

# R.D.O.G.S.

Responsible Dog Owners of the Golden State

3040 Explorer Drive, Suite 3, Sacramento, CA 95827

(916) 366-RDOG [(916) 366-7364]

December 14, 1990

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Supervisor Tom Huening  
President, San Mateo County Board of Supervisors  
Hall of Justice and Records  
401 Marshall Street  
Redwood City, California 94063

Re: San Mateo County Pet Control Ordinance

Dear Supervisor Huening:

I am a member of the board of directors of Responsible Dog Owners of the Golden State and a practicing attorney. During the course of the hearing on the above-entitled ordinance on December 11, 1990, Supervisor Schumacher indicated that if a lawsuit were filed and San Mateo County lost, the county would not be liable for the plaintiff's attorney fees. That position is not correct under California law.

Under Code of Civil Procedure section 1021.5 a prevailing party may move for attorney fees when the action has resulted in enforcement of an important right affecting public interest, a significant benefit has been conferred on a large class of persons and the necessity and financial burden of private enforcement are such as to make the award appropriate. See Woodland Hills Residents Assn. Inc., v. City Council (1984) 23 Cal. 3d 917, 935 and Beach Colony II v. California Coastal Commission (1985) 166 Cal.App. 3d 106,112

In Beebe and American Dog Owners vs. City of Union City, Superior Court # H-138361-6, the Hon. Demetrios Agretelis, awarded attorney fees after a successful challenge on constitutional grounds to a breed specific vicious dog ordinance upon petition of the plaintiff's attorney.

I would be delighted to speak with you regarding the issue of awarding attorney fees to the prevailing party under the "private attorney general" statute if you would like more information. My office telephone number is (415) 826-8280.

Sincerely,

*(S)*  
Judith A. Brecka

JB/j  
cc: RDOGS bd. members