

# **DOG OWNERS DESERVE PUBLIC HOUSING: WHY FLORIDA'S DOG BREED RESTRICTIONS ARE DISCRIMINATORY AND SHOULD BE REPEALED**

MELISSA BETANCOURT\*

## **I. INTRODUCTION: THE HARDSHIPS OF DOG OWNERS DURING THE CURRENT HOUSING CRISIS**

Angelique Grippi had to make the difficult decision that no dog owner should ever have to make: choose between securing a roof over her family's head or keeping her dog, Sissy.<sup>1</sup> Sadly, this everyday reality comes with the current housing crisis.<sup>2</sup> Although some shelters accommodate families in

---

\* *Juris Doctor* Candidate, May 2024, St. Thomas University College of Law. Bachelor of Arts in Criminology and Anthropology, 2016, University of Florida. Member, *St. Thomas Law Review*. I am eternally grateful to my parents, Adelfa and Julio Betancourt, for their unconditional love and support in everything I do. ¡Los quiero mucho! I am indebted to my significant other, Jack Long, for his patience and guidance throughout my law school career. Thank you for being open to adopting our own Pit Bull—Supra—in the future. Finally, I am obliged to the St. Thomas Law Review editorial staff for their time and efforts in preparing my Comment for publication.

<sup>1</sup> See Meghan McRoberts, *Pets Being 'Priced Out' of Paradise: Bill Aims to Prevent Surrender of Pets Due to Housing Crisis*, WPTV, <https://www.wptv.com/news/state/pets-being-priced-out-of-paradise-bill-aims-to-prevent-surrender-of-pets-due-to-housing-crisis> (last updated Feb. 12, 2022, 12:10 AM) (“[I am] starting to tear up just thinking about it because she is my shadow . . . I just think about her wondering where we are.”); see also USA: *Help Keep Pets and Families Together*, BEST FRIENDS, <https://bestfriends.org/advocacy-alerts/usa-help-keep-pets-and-families-together> (last visited Nov. 21, 2022) (“Breed-specific restrictions target low-income pet owners who should not be forced to choose between a well-behaved pet and keeping a roof over their head.”).

<sup>2</sup> See McRoberts, *supra* note 1 (explaining that those helping people find affordable housing have seen clients moving out of state to remain with their pets or, unfortunately, surrendering their pets instead); see also John Barron, *Housing Crisis Takes Toll on Pet Owners*, FOX 4, <https://www.fox4now.com/news/local-news/lee-county/housing-crisis-takes-toll-on-pet-owners> (last updated July 26, 2022, 5:15 AM) (explaining how factors such as the bad economy, breed or weight restrictions, and no-pets clauses have resulted in owners giving up their pets to overcrowded

housing limbo, most dog owners cannot keep their dogs due to public housing restrictions.<sup>3</sup>

“For millions of Americans, pets are cherished members of their families. But far too often, pet owners are forced to make impossible choices between their beloved companions and secure housing due to overly broad restrictions on dog breeds that [do not] make communities safer.”<sup>4</sup> Florida is one of approximately twenty-two states that prohibit local governments from enacting breed-specific ordinances.<sup>5</sup> However, due to the 1990 grandfather provision, Miami-Dade County and the City of Sunrise are the only two local governments in Florida with breed-specific ordinances in effect.<sup>6</sup>

The COVID-19 pandemic caused a spike in the number of pet adoptions.<sup>7</sup> Yet, the pandemic also caused significant economic hardships, such as

shelters).

<sup>3</sup> See McRoberts, *supra* note 1 (describing how Ms. Grippi dropped off Sissy at the Humane Society and is now looking for a different housing option to get her back); see also Claire Farrow, *Florida Bill to Repeal Pit Bull Bans Fails in Legislature*, WTSP, <https://www.wtsp.com/article/news/politics/florida-pit-bull-ban-repeal-fails/67-aaea4984-ed2d-4d91-85fb-1588582f7c74> (last updated Mar. 15, 2022, 7:35 PM) (“What we did see was during COVID, a huge uptick of our shelters in Miami-Dade . . . We just could not handle the amount of animals that were coming in because people were transitioning to public housing.”).

