because petitioner's right to the use of City parks is subject to rules and limitations as imposed by the Commissioner. In this case, petitioner has failed to show any justiciable harm from the reasonable policies of Parks & Recreation concerning limited off-leash areas and times for dog exercise in City parks. Even if petitioner is found to have standing to assert a claim for relief with respect to Juniper Valley Park, petitioner

is not an appropriate representative of the interests of City residents with respect to all City parks, and petitioner's challenge should be limited to the off-leash policies implemented by Parks & Recreation at Juniper Valley Park.

FOR A SECOND DEFENSE

47. Petitioner does not have the right to maintain a proceeding to secure mandamus relief as sought in this proceeding. The enforcement in City parks of dog control measures including leash requirements are not mandatory ministerial duties but discretionary functions of the Commissioner. Further, petitioner has failed to show that enforcement of a requirement that dogs be leashed at all times and places in City parks is required at this time for the protection of the public health or welfare. Accordingly, there is no basis for this Court to interfere in the exercise of discretion by Parks & Recreation in the enforcement of dog control, and the relief demanded by petitioner should be denied.

FOR A THIRD DEFENSE

48. The policies and practices of Parks & Recreation in providing off-leash recreational areas and times for dogs and dog owners in City parks are reasonable, adequately protect the health and safety of the public, and constitute a proper exercise of the discretion of the Commissioner. These policies should be upheld by this Court.

WHEREFORE, Respondents respectfully request that the Court deny the relief sought by petitioner and dismiss the petition in its entirety, with costs, fees and disbursements, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
 June 21, 2006

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Respondents
100 Church Street, Room 5-171
New York, NY 10007
(212) 442-4050

By:
 Paula Van Meter
 Assistant Corporation Counsel

WHEREFORE, Respondents respectfully request that the Court deny the relief sought by petitioner and dismiss the petition in its entirety, with costs, fees and disbursements, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 21, 2006

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Respondents
100 Church Street, Room 5-171
New York, NY 10007
(212) 442-4050


By: 
Paula Van Meter
Assistant Corporation Counsel

Exhibit A pgs 1

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IN THE MATTER OF THE
APPLICATION OF THE

JUNIPER PARK CIVIC ASSOCIATION, INC.,

Index No.: 7888/06

Petitioner,

**AFFIDAVIT
IN SUPPORT OF VERIFIED
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-against-

The CITY OF NEW YORK,
ADRIAN BENEPE, COMMISSIONER, of
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION, and
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION,

Respondents.
----- x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

EDGAR R. BUTTS, being duly sworn, deposes and says:

1. I am employed by the New York City Department of Health and Mental Hygiene ("Health Department" or the "Department") and currently hold the position of Assistant Commissioner for Veterinary and Pest Control Services. In connection with my position, I am familiar with the requirements of the New York City Health Code and other applicable law concerning the ownership and control of animals, including dogs, within the City, that are intended to protect public health, and I have been informed by the New York City Department of Parks and Recreation ("DOPR") of some of the policies and practices

developed and implemented by DOPR concerning off-leash recreation areas and times available to dogs and their owners within City parks. 2

2. State and City laws and regulations require that dogs (a) be actively vaccinated against the disease of rabies (Health Code §11.66), (b) be licensed [Health Code §161.04 (c)] have a dog license tag attached to the dog's collar when the animal is in a public place (Health Code §161.04), and be restrained by a leash or chain not more than six feet in length when the animal is in a public place (Health Code §161.05).

3. Some of these laws are also enforced by Animal Care and Control special patrolmen, Department of Sanitation K-9 enforcement agents and Police Department officers, who issue violations to the owners of dogs in a public place that create a nuisance, do not have a dog license tag attached to their collars, or are unrestrained. In addition, DOPR enforcement agents are authorized to enforce Health Code §§161.03, 161.04 and 161.05 in DOPR facilities.

4. I have been informed that in the 1980's DOPR initiated a policy of "Courtesy Hours" to accommodate dog owners in certain areas of parks that did not have dog runs to exercise their dogs off leash during the hours of 9 p.m. and 9 a.m. DOPR has further advised that this policy was implemented at the request of dog owners who had no alternative place to exercise their dogs. According to DOPR, while there are a number of parks with dog runs, space and cost constraints do not allow for a dog run in every park.

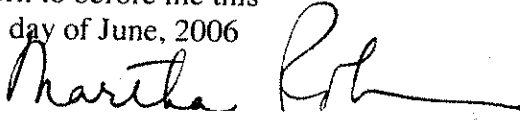
5. The Department of Health, like DOPR, realizes that alternative space for dogs to exercise is not generally available in our urban environment. The Department, while cognizant of the inherent dangers that unleashed dogs anywhere can pose to both humans and other animals, nevertheless recognizes that dogs derive benefit from being exercised off-leash.

The Department supports allowing such off-leash activity in specific areas of specified park facilities under DOPR jurisdiction during specified times. 3

6. Department data for 2004 show that 93 (2.3%) of 4,082 dog bites reported Citywide occurred in DOPR facilities, and that about the same proportion, 86 (2.2%) of the 3,956 dog bites reported Citywide occurred in DOPR facilities in 2005. While these bite reports do not indicate whether the biting dog was restrained or off leash, there does not appear to be any significant negative impact on public health and safety resulting from the policy of DOPR to allow dogs to be off leash in facilities and areas under DOPR's jurisdiction and control.


EDGAR R. BUTTS

Sworn to before me this
21st day of June, 2006


Notary Public

MARTHA ROBINSON
NOTARY PUBLIC, State of New York
No. 02904619814
Qualified in Queens County
Commission Expires Feb. 28, 2007

Exhibit B
981

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IN THE MATTER OF THE
APPLICATION OF the

JUNIPER PARK CIVIC ASSOCIATION, INC.,

Index No.: 7888/06

Petitioner,

**AFFIDAVIT OF KEVIN
JEFFREY IN SUPPORT OF
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-against-

The CITY OF NEW YORK,
ADRIAN BENEPE, COMMISSIONER, of
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION, and
the NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION,

Respondents.

----- x
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

KEVIN JEFFREY, being duly sworn deposes and says:

1. I am employed by the New York City Department of Parks and Recreation ("Parks & Recreation") and currently hold the position of Deputy Commissioner. As Deputy Commissioner for Public Programs I am, and have been since 2002, directly responsible for the management of more than 700 employees assigned to Parks & Recreation's Recreation Division, Urban Park Service, which includes Urban Park Rangers and Parks Enforcement Patrol, and Partnerships for Parks, a 20,000 person volunteer corps. In connection with my current position, and as a result of the experience I have gained after working for Parks & Recreation for 19 years,

I am familiar with the policies and practices developed and implemented throughout the City concerning the presence and control of dogs in City parks.

2. The fundamental requirement of Parks & Recreation regarding dogs in all City parks is that dogs must be under control at all times whether they are leashed or unleashed. The requirement that dogs be leashed is strictly enforced in all City parks from 9:00AM to 9:00PM and at any time when a dog is threatening or causing harm to a park patron or park property, or is otherwise out of control. Dogs are not allowed at any time, on-leash or off-leash, in the following locations: playgrounds, zoos, beaches and pools, water bodies, bridle paths, fountains (including drinking fountains, decorative fountains, and spray showers), and ballfields. Dogs are also required to be leashed at all times along greenways in all woodlands and sensitive natural areas. Pursuant to a policy implemented for the last 20 years by four successive Commissioners of Parks & Recreation, dogs are permitted to be unleashed in certain portions of parkland between the "courtesy hours" of 9:00PM and 9:00AM. However, Parks Enforcement Patrol officers may and do issue violations to dog owners with unleashed dogs outside the "courtesy hours" or otherwise in violation of Parks Rules, including those owners who are unable to control their dogs, regardless of the time of day.

3. The policy of "courtesy hours" for off-leash dog activity developed in the 1980's was based on a number of factors. Increasing numbers of dog owners were requesting an opportunity to provide necessary exercise to their pets in the only open space available to them. In many cases owners were violating the law because they sought to provide for their dogs' needs. Additionally, since it was not possible for Parks & Recreation to successfully enforce against violations of the leash law at all times in all City parks, it was determined that a more reasonable approach was to provide limited, circumscribed periods of time and locations for

3
unleashed dog activity, and to focus enforcement outside of those times. The night and early morning hours provided for unleashed dog exercise are the hours of least use of parks and the times when the presence of dogs is most beneficial to reduce crime.

4. Parks & Recreation has also established enclosed Dog Runs in a number of parks within which dogs may be unleashed for exercise and recreation. In small parks with dog runs, dog owners are required to keep their dogs leashed at all times outside the Dog Run. In larger parks the policy of permitting dogs off-leash during courtesy hours may apply in areas distant from the Dog Run, such as Riverside Park in which the leash requirement is enforced at all times in areas within five blocks of each Dog Run.

5. A Dog Run has been proposed for Juniper Valley Park and has support among residents in the area of the park including a community group, the Juniper Park Dog Association. Some opposition to the establishment of a dog run in Juniper Valley Park has been expressed by members of the petitioner Juniper Park Civic Association, Inc. The New York Council of Dog Owner Groups, representing a large number of dog owners throughout the City and a strong supporter of the off-leash policies of Parks & Recreation, has offered to assist petitioner in building understanding and acceptance of the needs of dogs in their community and the value of Dog Runs. See, Exhibit D to Verified Answer.

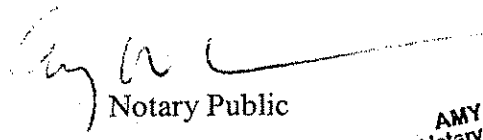
6. The results of the policy of Parks & Recreation to permit off-leash dog exercise and recreation have been positive and beneficial in several ways. In a number of City parks suffering from underfunding and public fear of crime in the 1980's, the presence of dogs and their owners restored vitality to the park and encouraged others in the community to support park use. This has contributed to a decrease in vandalism and other crime in City parks which has further fostered increased public enjoyment of parks. Additionally, local associations of dog

owners have formed to assist in keeping Dog Runs and dog exercise areas clean and well-managed. And there have been very few instances of threatening or menacing behavior by dogs in City parks, and such instances do not appear to be caused by the off-leash policy. These benefits are enjoyed not just by dog owners and their pets, but by the entire City community.



