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May 8, 2012

Dear Governor O'Malley:

On behalf of The Humane Society of the United States (The HSUS), the nation's largest animal protection organization with 11 million supporters nationwide, including more than 284,000 residing in Maryland, I am writing today about a devastating opinion recently issued by the Maryland Court of Appeals. This opinion will likely have a massive negative impact on Maryland residents, animal shelters, landlords, property owners, and small business owners. We urge you to support legislation to overturn this ruling as soon as possible, such as during the May or July special session, as waiting to rectify this decision until the January 2013 session could be disastrous.

On April 26, the Court of Appeals issued an opinion in the case *Tracey v. Solesky* designating all dogs identified as pit bulls and pit bull mixes inherently dangerous, holding their owners **or anyone with the right to control their presence on the premises liable for damages**, without any showing that such individuals knew -- or should have realized -- that the dog was dangerous. This breed-specific rule is a massive shift in Maryland law, based on little more than fear-based speculation.

It is also unprecedented. While many states have strict liability rules for dog owners, none of these states single out a specific breed, and none extend this liability so far beyond owners as did the Court in this case. While it's obvious that an owner should be responsible for the actions of his or her dog, this principle has never been extended to landlords, veterinarians, kennel owners, and other non-owners who simply failed to "exclude" a dog from certain premises. Moreover, laws dealing with dangerous dogs are typically established by the legislatures, after proper fact finding and hearings, not by the courts.

Families with dogs are already being torn apart because of this ruling, in instances when landlords tell tenants that they must choose between their dog(s) or their home. Thousands more will be harmed as knowledge of the ruling spreads, and as eviction processes take place over the coming weeks and months. On the heels of the unemployment and housing crises which caused so many people to lose their homeownership, this ruling adds insult to injury to families who have just begun to recover as renters.

Once dogs are removed from people's homes, moreover, they will inevitably land at the steps of an already over-stressed animal shelter system where many of them will likely be euthanized. This tragic cycle will not end until the ruling is overturned.

This list of people who could be liable under this ruling is nearly endless and includes municipal and private animal care and control agencies, landlords and property owners, veterinary clinics, boarding facilities, groomers, doggie day care centers, transportation companies, restaurants, animal rescue organizations, and more. The animal sheltering community in Maryland is bracing for a major hit, and their resources – including taxpayer dollars that fund municipal agencies – will be drained as they are forced to deal with the backlash from this case.

Likewise, small business owners who provide services for pets and their owners are already reporting a substantial loss in their business because they are no longer able to accept dogs that could be described as pit bulls or pit bull mixes. In addition to a loss in business, liability insurance may now be more difficult to obtain for business owners who have the authority to control the presence of any dog potentially resembling pit bulls or pit bull mixes on their property.

The Court of Appeals has seriously overstepped its authority by establishing public policy—and bad public policy, at that. The entire decision is misguided, because breed alone is not predictive of whether a dog may pose a danger. Additionally, the Court's decision imposed liability on a huge class of people for damages caused by "pit bulls" or "pit bull mixes," without acknowledging that these terms are hugely subjective and not measurable in any scientific way. Landlords and other business owners have been assigned liability based on their assessment of what a dog looks like, as opposed to behavior or temperament.

According to a recent study by the Maddie's Fund Shelter Medicine Program at the University of Florida, which looked at a group of 120 dogs at four animal shelters, 55 of those dogs were identified as "pit bulls" by shelter staff, but only 25 were confirmed as pit bulls by DNA analysis. In addition, the staff missed identifying 20 percent who were pit bull type dogs by DNA analysis, while only 8 percent of the "true" pit bulls were identified by all staff members. (Even DNA testing is not 100 percent reliable, but it underscores why breed-specific policy is unworkable.)

The court does not make clear what, if any, affirmative duty the landlord or other person has to determine whether a tenant has a pit bull or pit bull mix, nor how the landlord should go about doing so. Many dogs merely resembling the pit bull-type look will be swept up and punished by this ruling, and there may be expensive court battles over whether a dog is or isn't a "pit bull," which refers to a general class of dogs and is not even a recognized breed by any kennel club registry. With as many as 75 percent of shelter dogs being mixed breeds, this is not an anti-pit bull decision, but an anti-dog decision.

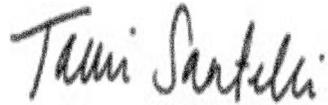
The topic of dangerous dogs and how to adequately protect public safety while treating dogs and dog owners fairly has been much discussed in the General Assembly over the last several sessions. Banning or discriminating against a particular breed is widely understood to be ineffective, and the conversation in Maryland has rightly focused on comprehensive legislation that emphasizes responsible dog ownership. A dramatic shift in the law on this topic should be undertaken by the legislature, not judges.

We understand the agenda for the special session(s) will be limited and the General Assembly has many pressing issues that must be addressed. But the *Tracey v. Solesky* decision will have sweeping and immediate effects on huge numbers of Maryland residents, small business owners, and municipal and

private animal control and sheltering agencies. Overturning it is imperative and waiting until January could result in tragic outcomes—for people and their pets. Please place legislation to overturn this ruling on the agenda for a special session as soon as possible.

Please let me know if you have questions about this ruling. I would welcome the opportunity to speak with you further.

Sincerely,

A handwritten signature in black ink that reads "Tami Santelli". The signature is written in a cursive, flowing style.

Tami Santelli
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