

What are a town's obligations when notified of a dog attack on a domestic animal?

The owner of a domestic animal (cow, sheep, lamb, fowl, etc.) worried, maimed, or killed by a dog may recover damages for any loss suffered from the owner of the dog *or* from the town in which the attack occurred.

To proceed against the town, the owner must notify one or more selectpersons within 24 hours of learning of the attack. The selectperson must then go to the premises and make a full, fair, and honest investigation of whether dogs in the town are to blame for the damage inflicted to the owner's domestic animal. If so, the selectperson must appraise the amount of damage inflicted and return a certificate in that amount to the selectboard. If, in the selectperson's opinion, the damage exceeds \$20.00, he or she must appoint two disinterested persons to assist in performing the appraisal. (If unable to make this decision, the selectperson has failed to perform his or her statutory duty and the owner may recover damages suffered, with costs, in a civil action against the town. *Otis v. Town of Bridport*, 81 Vt. 49 (1908).)

Upon receipt of the certificate, the selectboard must examine it and issue an order upon the town treasurer for all or part of the damage. If the selectboard has any doubts, it may summon the appraisers and all interested parties and make any additional inquiries it deems proper.

State law instructs that if the selectperson called upon to appraise the damage identifies the responsible dog, he or she must issue a warrant to a constable or police officer "commanding him forthwith to kill such dog or dogs wherever found." 20 V.S.A. § 745. Given that such action may constitute an unconstitutional taking of property in violation of the Due Process Clause of the Fourteenth Amendment, VLCT suggests first affording the dog owner notice and an opportunity to be heard.

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