KEVIN JEFFREY

Sworn to before me this
21st day of June, 2006



Notary Public

AMY FRANCES KLEITMAN
Notary Public, State of New York
No. 02KL6082177
Qualified in Kings County
Commission Expires Oct. 21, 2011

Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 50Y

----- X
 In the Matter of the Application of :
 :
 BEVERLY GRAYSON, et. al., :
 :
 Petitioners, :
 :
 For a Judgment under Article 78 :
 of the Civil Practice Law and Rules :
 :
 -against- :
 :
 PARKS AND RECREATION DEPARTMENT OF :
 THE CITY OF NEW YORK, :
 :
 Respondent. :
 -----X

Decision and Order
Ind. No. 107050-03

Hon. James A. Yates, J.S.C.

In early March 1999, the New York City Parks and Recreation Department (Parks Department) implemented an initiative requiring dog owners to leash their dogs when they are within a five-block radius of Riverside Park dog runs. Riverside Park has four dog runs. Two are located near 72nd Street, another at 87th Street, and the fourth at 105th Street. The restriction is approximately seven blocks at the two dog runs near 72nd Street because of the natural park barrier at 79th Street. Petitioners, seventy-eight in all, are dog owners and handlers who live on the Upper West Side neighborhood bordering Riverside Park.

Under the Rules and Regulations of the City of New York, dogs in New York City are required to be on leash in any public place. 24 RCNY § 161.05; 56 RCNY § 1-04 [i]. Within city parks, however, dogs are allowed "off-leash" as permitted by the Parks Department Commissioner. RCNY § 1-04 [i]. In the late 1980's, the Parks Department Commissioner instituted an unwritten policy allowing dogs within city parks to be off-leash in off hours - approximately from 8:00 p.m. until the closing of the park and from the opening of the park at 6:30 a.m. until 8:00 a.m. The courtesy was extended to dog handlers because park use is low during those hours. In the early 1990's, the policy was again changed, permitting dog handlers to unleash their dogs in city parks between 9:00 p.m. and 9:00 a.m. The policy was thought to benefit the park community as a whole since it increased park usage during the Park's quietest hours.

2

thereby lessening crime.

Subsequently, Respondents assert, the parks began to suffer: dog waste littered the lawns, dog traffic damaged the landscape, particularly in Riverside Park, and off-leash dogs frightened mothers with small children and the elderly. A Task Force, composed of Parks Department officials, was established to address the impact of dogs upon Riverside Park and Central Park. In February 1999, the Task Force determined that by limiting those areas in Riverside Park where dogs could remain off-leash, damage caused by dogs would be reduced and contact between unleashed dogs and other park users would be minimized. Parks Enforcement Patrol officers were instructed to issue tickets to users who failed to follow the new policy.

Petitioners contend that the challenged policy is unconstitutional on equal protection grounds since it applies to Riverside Park and not to other city parks. However, there is no claim that the policy discriminates against a suspect class of persons, merely that it is arbitrary.

Additionally, Petitioners claim that Respondent failed to provide adequate notice to dog handlers who use Riverside Park. The Parks Department argues that the initiative is narrowly tailored to promote the safety of persons and property in Riverside Park.

The Court, in reviewing the policy by way of an Article 78 proceeding, is required to accord deference to the Parks Department Commissioner's judgment as to the circumstances justifying the initiative. Here, the distinction between city parks does not affect fundamental constitutional rights nor does it create a suspect classification. Thus, the off-leash ban at Riverside Park must be upheld if the Parks Department had any rational basis for distinguishing between the parks. See *Francis S. v Stone*, 995 F Supp 368 [SD NY 1998], *affd* 221 F3d 100 [2d Cir 2000]; *Lovelace v Gross*, 80 NY2d 419, 427 [1982].

The five-block exception to the off-leash rule falls within the zone of reasonableness because it is related to the legitimate interest of preserving Riverside Park's beauty and the public's health, safety and welfare. Unlike Riverside Park, Central Park does not have any dog runs and dogs must always remain leashed in woodlands and other designated areas. As well, damage to Riverside Park lands is of an unusually high degree because of the greater concentration of dogs in that area. Under the circumstances, the five-block radius rule cannot be found to be unreasonably imposed. See *Seittelman v Sabol*, 91 NY2d 618 [1998]; *In the Matter of Salvador v State of New York*, 205 AD2d 194 [3d Dept 1994], appeal denied 85 NY2d 857 [1995].

3

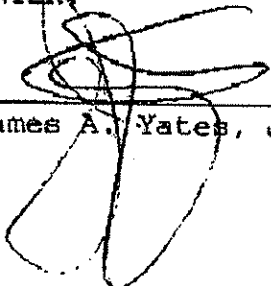
However, there is merit to Petitioner's argument that inadequate notice was given to the public of Riverside Park's off-leash requirements. The Parks Department agreed that there are no posted signs in some areas where dog owners were previously permitted to walk their dogs off-leash. On November 12, 2003, during oral argument, the Court requested that the Parks Department address the time needed to provide notice of the imposed off-leash requirements. Several measures are planned to further ensure notice. The Parks Department is in the process of finalizing the "Dog Owner's Guide to Riverside Park" brochure and anticipates distributing the brochure to dog handlers, canine user groups and Parks Department employees within one month's time. The brochure will include a map that defines the boundaries. The map will also be posted on the Parks Department's website. Signs near each Riverside entrance will be installed, detailing the new restrictions. Before the signs are produced, however, the designs must be submitted for approval to the New York City Landmarks Preservation Commission.

Because Petitioners have failed to prove the arbitrary nature of the new leash policy, Petitioners' motion for a declaratory judgment against the Parks Department is denied and dismissed. However, as to the claim that the policy is subject to arbitrary enforcement as a result of inadequate notice to the public, the Court retains jurisdiction and adjourns the matter for four months, pending implementation of appropriate signage and distribution of information to the public describing the new boundaries for unleashed dog-walking.

This constitutes the Decision and Order of the Court.

Dated: December 8, 2003

ENTER:


James A. Yates, J.S.C.

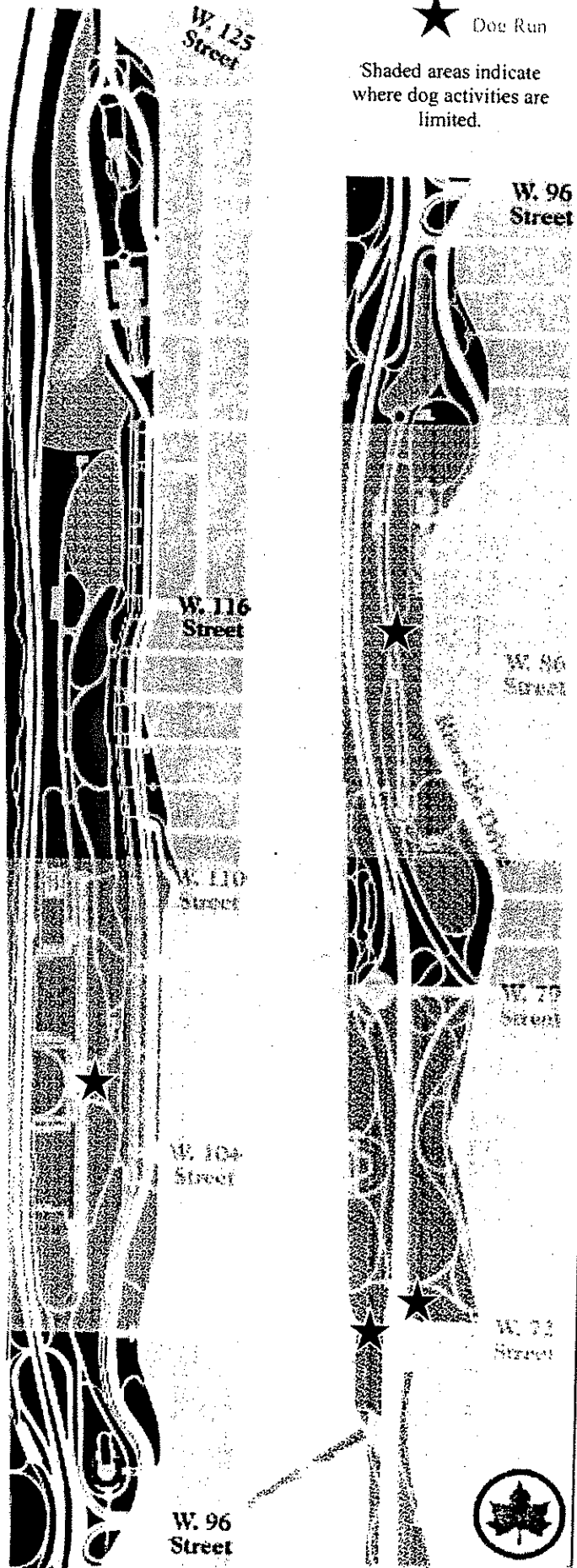
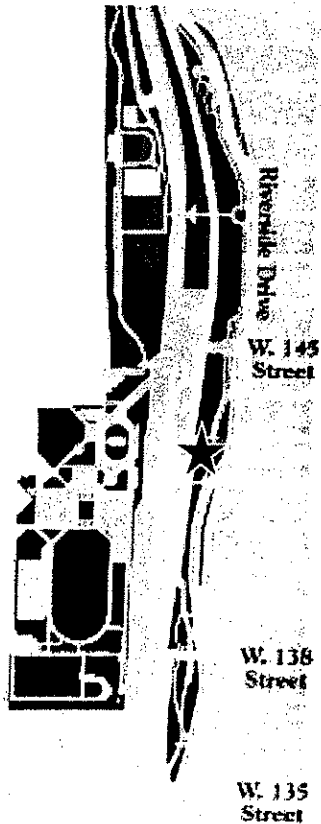
Dog Owners' Guide To Riverside Park

Riverside Park is home to a thriving, supportive community of dogs and dog owners. Dog runs, located at 71st, 72nd, 87th, 105th and 143rd Streets, are the anchors of this community. These runs provide safe, well-managed areas for dogs to enjoy off-leash activity. They offer large, fenced-in areas with shade and sun, water fountains, benches and lots of social interaction for dogs and owners. Created with the expertise of a Parks department landscape architect and volunteers, the runs encourage play while supplying good drainage, safe lighting and healthy plantings.

