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November 21, 2008

RQ-0765-GA

Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: Whether a municipality or county can enact breed specific legislation with respect to dogs within their jurisdiction

Dear General Abbott:

Please accept this request for an Attorney General Opinion as to whether a municipality or county can enact breed specific legislation with respect to dogs within their jurisdiction.

Numerous municipalities and some counties have expressed a desire to enact municipal ordinances and/or commissioner court orders to ban or regulate breed specific dogs primarily Pit Bulls, Rottweilers, German Shepherds and Doberman Pinchers. It is unclear as to whether or not that is prohibited by existing state law. The confusion is based on the varying interpretations of Section 822.047 of the Health & Safety Code which appears to be the only place in the state law dealing with this issue.

Subchapter 822 D of the Health & Safety Code deals with Dangerous Dogs. That subchapter contains the definition of a dangerous dog (see Section 822.041(2)). It also sets out the procedures for a determination that a dog is dangerous (see Section 822.0421) and the requirements for owners of a dangerous dog (see Section 822.042). In the context of Subchapter 822 D, Section 822.047 provides for additional local regulation of dangerous dogs. That Section reads as follows:

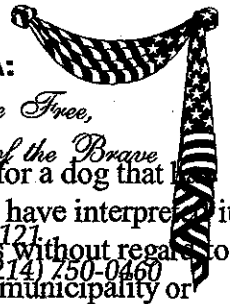
SECTION 822.047. LOCAL REGULATION OF DANGEROUS DOGS. A county or municipality may place additional requirements or restrictions on dangerous dogs if the requirements or restrictions:

- (1) are not specific to one breed or several breeds of dogs; and
- (2) are more stringent than restrictions provided by this subchapter.

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Some argue that that Section 822.047 applies only to additional requirements and restrictions for a dog that has previously been declared a dangerous dog as defined and referenced under Subchapter 822 D. Others have interpreted it to prohibit any ordinance or commissioner court order specific to one breed or several breeds of dogs without regard to whether the dog has or has not been determined to be dangerous. For example, is it permissible for a municipality or

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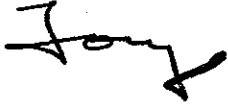
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county to require only Pit Bulls to be sterilized and micro chipped without any reference to whether or not the animal had been declared a dangerous dog under Subchapter 822 D? Can only Pit Bulls be banned within a jurisdiction without regard to whether the dog has or has not been determined to be dangerous? In essence the clarification needed is, can a county or municipality prohibit or regulate dogs on a breed specific basis if it is for any purpose other than to place additional requirements or restrictions on a dog that has been declared dangerous under Subchapter 822 D?

Thank you in advance for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony", with a stylized flourish at the end.

Tony Goolsby
State Representative
District 102