

Las Cruces alleges dog was improperly euthanized, files notice of tort claim with city (4 p.m.)

By Lauren E. Toney Sun-News reporter

Posted: 04/11/2009 04:04:36 PM MDT

LAS CRUCES — A woman's grief and anger over the euthanization of her dog may eventually play itself out in a courtroom.

The Rev. Sandhi Scott of Las Cruces has filed a notice of tort claim with the city, alleging the euthanasia of her dog after he reportedly bit a neighbor was unlawful. Such notices are used to signal an intent to file a lawsuit.

City of Las Cruces spokesman Udell Vigil declined to comment, saying the incident potentially involves litigation against the city.

Animal control officers on Dec. 7, 2008, informed Scott that her dog, Apache, had gotten out of her fenced yard and bit a neighbor's hand.

Scott said the nearly 6-year-old dog, reportedly a wolf-hybrid, was a staple at the city's farmers market and had "never bitten anyone."

Animal control officers insisted the dog be euthanized, but allowed Scott to have the procedure performed at the veterinarian's office that had treated Apache since he was 6 months old.

According to a Las Cruces ordinance, wolf-, coyote-, and fox-hybrids are prohibited animals. Vigil said following the incident that state law also requires that any wild animal who bites a human must be euthanized. "After the animal is euthanized, the animal's head must then be sent off for rabies testing," he said in December.

Vigil confirmed Apache's head was sent to the state Health Department Lab in Santa Fe, where it was determined the dog was not rabid.

According to Scott's notice of tort claim filed in February, "there is no law or administrative regulation which required the dog to be killed."

The document continues: "The only relevant regulation ... requires the destruction of any 'wild animal not born or reared in captivity' which has bitten a person."

Scott claims Apache was born and raised in captivity and was treated like a member of the family.

"The city needs to answer for this violation of rights," Dania White-Johnson, Scott's attorney, said.

White-Johnson said she hoped that the lawsuit would be a catalyst for change in the city so that "someone else doesn't have to go through what Sandhi did."

In New Mexico, pet owners may be awarded damages for only as much as the animal is worth, according to White-Johnson. In other states, including Washington, pet owners may recover "for emotional damages, pain and suffering and lost wages," she said.

While Scott said she was not concerned with the monetary outcome of a possible lawsuit, White-Johnson said she does "want other pet owners in the community to be aware of their rights."

In memory of Apache, Scott will hold an animal awareness event May 17 at Pioneer Park.

"Because of how severely unlawful his (Apache's) death was, it's deeply affected my family and friends," Scott said. "This event will serve as a memorial for all wrongful deaths and be an information and solution rally."

Scott said she continues to move forward with the litigation.

"It was not only cruel and inhumane, but completely unlawful," she said. "There's an uproar in this community. This is a good city, and we can do better."

Lauren E. Toney can be reached at ltoney@lcsun-news.com; (575) 541-5447