As a courtesy to dog owners, dogs are permitted off-leash from 9 pm to 9 am in most areas of Riverside Park. Dogs are never allowed off-leash below 79th Street, between 82nd and 91st Streets, 100th and 110th Streets, and in Forever Wild areas.

Dogs are never allowed on ball fields, in playgrounds, or on passive use only lawns.

Identity Map Company, courtesy of Riverside Park



★ Dog Run

Shaded areas indicate where dog activities are limited.



Exhibit D (1)



New York Council of Dog Owner Groups

P.O. Box 330 Planetarium Station NYC NY 10024

Info@NYCdog.org / www.NYCdog.org

The Nation's Largest Dog Owner Group Representing over 20,000 dog owners and 20 Dog Owner Groups in New York City

March 23, 2006

Juniper Park Civic Association Inc
74-19 Caldwell Ave
Middle Village, NY 11379
718 6515865

Re: Dog regulations and recreation

Dear Members:

I apologize for not being able to attend your meeting of March 23rd. I was notified of the meeting last night after having read the *New York Post* article that said your association would be suing the City of New York and Parks Department in an effort to overturn the 9-9 off-leash rule in force in many of the City parks.

It is not my intention to tell you what to do. Nor am I writing as some privileged Manhattanite who does not understand your community. In fact, I was born in East New York and spent my childhood in lower Cypress Hills. I still remember playing in Highland Park and discovering the thrill of riding my bicycle down cemetery hill (of course, not realizing the dangers). I know your area quite well and am sympathetic to many of the issues raised in the current dispute.

The purpose of this letter is to invite *constructive* communication that may help resolve the issues you are facing. It is my belief that a common ground exists that will not only clear-up problems but will enhance your community in the process.

DOGS AND NEW YORK CITY

First, please allow me to comment on dogs in New York City.

There are currently over 1 million dogs in New York City. That averages out to more than one dog per every four homes. Over the last fifteen years, dog ownership has increased over 33% in the nation and region.

There are more dog owners than there are runners, baseball/softball/football/soccer players, and any other recreational users in our park system. Only walkers and casual users number more.

2

Despite this astounding figures, the number of dog bites has decreased from over 40,000 per year in the 1960's to less than 8,000 per annum in 2003; the last year for which figures were available from the Department of Health. Many, if not most, of those bites were the result of owners breaking up dog on dog fights, puppies biting children in their own homes, and inevitable accidents between dog owners and their pets. The instance of dogs biting strangers is quite low.

Dog owners who walk their dogs in city parks have actually helped lower crime rates. Yes. This is true. Dog owners have used the parks when they were unkempt and in disrepair. They use the park during dark hours. They bring life to lonely areas and in doing-so have pushed out criminals and helped return our parks to usability.

Despite falling budgets, the Parks Department has managed a virtual Renaissance of many of our parks. Today, as neighborhoods improve and people return to the joys of urban life, our parks are once again blooming –often literally. Inspired leadership has helped turn worn-out areas into vibrant lawns, recreation areas, and dog parks.

DOG OWNERSHIP HAS CHANGED

As a society, we have become more educated about dog ownership. While far too many animals continue to be abused, abandoned, and ignored, society as a whole has come to understand that dogs (and cats) are living beings worthy of respect and that they have particular needs inherent to their natures.

When I was a teenager, it was accepted practice to keep dogs penned in private yards. We thought this was humane. Today we know that dogs are social creatures and must be exposed to other dogs and people or they will become neurotic, territorial, or even vicious. Penned dogs are imprisoned dogs.

Before anyone claims that dogs do not belong in the city, please note that the latest objective studies show that New York City dogs are the longest lived dogs in the nation and world. The quality of care is among the best here.

Well behaved dogs are socialized. Responsible dog owners socialize their dogs.

JUNIPER PARK

As you know better than I, Juniper Park is a bit more than 55.00 acres in size. It is highly developed far beyond other parks of its size. Much of its area is taken up by playgrounds, tennis courts, ball fields, and a track.

Despite this, there is ample area for a dog run of at least one acre in size. Studies have shown that a dog park of one acre is ideal for an area such as yours.

6

Before you all jump up in amazement, please allow me to explain.

An acre seems large until it is compared to established areas of your park. The main oval in Juniper Park has four ball fields on over 9.0 acres of land. Your eight tennis courts occupy approximately one acre.

Your association opposes the construction of a dog park. I am not familiar with your reasoning though I might be able to guess based on similar arguments in other areas that had initially opposed –but later come to embrace- dog parks within their local parks.

- One of the major reasons citizens have opposed dog parks in the mistaken belief that “strangers” from outside the area will use the area. This simply does not happen to any appreciable degree. People do not use the parks (runs, as many call them) to train vicious dogs. The presence of local dog owners keeps the parks lively and helps establish local standards of behavior.
- Many dog owners oppose dog runs in the mistaken belief that they are unhealthy. This could not be more incorrect. Dog parks are as safe and healthy as any areas of our parks. Since they are specifically designed for dogs, they are safer, in fact.
- If a dog run is large enough, there is ample room to throw balls for dogs and to allow dogs to play together off-leash.
- Parks of one acre can accommodate shaded and unshaded areas. They can support water fountains and even water areas for dogs to play in during hotter weather.
- Well designed parks include fenced areas for smaller dogs so they can play apart from larger dogs when appropriate.
- They have seating for dog owners so they can get to know one another while responsibly overseeing their dogs.
- They provide clean, safe receptacles for waste.
- They prohibit picnicking and other forms of human behavior that are contrary to responsible and safe dog play.
- And they create a community of dog owners that will help maintain the *entire* park while self-enforcing responsible dog ownership throughout the *entire community*.
- Of course, each park and neighborhood must be approached with consideration for specific needs. Potential noise is always a concern. Proper siting and design with landscaped buffers and berms can alleviate any potential noise problems during early and late hours of usage.

Juniper Park can accommodate a large dog park. In fact, with your active support, it can become the model for dog parks in all New York City Parks. Imagine similar parks in Forest and Highland Parks! It can happen.

NYCdog is prepared to help organize and train local dog owners and to work with Parks to design and build the City’s premier dog park in Juniper Park. I can envision a day when AnimalPlanet[®] and other media outlets feature your park as an example for the rest of the nation.

9

NYCdog is the nation's first affiliate outlet for the excellent book *So You Want To Build A Dog Park*. This book was written following years of study by architects, engineers, dog groups, park users and park managers. We know how to build coalitions to help maintain these areas once they are built. We know how to help these coalitions devise proper rules for dog ownership and how to teach others to abide by them. We know how to work to make our neighborhoods better.

One of our members at Tompkins Square in the Lower East Side of Manhattan just won an award as one of the nation's top dog runs for small areas; an area far, far smaller than Juniper Park.

Another one of our members, Fido in Brooklyn, helps maintain the largest off-leash dog fields in the City of New York and has been featured in publications throughout the world.

Other members recently helped initiate the construction of a dog park in Morningside Park and are planning another in St. Nicolas Park. The Cooper Park run in Williamsburg has helped transform the area, and though it is too small, it is working.

OFF LEASH RULE

Your park is highly developed. While I am sympathetic to those who want to maintain the off-leash rules, it might no longer be practical in your area. However, your lawsuit threatens other areas where the off-leash rules are successfully working such as Prospect and Central Parks.

A protracted legal battle would only pit dog owners and lovers against the rest of the community. This is not the way to build a community of disparate interests and backgrounds.

I personally fear that in retaliation some citizens will want to limit the construction and maintenance of ball fields since per user, ball fields take up more space than almost any other form of recreation.

We often say that at the end of every leash is a voter. With one million dogs and approximately the same number of voters at the ends of their leashes, this could become a politicized situation. **WE DO NOT WANT THIS.**

No one wants to pit park users against one another. Together we can build better parks, better communities, and stronger neighborhoods of friends who love this city. We dog owners also play ball. We have children who use the parks. We like to picnic. We run. We play tennis. We are just like you! We cried with you on 9/11 and are determined to make New York City the world's greatest, safest, most livable urban environment.



WORKING TOGETHER

When growing up in East New York / Cypress Hills, my parents dreamed of moving to Middle Village or a similar area. They knew that then –as I do now- that the community is special in more ways than I can express in this short letter.

As the president of NYCdog, I do not want to see a protracted and nasty battle that will surely divide your community.

Though I could not be with you tonight, I am requesting the opportunity to bring together members of your civic association and NYCdog to arrive at a workable solution. We will not impose ourselves on you. Instead, we want to work for a way to create a better community for citizens and dogs.

Please do not vote to proceed with any lawsuit until you give us a chance to work with you and your local dog owners. A short postponement will not prevent you from proceeding should you wish to do so in the future. However, it will give you time enough to help make Juniper Park even more special than it already is.

I have had the pleasure of reading about your civics association via the internet. I enjoyed the article on The Slocum disaster and sympathize with your problem of overdevelopment. Please do not make your perceived problem with dogs become another disaster for the entire City.

I hope to hear from you soon and genuinely appreciate the opportunity you have given NYCdog to introduce ourselves through this letter.