<sup>4</sup> Schiff, Fitzpatrick, Underwood, *Bush Introduce Legislation to Keep Families and Pets Together in Public Housing*, ADAM SCHIFF (Nov. 2, 2021), <https://schiff.house.gov/news/press-releases/schiff-fitzpatrick-underwood-bush-introduce-legislation-to-keep-families-and-pets-together-in-public-housing> [hereinafter *Schiff*] (explaining why his introduced bill would benefit pet owners who currently have to choose between affordable housing or their beloved dog); see Jesse Rifkin, *Pets Belong with Families Act Would Prohibit Bans on Certain Dog Breeds Like Pit Bulls or Rottweilers In Public Housing*, GOVTRACK INSIDER (Nov. 19, 2021), <https://govtrackinsider.com/pets-belong-with-families-act-would-prohibit-bans-on-certain-dog-breeds-like-pit-bulls-or-6262850f86f> (quoting Brooke Binkowski about attacks increasing in some places where dog breed bans have been enacted).

<sup>5</sup> See Rebecca F. Wisch, *Overview of States That Prohibit Breed-Specific Legislation by State Law*, ANIMAL LEGAL & HIST. CTR. (2022), <https://www.animallaw.info/article/overview-states-prohibit-bsl> (explaining that breed-specific laws are currently divided by ten states that prohibit breed-specific legislation in all animal regulations and sixteen states that prohibit breed-specific legislation in dangerous/vicious dog laws, with three states having both types of laws); see also *What Is Breed-Specific Legislation*, ASPCA, <https://www.asPCA.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited Nov. 21, 2022) [hereinafter *Breed-Specific Legislation*] (showing which states have a breed-specific law as of Apr. 1, 2020).

<sup>6</sup> See *Breed-Specific Legislation*, *supra* note 5 (showing that ordinances adopted prior to Oct. 1, 1990, are grandfathered under Florida’s breed-specific law); see also *Bill Analysis and Fiscal Impact Statement*, THE FLA. SENATE 3 (Feb. 9, 2022), <https://www.flsenate.gov/Session/Bill/2022/614/Analyses/2022s00614.pre.ag.PDF> [hereinafter *Bill Analysis*] (“Current law authorizes local governments to place further restrictions and additional requirements on owners of dogs that have bitten or attacked persons or domestic animals. However, no local regulation may be breed-specific . . . unless the regulation was adopted prior to October 1, 1990.”).

<sup>7</sup> See *New ASPCA Survey Shows Overwhelming Majority of Dogs and Cats Acquired During the Pandemic Are Still in Their Homes*, ASPCA (May 26, 2021), <https://www.asPCA.org/about-us/press->

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

unemployment, resulting in the inability to pay rent or mortgage.<sup>8</sup> As a result, some families made the heartbreaking decision of surrendering their pet to meet public housing restrictions.<sup>9</sup>

This Comment analyzes why dog breed restrictions are discriminatory and ineffective, and how responsible dog owners throughout Florida lack access to inclusive public housing laws.<sup>10</sup> Part II provides background on the breed-specific ordinances in Florida<sup>11</sup> and Public Housing Authorities, including history and definitions.<sup>12</sup> Part III discusses why breed-specific legislations are

---

releases/new-aspca-survey-shows-overwhelming-majority-dogs-and-cats-acquired-during (explaining that one in five, or about 23 million, households adopted a pet during COVID-19); *see also ASPCA Pandemic Pet Ownership Survey*, ASPCA (May 26, 2021), <https://aspca.app.box.com/s/v4t7yrwalwk39mf71a857ivqoxnv2x3d> (showing that 87% of pet adopters would not consider rehoming their pet in the near future, despite 15% of surveyors being concerned about not being able to stay in their homes).

<sup>8</sup> *See Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships*, CPBB, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and> (last visited Nov. 21, 2022) (explaining that in 2021, nearly 10 million households were behind on rent due to the COVID-19 pandemic); *see also* Abby Vesoulis, *Millions of Tenants Behind on Rent, Small Landlords Struggling, Evictions Moratoriums Expiring Soon: Inside the Next Housing Crisis*, TIME (Feb. 18, 2021, 5:29 AM), <https://time.com/5940505/housing-crisis-2021/> (“Nearly 12 million U.S. renters were expected to owe an average of almost \$6,000 in late rent and utility payments per household by January, according to a December [2020] analysis by the economic research firm Moody’s Analytics.”).