With much respect,

Robert A. Marino
President NYCdog

My direct contact information
212.873.0006 (work and home)
RAMnyc2000@yahoo.com
110 West 90th Street
New York, New York 10024-1222

Mayor Michael R. Bloomberg
City Hall
New York, NY 10007
FAX (212) 788-2460

Christine Quinn
Speaker
City Council of the City of New York:
City Hall
New York, NY 10007
District Office Phone No.: (212) 564-7757
District Office Fax No.: (212) 564-7347
quinn@ council.nyc.ny.us

Adrian Benepe
Commissioner
New York City Parks Department
The Arsenal
Central Park
830 5th Avenue
New York, NY 10021

Exhibit E ①



Name: SLOANE TSANOS

SR: 1-1-236484500

Source: WEB

Date: 5/23/2006 17:04

Customer Information:

Address:

NEW YORK NY 10028

Phone Number(s):

E-mail: booh62@aol.com

Customer Comment:

Comment Type: Misc. Comments

Comment Topic: Park Conditions

Comment: Please keep New York City a place where dogs (and their owners) love to live, by maintaining the off-leash dispensation in our city's parks. It is the highlight of most of these dog's days to play freely with their own kind -- visit any of our parks any morning and you'll see how utterly harmless, and hugely satisfying, this is. Don't let a few disgruntled New Yorkers take away this privilege.

Agency Internal Notes:



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

2
The City of New York
Central Park
New York, New York 10021

Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

June 2, 2006

Ms. Sloane Tsanos

New York, NY 10028

Dear Ms. Tsanos:

Commissioner Benepe asked me to respond to your email dated May 23, 2006. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance.

If you have any further questions, feel free to call me at (212) 360-1314.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alessandro G. Olivieri".

Alessandro G. Olivieri

Name: MATTHEW PARKER

SR: 1-1-224901280 Source: WEB

Date: 3/27/2006 10:35

3



Customer Information:

Address:

BROOKLYN NY 11201

Phone Number(s):

E-mail: mparker@cardlinxcorp.com

Customer Comment:

Comment Type: Misc. Comments

Comment Topic: Other


Comment: Dear Commissioner Benepe: This message is from a dog owner who uses Prospect Park offleash hours with regularity and is concerned about the proposed lawsuit from the Juniper Park Civic Association. I am also the president of Friends of Hillside Dog Park, based in Brooklyn Heights. Thank you for your support of off-leash and I hope there can be a reasonable compromise that balances the rights of the general public with the rights of the over 500,000 New Yorkers who have dogs.

Agency Internal Notes:



City of New York
Parks & Recreation

Adrian Benepe
Commissioner


The Arsenal
Central Park
New York, New York 10021

Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

May 30, 2006

Mr. Matthew Parker
President
Friends of Hillside Dog Park

Brooklyn, NY 11201

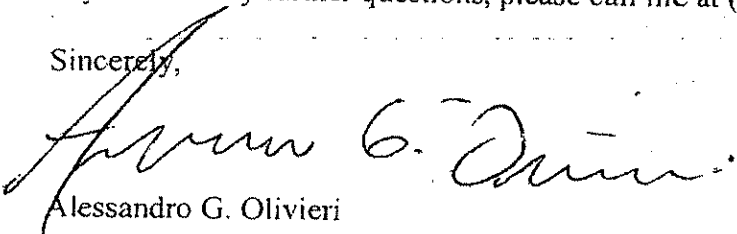
Dear Mr. Parker:

Commissioner Benepe asked me to respond to your email regarding dogs in City parks. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance and do not intend to eliminate our "courtesy hours" policy from City parks.

Prospect Park is a great example of this policy's success. Indeed, our "courtesy hours" have encouraged people to take advantage of the park during those hours when it is more lightly used.

If you have any further questions, please call me at (212) 360-1314.

Sincerely,


Alessandro G. Olivieri



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021



Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

June 16, 2006

Ms. Carol Williamson

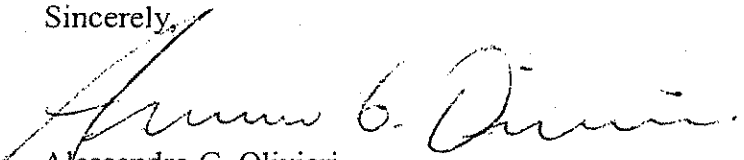
New York, NY 10024

Dear Ms. Williamson:

Mayor Bloomberg asked me to respond to your letter regarding dogs in parks. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance and will seek to preserve these regulations and policies.

If you have any further questions, feel free to call me at (212) 360-1314.

Sincerely,


Alessandro G. Olivieri

Name: KATHLEEN DONKIN

SR: 1-1-234626800

Source: WEB

Date: 5/15/2006 9:50



Customer Information:

Address:

NEW YORK NY 10023

Phone Number(s):

E-mail: kdonk@earthlink.net

Customer Comment:

Comment Type: Misc. Comments

Comment Topic: Enforcement

Comment: Dear Mr. Benepe, Please do not eliminate the great privilege our dogs enjoy of dashing around in the early morning. The great majority of us dog owners are conscientious and law-abiding. Those who are not should indeed be punished. But please don't bow to threats of bullies who seek to control others. They will only continue to find new ways to limit others' enjoyment. Nobody appreciates the Park more than we do, a truly democratic place! With Kind Regards, "Kathleen Donkin"

Agency Internal Notes:



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

May 26, 2006

Ms. Kathleen Donkin

New York, NY 10023

Dear Ms. Donkin:

Commissioner Benepe asked me to respond to your email dated May 15, 2006. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance.

If you have any further questions, feel free to call me at (212) 360-1314.

Sincerely,

Alessandro G. Olivieri

Name: LAURA NORMAN

SR: 1-1-234394920

Source: WEB

Date: 5/13/2006 17:12



Customer Information:

Address:

NEW YORK NY 10024

Phone Number(s):

E-mail: lnorman1@nyc.rr.com

Customer Comment:

Comment Type: Misc. Comments

Comment Topic: Central Park Matters

Comment: I strongly OPPOSE THE LAWSUIT filed by the Juniper Park Civic Association against the Parks Department to force the elimination of all off-leash privileges for dogs owners in City Parks. As a responsible dog owner and regular user of CENTRAL PARK I SUPPORT off-leash privileges and want them to be retained.

Agency Internal Notes:



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

May 25, 2006

Ms. Laura Norman

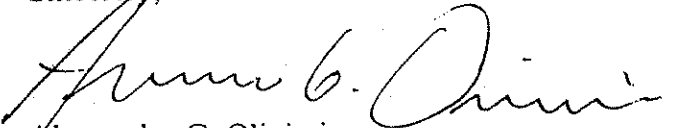
New York, NY 10024

Dear Ms. Norman:

Commissioner Benepe asked me to respond to your email dated May 13, 2006. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance and do not intend to change our "courtesy hours" at Central Park.

Please call me at (212) 360-1314 if you have any further questions.

Sincerely,


Alessandro G. Olivieri

Name: CAREN GURWITZ

SR: 1-1-236454120

Source: WEB

Date: 5/23/2006 14:56



Customer Information:

Address:

NEW YORK NY 10025

Phone Number(s):

E-mail: gurwitzc@aol.com

Customer Comment:

Comment Type: Misc. Comments

Comment Topic: Other

Comment: I understand that there is an organization in Queens trying to abolish off-leash rules. As a responsible owner, please know that it is important that are pets stay healthy and happy, and part of staying that way means running around, responsibly, with their friends. Pets are very important to people, so please don't let a few people who don't like dogs take our courtesy hours away. Thanks

Agency Internal Notes:



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

11

The American
Central Park
New York, New York 10021

Alessandro G. Olivieri
General Counsel

(212) 360-1314
alessandro.olivieri@parks.nyc.gov

June 2, 2006

Ms. Caren Gurwitz

New York, NY 10025

Dear Ms. Gurwitz:

Commissioner Benepe asked me to respond to your email dated May 23, 2006. The New York City Department of Parks & Recreation strives to accommodate the interests of all its patrons, including both dog owners and non-dog owners. We believe that our current regulations and policies adequately address this balance.

If you have any further questions, feel free to call me at (212) 360-1314.

Sincerely,

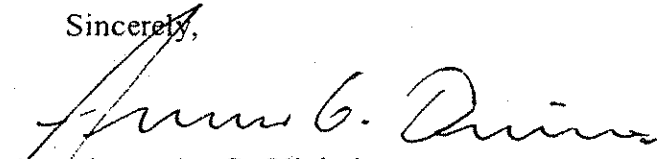

Alessandro G. Olivieri

Exhibit "F"

The Case for Space

Expanding Recreational Opportunities for Dog Owners and Their Pets

A Report Prepared for

FREEPLAY

by

Eric Batch
Matt Hale
Ellen Palevsky

School of Policy, Planning, and Development
University of Southern California

Under the Direction of

Professor Juliet A. Musso
School of Policy, Planning, and Development
University of Southern California

Professor Christopher Weare
Annenberg School for Communication
University of Southern California

Executive Summary:

The parks, recreational areas, beaches and open spaces of Los Angeles are used for myriad purposes. Los Angelenos enjoy running, walking, softball, soccer, tennis, basketball, rugby, lawn bowling, golf, a host of other sports and play with children, families and pets on the over 15,000 acres of open space in Los Angeles. Each of these recreational uses provides significant benefits to the participants. With over 3.6 million residents in the City of Los Angeles, however, different recreational activities compete for the limited open space available. The City Council and the Parks and Recreation Department must make a judgment on how to allocate scarce open space. This allocation must strive to be equitable and must be responsive to the expressed demand of citizens.

We begin with the premise that creating more open space is not a politically or economically feasible option in space-constrained Los Angeles. We are not asking to build more parks, beaches or recreational facilities. Instead, we will argue that the current allocation of open space does not meet the current demand for one type of recreational activity: off-leash dog recreation. We conclude that fairness and citizen demand require allocation of some existing open space for use as Off-Leash Recreational Areas (OLRA).

The report proceeds as follows. In Section One we briefly present evidence to support our contention that the current allocation of open space for off-leash dog recreation does not meet the expressed demand of citizens. We will focus our analysis on the Westside of Los Angeles where the expressed demand is particularly high. Section Two provides an overview of the benefits and drawbacks of OLRAs to dogs, dog owners and other residents of Los Angeles. Section Three identifies key stakeholders in the OLRA issue, and discusses the preferences of those who favor dog parks, and those who oppose them. Section Four presents criteria that attempt to satisfy the hopes of OLRA enthusiasts while recognizing the concerns of opponents. Section Five provides information that specifically addresses the concerns of those opposed to OLRAs. Section Six applies these criteria to five potential open space areas on the Westside of Los Angeles that could be re-allocated as OLRAs. In the end, we recommend that the City of Los Angeles designate a portion of Dockweiler Beach as an OLRA. As we will see, this choice may not be the "best" in terms of the hopes of OLRA supporters, but it is the "best" for all parties concerned and clearly the most likely to actually happen.

The case for more space...

In Los Angeles County there are 175,000 licensed dogs, which suggests that the number of dogs is actually in excess of 300,000. In all of Los Angeles County there are only 4 areas where owners are legally permitted to exercise with their dogs without a leash. These four off-leash dog areas comprise a total of less than 10 acres of space. To begin with a fanciful example, if all the licensed dogs in Los Angeles descended on existing OLRAs, each park would be required to hold more than 40,000 dogs or 17,500 dogs per acre. More realistically, if only 1 in 5 *licensed dog owners* (35,000) would like to use an OLRA, the demand is measured as 3500 dogs per acre, or 8750 dogs per dog park.

To place these figures in perspective it is helpful to compare OLRA allocation statistics with other forms of recreational activities. Table One compares the figures for OLRA to competing recreational uses for open space.

Table One
Competing Recreational Uses

Recreational Activity	# of Acres	# of Users	Users per Acre*
Off-Leash Recreation Area	10	35,000	3500
Tennis	287	80,000	279
Softball	1050	39,375	40
Golf	1040	105,000	101

* all numbers

rounded up

Softball:

According to the City Park & Recreation officials, there are 39,375 people in city organized softball leagues. To accommodate these softball players, the city maintains 350 softball fields of approximately 3 acres each. These figures show that 1050 acres of open space in Los Angeles are devoted to recreational softball users compared with only 10 acres devoted to dogs and dog owner recreation.

Tennis:

There are 287 city run tennis courts in Los Angeles. We estimate that given the size of a tennis court and surrounding facilities, we estimate that 287 acres of open space are devoted to tennis courts. According to the Southern California Tennis Association (SCTA) there are 40,000 dues paying members to the SCTA, in the city of Los Angeles. Because many tennis players do not formally belong to the tennis association, this figure is under-estimated. We make the assumption that the number is underestimated by half and inflate the number to 80,000 tennis players. Spread out over 287 acres, the number of users per acre is slightly under 300, an order of magnitude less than the estimated 3500 users per acre of off-leash park land.

Golf:

The City Parks and Recreation department maintains 13 golf courses. Based on the assumption that one golf course takes up 90 acres of open space, an estimated 1170 acres is devoted to golfers in Los Angeles. In 1998, the City Department of Parks and Recreation issued 35,000 "city cards" that residents can use to reserve golf times at city courses. As with the tennis example, this is clearly an underestimate of the total number of golfers on city courses. To provide a fair estimation we inflate the 35,000 city card holders to a total of 105,000 regular users of city golf courses. These assumptions lead to an estimated 101 golfers per acre.

What if:

Given these figures we present the following scenarios based on the question of how much re-allocation would be necessary simply to provide an *equal* allocation between OLRAs and the other recreational activities. The point of this exercise is not that dog owners have more legitimate claims on open space than other activities. Even the most vocal OLRA activists do not contend that it is necessary for dog owners to have an *equal* allocation of open space. The numbers, however, show how dramatically under-allocated OLRA space is in Los Angeles compared to other recreational uses.

- **Almost 100 times more OLRA open space** would be required to provide dog owners the same recreational opportunities as softball players.
- **Over 3 million of Los Angeles' 3.6 million residents would have to be regular golfers** to equalize the amount of open space provided to golfers as to dog owners.
- **There would have to be over 1 million tennis players**, over 25% of all Angelenos, to have the same number of users per acre as dog owners currently have.
- **There would have to be only 1000 dog owners in all of Los Angeles** who wish to use OLRAs for their current allocation of open space to equal the allocation for golfers.

These figures clearly demonstrate that the supply of OLRAs is inadequate. Moreover, the expressed demand for OLRAs is particularly high on the Westside of Los Angeles. There are two citizen groups on the Westside devoted to the increased allocation of OLRAs, FREEPLAY and Hermosa Beach Friends Of Dogs. No other area in Los Angeles has the level of citizen driven activism for OLRAs as the Westside. Although statistics are not available, interviews with Animal Control officers suggest that the Westside has a higher proportion of the dogs in Los Angeles county than any other area. Finally, FREEPLAY conducted a passive survey on the week of Oct. 4, 1998 to estimate the current usage of the Westminster OLRA. The study found that over the course of one week over 2,000 dogs used this small (.75 acres) OLRA, making it one of the most intensively used parks in the entire city.

By focusing on the Westside of Los Angeles we are also able to consider the use of beach area as an option for OLRAs. There are clear advantages of beaches over parks, such as lower maintenance costs and compatibility with existing land uses. We will discuss these advantages and some potential disadvantages of beaches in later sections.

The Benefits of Dogs and OLRAs:

Dogs or companion animals have become an important part of our society. Companion animals "provide many benefits which are difficult to quantify in monetary terms, but which have important implications for the health and welfare of humans." Senator George Vast in his "Tribute to a Dog" called dogs:

"The one absolutely unselfish friend that man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous, is his dog. A man's dog stands by him in prosperity and in poverty, in health and sickness. He will sleep on the cold ground, where the wintry winds blow and the snow drives fiercely, if only he may be near his master's side. He will kiss the hand that has no food to offer; he will lick the wounds and sores that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince. When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the sun in its journey through the heavens."

Research shows that dogs are more than just companions. They provide both physical and mental health benefits to their owners. The importance of dogs in society has even helped spawn a new field of study, urban animal management, which aims to ensure that animals are taken care of in the urban environment.

Off-leash recreational areas not only foster the strong historical relationship between dogs and people, they also contribute to urban animal management and the urban environment. We begin by outlining the obvious benefits of OLRAs to dogs and proceed to show how these benefits spill over to dog owners and the community at large. We will also show benefits of OLRAs to dog owners and the community at large unrelated to the benefits of OLRAs to dogs.

Benefits of OLRAs to dogs:

- Studies have shown that dogs that exercise and are allowed to run freely are not as aggressive towards people as dogs that are under-exercised.
- Allowing dogs to have an off-leash area socializes dogs. It brings them in contact with other dogs and causes them to be less aggressive in each future encounter with dogs.
- OLRAs improve the mental state of dogs. Many dog owners report that after a visit to an OLRA their dog is less agitated, more relaxed and in general nicer to be around.

These benefits were evident during a site visit to Ocean Park Dog Beach in San Diego. In an interview, John Maloney, a regular dog park user, spoke extensively about how he regularly took his dogs to the Ocean Park OLRA without any incidence of his dogs displaying aggressive behavior toward other dogs or human visitors at the beach.

Benefits of OLRAs to Dog Owners:

The benefits enjoyed by dogs are also benefits to dog owners. A well-adjusted, less aggressive dog, is more enjoyable and easier to handle for the owner. In addition, there are benefits of OLRAs to owners alone. These benefits again are illustrated by dog owners interviewed at Ocean Park Dog beach. They include:

- OLRAs provide a vital public space allowing people to meet and form the bonds of community.
- OLRAs allow people to have the pleasure of watching their dogs at play.
- OLRAs contribute to overall physical fitness of people by encouraging them to exercise with their dogs.
- OLRAs provide an opportunity for dog owners to enjoy the outside.

Benefits of OLRAs to the Community:

OLRAs also make dogs better members of their communities. By providing socialization and exercise opportunities OLRAs can make dogs less aggressive, reducing the risks of dog attacks. In addition, well exercised puppies and dogs are less likely to create a nuisance by barking excessively or destroying property.

Communities benefit in other ways that do not rest on the improved behavior of dogs. These include:

- **OLRAs promote public safety.** Designated spaces for dogs and their owners reduces the likelihood that dogs will be let loose in other recreational areas where they could infringe on the rights of other park users.
- **OLRAs make the surrounding area safer.** Dog owners have an interest in the safety of their community and can act as a neighborhood watch. In Venice Beach, where crime rates are high, the presence of dogs and their owners on the beach create an atmosphere of safety. In addition, designated off-leash spaces reduce the resources law enforcement and animal control officials must spend on enforcing leash laws, allowing of them to devote their time to other areas of crime prevention.
- **OLRAs are a social hub for communities.** Dogs often help people break the ice, allowing people who share interests to socialize while exercising their dogs. These interactions help neighbors to get to know each other and to build a sense of community. At a time in Los Angeles when it is often difficult for people to get any sense of community, these interactions are perhaps the most significant benefit offered by OLRAs.
- **OLRAs promote responsible dog ownership.** All users will license their dogs, not only because the threat of a fine is greater in an OLRA but also because there is considerable social pressure from regular OLRA users to do the right thing. The social aspect of OLRAs also tend to enforce the basic rules of dog ownership such as cleaning up after one's dog and always controlling one's dog's behavior. Finally, OLRA provide a centralized location for providing owner training, pet information, and veterinary services.