<sup>9</sup> *See* McRoberts, *supra* note 1 (explaining that housing changes and struggles are the main reason why people surrender pets, resulting in overcrowding of shelters and increasing euthanasia rates); *see also* Libby Hendren, *Florida Could Eliminate Breed-Specific Dog Bans*, WTSP (Feb. 7, 2022, 6:20 PM), <https://www.wtsp.com/article/life/animals/florida-bill-eliminate-dog-breed-bans/67-7576d152-8da2-4b8c-afd4-c5cdfbaf1921> (“Because of 2020, a lot of families were forced to go into [PHAs], public housing in general. They had to leave their dogs behind because they had no choice.”).

<sup>10</sup> *See The Real Impact of Dog Breed Restrictions and How We Can End Them*, ANIMAL FARM FOUND (Feb. 23, 2022), <https://www.animalfarmfoundation.org/breed-restrictions-give-opportunity-to-discrimination/> [hereinafter *Real Impact*] (“There is no data that justifies targeting dog owners who have never had a dog bite claim. The lack of valid data is why lawmakers in several states have banned these restrictions because they directly contribute to housing inequality.”); *see also* Keith R. Higgons, *The Racism Behind Breed Specific Legislation*, MEDIUM (June 22, 2020), <https://medium.com/etc-magazine/the-inherent-racism-behind-breed-specific-legislation-7e3d6d1981fb> (“[BSL is] used to exclude people of color from housing . . . [is] cruel and ineffective to both pet and owner, and worst of all [it is] specifically used to target and marginalize Black and Brown people . . .”).

<sup>11</sup> *See infra* Part II (providing relevant background on Florida’s breed-specific ordinances); *see also* FLA. STAT. § 767 (2022) (outlining Florida’s “Dangerous Dog” Law by defining a “dangerous” dog, the process for classification of “dangerous” dogs, the confinement of the animal, exemptions, and the dog owner’s liabilities); *see also* MIAMI-DADE COUNTY, FLA., Ch. 5, § 5–17 (2022) (defining in a vague manner what constitutes a “Pit Bull” dog and describes the penalties incurred to those who break this ordinance by owning a “Pit Bull” dog in Miami-Dade County).

<sup>12</sup> *See infra* Part II (providing relevant background on Public Housing Authorities); *see also Bill Analysis, supra* note 6, at 5 (explaining how some public housing agencies include policy provision prohibiting certain dog breeds despite the definition of Florida’s “Dangerous Dog” Law not

ineffective, and Florida's recent attempts to eliminate them.<sup>13</sup> Part IV considers three solutions to trump over Florida's dog breed restrictions and aid dog owners during the current housing crisis.<sup>14</sup> Lastly, Part V will summarize and conclude the analysis throughout the Comment.<sup>15</sup>

## II. BACKGROUND: FLORIDA'S BREED-SPECIFIC ORDINANCES AND PUBLIC HOUSING AUTHORITIES

### A. HISTORY OF FLORIDA'S BREED-SPECIFIC ORDINANCES

Pit Bulls trace back to the 1800s where they were bred from Old English Bulldogs.<sup>16</sup> The Pit Bull breed experienced a history of "ratting" and dog-fighting in the United Kingdom.<sup>17</sup> Once the Pit Bull arrived in the United States, the breed was responsible for herding farm animals, guarding families, and

---

uniformly applying to all public housing agency policies); *see also Overview of Federal Housing Assistance Programs and Policy*, CRS, <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last updated Mar. 27, 2019) [hereinafter *Federal Housing*] (providing the history and evolution of federal housing assistance policy and public housing).