Drawbacks and concerns about OLRAs

This analysis would not be complete without identifying all potential drawbacks to OLRAs. A competent feasibility study attempts to identify all constraints, evaluate their significance given different implementation strategies, and estimate the costs and benefits of relaxing those constraints that are not absolutely fixed. Despite the benefits and advantages of an OLRA, there are also some potential drawbacks. These concerns can be categorized in five areas:

- Confrontations that may result within OLRAs.
- Dog behaviors.
- Dog waste.
- Irresponsible owners, including liability problems.
- The effective administration of OLRAs.

Confrontations:

The first set of concerns regard fears that OLRAs will lead to various types of confrontations. These concerns were evident in a 1998 study conducted by the city of Hermosa Beach. After receiving several letters from residents asking for permission to walk their dogs on the beach, the city council of Hermosa Beach directed staff to conduct a study. They reported several potential confrontations including those between:

- humans and dogs.
- two or more dogs.
- dog owners.
- dog owners and other park patrons.
- dog owners and police or animal control officers.

Behavior and characteristics of dogs;

The second set of concerns raised at various community meetings focus on the behavior and characteristics of dogs. These include the following:

- Vicious or aggressive dogs may disrupt the smooth operation of the OLRA.
- Dogs may carry infectious diseases transmissible to both other dogs and humans.
- Dogs in heat may excite other dogs causing problems.
- Dogs wearing spiked collars may injure other dogs.

The problem of poop:

The third major concern expressed about OLRAs is the problem with dog waste and owners who do not clean up after their dog. This is the main argument against establishing an OLRA on the beach. This is the primary reason why dogs are not allowed on the beach in Hermosa, and why FREEPLAY is having such a difficult time establishing beach space for dogs in Venice. There are specific concerns that dog feces and urine can pose both an environmental and public health hazard.

Irresponsible dog owners:

The fourth area of concern is owners who fail to take responsibility for their dogs. This problem is evident in the fear that dog owners will not clean up after their dogs. On a fundamental level, this concern is driven by the belief that there is no easy way to hold dog owners legally responsible. Other potential problems with dog owners include the following:

- Owners whose dogs are not under voice control.
- Owners taking multiple dogs to OLRAs. Multiple dogs may be more difficult for one owner to control.

In addition, problems with irresponsible dog owners may be exacerbated by the actions of others. For example, people who bring food into OLRAs may cause dogs to fight over it. Similarly, parents who take small children to the OLRA may cause problems because children and dogs often frighten one another, leading to unpleasant reactions.

The administration of OLRAs:

The fifth and final set of concerns expressed about OLRAs deal with the effective administration of the OLRA. These specific concerns include;

- Problems in enforcing the rules. Who is responsible for enforcement of OLRA rules?
- Funding. The creation of each OLRA entails initial start-up and continued maintenance costs.

With this outline of concerns about OLRAs we now turn to the identification of key stakeholders in the OLRA issue.

Key OLRA stakeholders:

A number of interested parties have emerged to state their position concerning this issue. It is possible to break them down into three groups; supporters, opponents on policy grounds, and opponents for administrative reasons.

Supporters:

Stakeholders who clearly support designating off-leash dog areas (OLRAs) include dog owners in general and advocacy groups such as FREEPLAY and Hermosa Beach Friends Of Dogs. Many non-dog owners are also likely to be included in this group because creating a designated OLRA reduces the likelihood of confrontations with other recreational uses.

The 175,000 licensed dog owners are a formidable stakeholder because of their sheer numbers. They represent a potentially powerful electoral constituency and therefore, must be taken into account. If properly mobilized, such large numbers could come out in force to support a referendum concerning recreational areas and could also affect the votes given to local representatives who favor OLRAs. Moreover, the desires of responsible owners tend to be strong because they seek to provide adequate exercise for their dogs. Thus, for them greater access to open space is not only desirable but necessary.

Consumers of urban recreational spaces are another stakeholder because they want to enjoy public spaces for sports and relaxing. Some of these people may not like dogs, but this fact would not necessarily preclude their support for a measure allowing dogs to run freely in a designated area, especially if creating a designated OLRA decreases the confrontations and competition for open space.

Opponents on Policy Grounds:

The two elected officials representing the Venice beach area, Los Angeles City council member Ruth Galanter and County Supervisor Don Knabe, have expressed concerns over creating more OLRAs. Galanter currently appears opposed to more OLRAs. Her chief concerns are for public health and safety. Council Member Galanter supports the findings of Ronald F. Deaton, the Chief Legislative Analyst, that state that a potential health risk exists when humans come into contact with dog feces or are bitten by dogs. Galanter has also been influenced by the potential costs to the city for establishing, outfitting and maintaining proper dog areas. Galanter, however, has changed her position from time to time and in fact claims some responsibility for the creation of the Westminster dog park.

A concern voiced by both Council Member Galanter and Field Deputy Tom Martin of Supervisor Don Knabe's office is that of government liability for these off-leash areas. Since beach ownership is divided between local, county and state governments in California, indemnification against liability is problematic.

Merchants, vendors, home owners, and residents in the surrounding areas of off-leash dog areas also have an interest in this issue. At the present time, many people walk their dogs on the boardwalks which can be disruptive to others. Their primary concern is that creating an OLRA will increase the number of dogs coming to the beach and therefore increase the disruption caused by dogs on the boardwalk.

Two organizations have expressed environmental concerns over increased OLRAs. Heal the Bay, an environmental organization dedicated to protecting the Santa Monica Bay, has expressed concerns about the potential environmental problems of dog waste. The second is the California Coastal Commission which issues permits necessary to alter the physical characteristics of beaches in California. Chief among its concerns is potential restrictions to beach access. An off-leash recreational area for dogs may draw the Coastal Commission's attention if it hindered full accessibility of the beach. The Coastal Commission, however, has permitted dog beaches in other areas of California.

Finally, the Society for the Protection of Animal (SPCA) has raised concerns about unspayed dogs running free which may increase the potential for un-wanted litters.

Administrative opponents:

The Los Angeles Police Department (LAPD), animal control officials, lifeguards, and employees of the Department of Beaches and Harbors have vested interests in resolving questions over enforcement and access to beaches. These workers have the responsibility of ensuring the safety and cleanliness of parks and beaches. At the present time, the LAPD assigns 30 officers a day to beach detail in the summer months. While the officers respond to many different complaints, they must also address those concerning dogs on local beaches. None of these groups are anxious to police beaches or parks for dogs, resolve disputes over dog-related matters, or handle problems with dog defecation. For example, in a report to the Hermosa Beach city council, Chief Gary Crum of the Los Angeles County Fire Department Lifeguards said that they were opposed to the idea of allowing dogs on the beach because of sanitation concerns over fecal matter on the beach and the need to enforce pooper scooper laws. Beach authorities also voiced concerns because beach cleaning machines are not designed to pick up all feces left on the beach. Consequently, the operators of the machines would be exposed to fecal material when cleaning the machines and disposing of the collected waste.

Overcoming stakeholder concerns:

This list of stakeholders opposing OLRAs presents significant obstacles to the allocation of more open space to dog owners. At first, it appears to be a Herculean task to overcome them. Taking a step back, however, the opposition to OLRAs stems either from a lack of knowledge of the facts or a lack of creativity in the design of policies that can overcome the concerns expressed by all stakeholders. It is important to return to the fundamental problem: dog owners and their pets are provided significantly fewer recreational opportunities compared to other users of Los Angeles parks. Reasoned policies for the allocation of recreational space may overcome these impediments.

Correcting Misinformation:

Much of the opposition to off-leash recreational areas stems from misplaced fears concerning dogs. Consequently, clarification and information provision can significantly reduce opposition from certain stakeholders. Two areas are particularly prone to misplaced fears: the dangers of dog bites and problems emanating from dog feces.

Dog Bites. A fear of an increased number of dog bites or other incidences is a major impediment to acceptance of off-leash areas. The evidence from existing areas, however, show that this fear is misplaced. A report by Hermosa Beach city staff studied several areas that allowed dogs on the beach: Huntington, Newport, Del Mar, Cardiff, Carmel, Laguna Beach, Pismo Beach, and San Diego. Only Huntington and Del Mar reported any instances of dog bites, and these cities only reported a small number of incidences (under five). In contrast, six of the eight cities reported no incidents or confrontations at all.

Further evidence that this fear is unwarranted is that the new Westminster dog park has had no reports of dog bites since it opened. This successful record is largely due to the significant self-policing capabilities of community groups like FREEPLAY. Those who fear increased incidences of dog bites apparently ignore the important role of peer pressure in protecting against unpleasant confrontations. Finally, to the extent that OLRAs confine dogs to spaces under community supervision, dogs are less likely to become involved in confrontations than if they are roaming free in other open space areas.

Health Risks from Dog Feces. The City of Los Angeles has raised concerns over the possible transmission of diseases through dog feces left in off-leash areas. The Chief Legislative Analyst of Los Angeles compiled a list twenty diseases that could possibly be transmitted by dogs. While all dogs are subject to gastrointestinal and external parasitism, the city reports that only humans with particularly weak immune systems such as AIDs patients and young children stand any significant chance of contracting diseases from such dog-borne parasites.

Moreover, an analysis of the Legislative Analyst report by Dr. Ellie Goldstein, a leading public health expert, has shown this list to be highly misleading. Many of the diseases listed are not endemic to Los Angeles and many others are very rare. In his words, "it is as likely that people will get any of these listed diseases from their pet dog as their chance of getting hit by lightning." Based on this analysis Dr. Goldstein concludes that the creation of new off-leash recreational areas pose minimal risks from a public health perspective.

Pollution Risks from Dog Feces. In a 1996 letter to Councilmember Ruth Galanter Joel Reynolds of the Natural Resources Defense Council argued that off-leash dog beaches could result in the contamination of coastal waters. Clean water for bathers and other beach users is certainly a high priority, and his concern is a valid one. Nevertheless, this fear is clearly repudiated by the evidence: the ocean water off of existing southern Californian dog beaches is *not* any more polluted than at other beaches.

The Southern California Coastal Water Research Project recently completed the most extensive sampling of coastal water quality ever undertaken. This project collected weekly samples from 307 sites from Point Conception to Mexico. Several of these sites were at existing dog beaches located at Huntington Beach, Laguna Beach, and Coronado. As seen in Table Two the recorded bacteria levels at each of these beaches were far below all existing and proposed standards for water quality. Moreover, the water quality at these beaches was comparable to nearby beaches that did not allow dogs.

Table Two
Average Recorded Levels of Pollution Indicators (per 100mL)

CITY	Total Coliforms	Fecal Coliforms	Enterococci
Huntington Beach	56.7	22.3	7.2
Laguna Beach	42.0	32.0	n/a
Coronado	28.0	4.5	4.0
State Standard	10,000	400	104

A major finding of the report is that the single largest contributor to elevated bacterial levels in coastal waters is storm water and urban runoff emitted through storm drains. Clearly, on-going and critical efforts to improve the water quality off of Southern Californian beaches will be better spent attacking the main causes of this problem rather than focusing on dogs that lead to no discernible increase in pollution levels.

Policy Options that Address Stakeholder Concerns:

The remaining concerns of stakeholders are both valid and important. Nevertheless, they do not preclude serving the equally legitimate demands of dog owners because these concerns may be addressed as additional open space is made available to dog owners. Existing OLRA's throughout California provide a wealth of alternative techniques by dog owners can gain access while protecting the recreational opportunities, safety, and well being of other stakeholders:

- Make a provision in the city municipal code to allow dogs on the beach in early morning and evening hours.
- Establish a permit system to allow only dogs with permits to be allowed on beach areas.
- Have a community group sponsor the OLRA and require it to hold orientation classes for owners and their dogs on how to use OLRA's.
- Establish a reporting system for people to report violations of rules at OLRA's.
- Establish a monitoring system to enforce the rules of the OLRA.
- Enact strong enforcement policies, such as fines for failure to control a dog or failure to clean up after a dog.

Each of these policies reduces risk by separating dogs into designated areas and by maintaining controls over their behaviors. We will look at each concern individually, examining how such policy designs can allay the concerns of stakeholders.

Overcoming the poop problems:

One of the strongest arguments against creating OLRA's is that they will become unsanitary and unsightly because of urine and dog waste. While the risk of disease is quite small, the chance of infection is likely to be larger when the waste is not immediately removed. In addition, there is no argument that dog feces on the ground is smelly, unsightly, and unpleasant to be around.

The fact remains that dogs will create waste regardless of whether or not they are on a leash. Thus the more important issue is finding a way to ensure that waste is properly disposed of in a timely fashion. A number of effective methods have been employed to encourage and ensure that dog owners clean up after their pets: (1) mandatory compliance on the part of dog owners to immediately remove dog waste from public spaces; enforced either by the community group or through fines; (2) regularly scheduled volunteer patrols to sweep the parks and beaches of all debris; and (3) conveniently located trash cans and waste removal bags. The use of plastic bags, "pooper scoopers",

and trash cans are also effective means of dealing with the problem. As evidenced by the Westminster dog park there is considerable social pressure for owners to clean up after their dogs in an OLRA. This social pressure is not as concentrated in non-OLRA designated open space.

Irresponsible dog owners and liability concerns:

Concerns regarding liability are another significant obstacle that must be addressed to facilitate the creation of OLRAs. A city that is exposed to expensive law suits because of injuries related to OLRAs is not likely to encourage their creation. Cities have, nevertheless, found a number of ways to reduce their exposure to liability claims. Claremont dealt with the issue by creating an ordinance, which states:

"The use of off-leash areas by a dog owner or other person having care, custody or control of that shall constitute agreement by the dog owner and the person having care, custody, or control of that dog to waive liability of the city, and his or her agreement to protect, indemnify, defend, and hold harmless the city from any claim, injury, or damage arising from or in connection with such use."

Alternatively, cities may rely on signage. By signage, one means "full and complete signage, both advising visitors that the park is an off-leash area and that they use the area at their own risk, and advising dog owners of their assumption of liability and hold harmless agreement.

FREEPLAY, in their proposal for an OLRA addressed the issue of signage. In their report, they stated that it is important for OLRAs to announce designated off-leash areas so that the general public can then make an informed decision regarding access. "There are three types of signs that may be required: regulatory, advisory and warning signs. The choice of sign, its location and size is dependent on the information to be presented and the uses for which it is designed. Advisory signs are necessary at every entry point to the area and between one access point and another. Regulatory signs should detail relevant regulations and corresponding fines for non-compliance." The purpose of the signs is to improve relations within the local community by emphasizing positive messages to encourage responsible behavior of dog owners.

The concerns about irresponsible dog owners can yet again be mitigated by the presence of a strong community group that helps maintain order. The social and community aspect of OLRAs is actually a deterrent to irresponsible dog ownership. We contend that in many ways the self-policing evident at the Westminster dog park is more effective than external (city-run) policing. As one Westminster regular explained, "It is one thing to get a ticket from an anonymous cop, it is another thing to get corrected at by my neighbor who I have to see everyday."

Administrative Concerns:

The administrative concerns for the most part apparently stem from the belief that OLRAs will require a significant amount of "new" work for the various government agencies. It is certainly possible to think of ways to create an OLRA that would in fact require a host of new work for the agencies. For example, a new OLRA that would require regular replanting of grass would require significant on-going maintenance by city staff. A new OLRA in close proximity to other recreational activities would require on-going administration by animal control officers, especially if clear and definable boundaries do not exist. It is clearly possible, however, to design new OLRAs in a way that decreases these on going administrative costs. For example, an OLRA without grass and away from competing recreational uses would decrease these on-going maintenance costs.

A second administrative concern is the amount of start-up money an OLRA may require. An OLRA requiring a new fence, significant new signage, and new trash cans is likely to have significant start-up costs. As with maintenance costs, however, it is possible to minimize these costs. For example, an OLRA located such that a new fence would not be required to separate dogs and other recreational activities would be much less expensive.

The point is not that start-up costs and maintenance costs are irrelevant concerns. Instead we argue that these costs can and should be minimized by the site selection process.

Criteria for new OLRAs:

Given the hopes of dog owners and the fears of OLRA opponents, it is clear that a sound decision must be based on criteria for new OLRAs that pay close attention to all stakeholders. Moreover, given the significant opposition to OLRAs, we propose that when accessing tradeoffs, greater weight should be accorded to the concerns of opponents than the wishes of dog owners. Given the paucity of current OLRAs and significant opposition, we believe that dog owners are or should be satisfied with any increase in available open space. **In short, we believe that overall the best site for a new OLRA is one that minimizes the opposition and maximizes the feasibility of a new OLRA actually being created.** The analysis up to this point suggest the following criteria are essential to choosing a successful site for an OLRA:

- **Limit conflicting recreational uses.** It appears that dual use for different recreational purposes will be difficult to manage and maintain. It is, however, feasible to consider some way of designating a site for off-leash exercise by hours rather than a physical boundary. This selection criteria is designed to minimize the fears about various types of "confrontations."
- **Compatibility with surrounding land uses.** It would be inappropriate to select a site in close proximity to a major traffic thoroughfare for fear of dog safety. It would also be inappropriate to site a facility directly adjacent to homes. Again this criteria helps mitigate fears about "confrontations," as well as dog behavior and irresponsible owners.

- **Accessibility.** In order for a dog park to be utilized it must be accessible to dog owners. Given the current under-allocation of OLRA space dog owners will accept some amount of travel to get to a new facility but attempts should be made to minimize this travel time. In addition, to limit the fears of confrontations with people outside the OLRA it is important to consider the availability of parking adjacent to the OLRA.
- **Strong community involvement and support .** As the laundry list of fears shows, an OLRA is more likely to be successful in an area that enjoys a large amount of community support. Many of the concerns about dog behavior and irresponsible owners can be addressed through the active involvement of a local community group. In addition, a strong and active local organization can help alleviate many of the concerns about dog waste. As evidenced by the Westminster dog park, an effective local group can create significant pressure and social norms towards responsible dog ownership.
- **Start-up and maintenance costs .** There are some costs associated with any new OLRA. Since we are re-allocating existing open space for off-leash use and given that many key stakeholders are opposed to OLRAs for administrative (cost) reasons we should attempt to minimize the costs involved in the process. The potential start-up costs include additional signage, trash cans, fencing, and water hook-up if necessary. The potential on-going maintenance costs include; cleaning, repairing fencing, replacing grass, patrolling by city staff. A strong community group can help reduce these costs. For example, donation and volunteer efforts have contributed greatly to the construction and maintenance of Westminster Park. In addition, proper site selection can reduce costs.

Beaches beat parks.

In an effort to narrow the focus we begin with a simple choice, park or beach area. Using the identified criteria, there are clear advantages of beaches over parks. First, beaches would have lower maintenance costs than parks. As evidenced by the Westminster OLRA, dogs are very hard on grass, and this is compounded by the overuse of the park. The beach sand is more resilient to the pounding of running dogs and therefore require less regular maintenance.

Second, many beaches appear to be under-utilized especially during the winter months. In interviews, several Los Angeles County lifeguards indicated that even on weekends during the winter it is rare to see a large number of people either playing or simply relaxing on the sand part of the beach. Most of the activity is concentrated in the boardwalk areas. There are so few people on some beaches that lifeguards estimate that they only need to patrol small sections of the beach during winter months.

While beach use increases dramatically during the summer, there are still areas of beaches where the potential conflict with other recreation activities is limited. Although it is difficult to quantify comparative utilization of beaches over parks, several site visits confirm that many beach areas, even on weekends, are underused. It is difficult to say the same thing about park areas.