<sup>13</sup> *See infra* Part III (discussing BSL's ineffectiveness, Florida's Senate Bill 614, and Florida's House Bill 721); *see also* Susan Clary, *Pit-Bull Blood Money: Why Breed-Specific Bans Don't Work*, FLAGLERLIVE (Feb. 18, 2022), <https://flaglerlive.com/34422/pit-bull-bans-gc/> ("The U.S. Centers for Disease Control discourages such bans because of the inaccuracy in dog-bite data, the difficulty in identify dog breeds and the endless, needless slaughter."); *see also* Farrow, *supra* note 3 (showing that the House Bill 721 did not move forward despite the Senate's unanimous vote and how disappointed supporters of the bill are).

<sup>14</sup> *See infra* Part IV (elaborating on three proposed solutions to Florida's dog breed restrictions); *see also BSL Continues to Crumble*, PITBULL INFO, <https://www.pitbullinfo.org/bsl-continues-to-crumble.html> (last updated Sept. 22, 2022) ("[D]og bans and BSL have become exceedingly unpopular as the majority of people favor equitable and more effective breed-neutral policies over discriminatory and ineffective appearance-based policies for public safety."); *see also Support the Pets Belong with Families Act to Keep Pets and People Together*, ASPCA (Nov. 8, 2021), <https://www.asPCA.org/news/support-pets-belong-families-act-keep-pets-and-people-together> [hereinafter *Support the Act*] (explaining how the new bill would remove restrictions on pets in public housing to guarantee that housing is available to eligible families in need regardless of their pet's breed or size).

<sup>15</sup> *See infra* Part V (concluding on the Comment's analysis).

<sup>16</sup> *See The History of Pit Bulls*, LOVE-A-BULL, <https://love-a-bull.org/resources/the-history-of-pit-bulls/> (last visited Nov. 21, 2022) (explaining that Pit Bulls were cruelly used for "bull baiting" where they would harass a bull for hours to entertain the struggling classes); *see also The Truth About Pit Bulls*, RESCUE COFFEE (Feb. 11, 2019), <https://rescuecoffeeco.com/blogs/rescue-coffee-blog/pit-bulls> ("Traced back to the early 1800s in the United Kingdom, Pit Bulls were originally bred from Old English Bulldogs for a cruel blood sport known as 'bull baiting.'").

<sup>17</sup> *See The History of Pit Bulls*, *supra* note 16 (explaining that the "pit" in Pit Bull comes from the practice of "ratting" where rats were placed into a pit and dogs would compete by attempting to kill the most rats in the least amount of time); *see also The Truth About Pit Bulls*, *supra* note 16 ("[I]n 1835 the British Parliament enacted the Cruelty to Animals Act, putting a spotlight on the underground sport of dog fighting to the public.").

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

helping on hunting trips.<sup>18</sup> During WWI and WWII, Pit Bulls were used as the nation's mascot due to their bravery and loyalty.<sup>19</sup> However, their reputation was tarnished in the 1980s due to the reemergence of dogfighting.<sup>20</sup>

In 1987, Time Magazine released a cover story titled "The Pit Bull Friend and Killer."<sup>21</sup> In the same year, Sports Illustrated released an issue called "Beware of This Dog," picturing a Pit Bull with its mouth open and teeth baring.<sup>22</sup> The media's power played a major role in sensationalizing Pit Bull accidents and statistics during a time when breed-specific legislation was being reformed.<sup>23</sup>

Ultimately, in 1989, the media covered their "golden story" when a seven-year-old girl named Melissa Moreira was attacked by a neighbor's dog in Miami.<sup>24</sup> The neighbor was allegedly involved in dog fights, and therefore kept

<sup>18</sup> See *The History of Pit Bulls*, *supra* note 16 ("Their loyal and loving demeanor with humans, especially children . . . earned them a prominent place not only as a working dog but as a companion."); see also *The Truth About Pit Bulls*, *supra* note 16 ("Though these dogs had been specifically bred for fighting, in early America, these frontier dogs took on an all-purpose role.").

<sup>19</sup> See *The History of Pit Bulls*, *supra* note 16 (explaining how Sergeant Stubby, a Pit Bull, is the most decorated war dog and the only one to be nominated for rank and promoted to sergeant); see also *The Truth About Pit Bulls*, *supra* note 16 ("The USA admired this breed for qualities that it likened in itself: friendly, brave, hardworking and worthy of respect, thus earning them the title of the 'All American Dog.'").