Third, we consider the existing land use of potential sites. From the perspective of dog owners, a perfect OLRA is a wide open space where dogs can run free. Most dog owners would also prefer an area that does not become muddy during rainy weather. Since a grassy area can quickly become a mud field with overuse, the beach area seems to be a more viable option. As one Venice area dog owner stated, "Sand I can brush off, mud means a bath production."

Another clear advantage of beaches over parks is that picking up dog fecal matter is physically easier on a beach than in a park. All of the existing OLRAs come equipped with shovels and rakes that owners can use to clean up after their dogs. It is often quite funny to observe owners contorting and digging into the park to pick up after their dog. On a beach the soft sand makes clean up an easier task, almost like a cat's litter box. The sand also makes it possible for dog owners to scoop up dog urine which is impossible in a park setting. While this may seem trivial, cleaning up dog waste is a significant concern of OLRA opponents, the sand makes clean up easier for dog owners and therefore increases the likelihood that it will happen.

Fourth and finally, we believe that beaches offer advantages in terms of accessibility. It is important to remember the balance between accessibility for dog owners and protection of homeowners. Most of the small park areas on the Westside are directly adjacent to houses which increases the conflict between the two groups. Many of the beaches are a distance from homes decreasing this conflict. Many beaches also have adjacent public parking, which tends to be empty in the winter months. In contrast, most parks in Los Angeles have very little parking available.

Given these factors we concentrate our analysis on comparing different beach areas as potential sites for a new OLRA on the Westside.

And the winner is...

There are 23 distinct beach areas in the Los Angeles region (see Appendix A). In an effort to narrow this number down, we begin by eliminating beaches that clearly fail one of the identified criteria. Nine of these beaches clearly fail the accessibility criteria. Four of these (Leo Carrillo, Nicholas Canyon, Zuma and Point Dume) require long drives on the congested Pacific Coast Highway towards Malibu. Four of these beaches (Malaga Cove, Abalone Cove, Point Fermin Lighthouse and Cabrillo) require long drives through the winding roads of Palos Verdes peninsula, making them inaccessible. We eliminate two additional beaches (Los Tunas and Topanga) on the accessibility criteria primarily because they offer insufficient parking.

Six of these beaches (Santa Monica, Will Rogers, Manhattan, Hermosa, Redondo, and Torrance) present significant conflicts with other recreational users. Much of the recreational activities on these beaches actually takes place on the sand parts of the beach. For example, there are more than 100 volleyball courts on Manhattan Beach. In addition, five of these six beaches are surrounded by other incorporated cities, preventing the city or county of Los Angeles from dictating the particular uses of these beaches.

This process of elimination leaves five candidate beaches: Venice Beach, Dockweiler, Marina Jetty, Playa del Rey, and Mother's Beach. It is important to note that we are not comparing these beaches to those eliminated above but to each other. Table Three compares each of these areas using the criteria developed above. Table Four provides a rank ordering of each of the prospective beaches. Note that a "1" equals the top score and a "5" equals the bottom score in Table Four.

Table Three

<i>Beach Area</i>	<i>Conflict Potential</i>	<i>Compatible Land Use</i>	<i>Accessibility</i>	<i>Community Involvement</i>	<i>Costs</i>
<i>Venice Beach</i>	Very popular and high traffic area especially in the summer.	High traffic areas around pier and pavilion area are inappropriate.	Very accessible to Westside residents. Parking is costly and in short supply during summertime.	An OLRA this area has significant community support, but also elicits opposition.	<p><u>Start-up:</u> Significant due to need for widespread signage. Given other activities, fenced area is probably necessary</p> <p>Few existing trash cans.</p> <p><u>Maintenance:</u> High tourist traffic require ongoing patrols and on-going clean up.</p>
<i>Dockweiler</i>	Lightly used. Large stretches are often completely empty.	Size of beach (wide and over 4 miles long) indicates it could accommodate an OLRA while allowing competing uses elsewhere.	Ample street and pay parking. But not particularly accessible to Westside residents.	The large open space and parking indicate that the area would be acceptable to OLRA activists. The lack of housing near the area suggests minimal opposition.	<p><u>Start-Up:</u> There is currently a fenced area on the beach suggesting no new fence costs. There are currently a large number of trash cans.</p> <p><u>Maintenance:</u> Fence may not be necessary decreasing maintenance costs.</p>

Alternative Criteria Matrix

<i>Beach Area</i>	<i>Conflict Potential</i>	<i>Compatible Land Use</i>	<i>Accessibility</i>	<i>Community Involvement</i>	<i>Costs</i>
<i>Marina Jetty</i>	Little used by other recreational activities. It is in close proximity to Venice Beach which is highly used.	The beach is comparatively small and somewhat narrow. It is also fairly close to many houses. Also there is a Tern breeding program on beach.	Very accessible to Westside residents. Parking is a potential problem, especially during summer.	Because of accessibility this would be very favorable for OLRA supporters. Potential concerns with homeowners.	<p><u>Start-up:</u> Small enough so that a fence is probably not needed. Few trash cans.</p> <p><u>Maintenance:</u> The proximity to a highly used area would indicate that higher maintenance costs are likely.</p>
<i>Mother's Beach</i>	This area is used primarily by two rowing clubs to launch boats. A potential conflict on weekends.	Beach is surrounded by hotels on three sides indicating a potential for conflict.	Moderately accessible to users. Pay parking only	Again accessibility would lead to support by OLRA backers.	<p><u>Start-up:</u> Small enough so fence is unlikely, many trash cans.</p> <p><u>Maintenance:</u> Little would be necessary to maintain in current state of disrepair.</p>
<i>Playa del Rey</i>	Observation indicates few other uses.	A small beach area would concentrate impacts in a confined area.	Moderately accessible to Westside users. Pay and street parking.	Distance from Westside indicates less support.	<p><u>Start-up:</u> Small enough so fence is probably not necessary. Not many trash cans.</p> <p><u>Maintenance:</u> out of the way location decreases needs for maintenance.</p>

**Table Four
Ranking Criteria Matrix**

<i>Beach Area</i>	<i>Conflict Potential</i>	<i>Compatible land use</i>	<i>Accessibility</i>	<i>Community involvement</i>	<i>Costs</i>
<i>Venice Beach</i>	5	5	1	1	5
<i>Dockweiler</i>	1	1	4	3	1
<i>Marina Jetty</i>	4	3	2	2	3
<i>Mother's Beach</i>	3	4	3	4	4
<i>Playa del Rey</i>	2	2	5	5	2

The results of these tables indicate that Dockweiler beach best fits our identified criteria for a new OLRA. Dockweiler scored highest (a score of one) on three of the five criteria (Conflict potential, Compatible use and Costs). Dockweiler scored low (4) on accessibility and in the middle (3) on community involvement.

Given that the proponents of OLRAs must overcome significant opposition, Dockweiler is clearly the best choice. It is far from potential homeowner and has limited alternative recreational users, minimizing potential conflicts. The existing fenced area and high number of trash cans indicate low start-up and maintenance costs. What Dockweiler loses in terms of accessibility it gains in terms of size and available parking.

A potential second choice is Playa del Rey, which ranked second on three out of five categories, but lowest on community involvement and accessibility. It scored low in these areas mainly because it is closer to housing and smaller than Dockweiler and provides less parking.

Marina Jetty and Mother's Beach scored in the middle to bottom (mainly 3's and 4's) on all the criteria. They are both small and pose have significant potential of conflict with existing uses.

Finally, Venice Beach dramatically shows our weighting of the three main opposition concerns (conflict potential, compatible land use, and costs) over the supporters hopes (accessibility and community involvement). Venice is clearly the preference of OLRA users but is clearly less desirable from the perspective of other stakeholders.

Conclusion:

While more areas are needed, attempts to create them face significant political opposition. The current allocation of space for off-leash dog use ignore high expressed demand by dog owners on the Westside. We have developed criteria for choosing a new OLRA that attempt to mitigate the concerns of opponents while attempting to serve some of the hopes of dog owners. Until OLRA users clearly demonstrate their ability to manage and self-police an off-leash beach area, it will be extremely difficult for these users to get their first choice of sites. The example of Westminster Dog park is clearly a step in the right direction. The Westminster users and FREEPLAY provide an example of how the process can work. By choosing a site that speaks directly to the concerns of opponents FREEPLAY and other community based organizations will have the opportunity to again prove that OLRAs provide significant benefits to dog owners, their pets, and most importantly, the community at large. With this added experience and track record it is our belief that the ultimate goal of FREEPLAY of 1 acre of OLRA per 100 dogs can some day become a reality.

Appendix A

Los Angeles County Beaches

(listed from north to south)

1. Leo Carrillo State Park
1. Nicholas Canyon Beach
1. Zuma Beach
1. Point Dume State Beach
1. Malibu Surfrider State Beach
1. Las Tunas State Beach
1. Topanga State Beach
1. Will Rogers State Beach
1. Santa Monica State Beach
1. Venice State Beach
1. Marina Jetty Beach

1. Motherís Beach (Marina)
1. Playa del Rey Beach
1. Dockweiler State Beach
1. Manhattan State Beach
1. Hermosa State Beach
1. Redondo State Beach
1. Torrance State Beach
1. Malaga Cove
1. Abalone Cove Beach
1. Point Fermin Lighthouse
1. Cabrillo Beach
1. Long Beach City Beach

VERIFICATION

ALESSANDRO G. OLIVIERI, an attorney admitted to practice before the Courts of the State of New York, hereby affirms the following to be true, under penalties of perjury, pursuant to CPLR 2106:

I am the General Counsel of the New York City Department of Parks and Recreation ("Parks & Recreation"), a respondent in the within proceeding. In this capacity I am authorized to verify pleadings on behalf of Parks & Recreation. I have read the foregoing answer and know the contents thereof to be true, except as to matters therein alleged upon information and belief, and as those matters I believe them to be true. The source of my information and the basis for my belief are the documents and files maintained by the City of New York and statements made to me by its employees.

Dated: New York, New York
June 21, 2006



ALESSANDRO G. OLIVIERI