<sup>20</sup> See *The History of Pit Bulls*, *supra* note 16 (explaining how people began to seek Pit Bulls to fight in underground fighting rings, and as a result, Pit Bulls were associated with poverty and crime); see also *The Truth About Pit Bulls*, *supra* note 16 (describing how Pit Bulls were viewed as a money-making commodity once dogfighting reemerged in the 1980s).

<sup>21</sup> See *The History of Pit Bulls*, *supra* note 16 ("While there is no defining moment in which to point to and say 'here is where it all went wrong', many trace the turning point to 1987 in which a Time Magazine cover story was titled 'The Pit Bull Friend and Killer.'"); see also E.M. Swift, *The Pit Bull Friend and Killer*, VAULT (July 27, 1987), <https://vault.si.com/vault/1987/07/27/the-pit-bull-friend-and-killer-is-the-pit-bull-a-fine-animal-as-its-admirers-claim-or-is-it-a-vicious-dog-unfit-for-society> (describing different fatal attacks by Pit Bulls and noting that at least thirty-five communities considered banning Pit Bulls within their city limits).

<sup>22</sup> See *Pit Bulls – The Making of the Myth*, AUSTIN PETS ALIVE (Nov. 16, 2019), <https://www.austinpetsalive.org/blog/pit-bulls-the-making-of-the-myth> ("The lengthy article inside the magazine gave lip service to the abusive 'sport' of dog fighting, while alternately portraying the Pit [B]ull as vicious and unpredictable."); see also *Beware of this Dog*, SPORTS ILLUSTRATED COVERS, <https://sicovers.com/featured/beware-of-this-dog-pit-bull-terrier-july-27-1987-sports-illustrated-cover.html> (last visited Nov. 21, 2022) (displaying the magazine cover photograph).

<sup>23</sup> See *The History of Pit Bulls*, *supra* note 16 ("The media portrayal and demonization of the Pit Bull paved a perfect path for the onset of breed-specific legislation."); see also Swift, *supra* note 21 (noting that at least thirty-five communities considered banning Pit Bulls within their city limits).

<sup>24</sup> See Tim Elfrink, *Dog Fight*, MIA. NEW TIMES (May 21, 2009), <https://www.miaminew-times.com/news/dog-fight-6365891> ("Back in February 1989, a [seven]-year-old girl named Melissa Moreira was walking home on SW 18<sup>th</sup> Terrace near FIU after a night of shopping with her family when a neighbor's [P]it [B]ull ran at her and leapt."); see also *Wounds Still Fresh for Mom of Pit Bull Attack Victim*, FOUR LEGGED FRIENDS & ENEMIES (Feb. 26, 2012), <http://four-leggedfriendsandenemies.blogspot.com/2012/02/wounds-still-fresh-for-mom-of-pit-bull.html>

several “Pit Bulls” penned in his unfenced backyard.<sup>25</sup> On the day of the attack, one of the dogs escaped the backyard pen, and knocked Melissa over.<sup>26</sup> The dog tore the girl’s face and bit her other family members before a neighbor shot the dog four times.<sup>27</sup> Melissa endured injuries requiring eight reconstructive surgeries.<sup>28</sup>

Due to the media and irresponsible owners, this accident led to Miami-Dade banning all Pit Bulls.<sup>29</sup> In 1989, Metro-Dade Commissioner Joe Gersten sponsored his Pit Bull ban bill, which passed unanimously.<sup>30</sup> The ordinance prohibits the sale, purchase, or breeding of new Pit Bulls in Miami-Dade County.<sup>31</sup>

---

[hereinafter *Fresh Wounds*] (recalling how one of the neighbor’s fighting dogs escaped the backyard and attacked Melissa without warning).

<sup>25</sup> See *Fresh Wounds*, *supra* note 24 (describing how the mother and husband never confronted the neighbor as, “[s]omeone embedded in the savage, violent culture of dog fighting does not invite confrontation.”); see also *Miami Ban on Pit Bulls May Come to An End*, DOGTIME, <https://dogtime.com/trending/16012-miami-ban-on-pit-bulls-may-come-to-an-end> (last visited Nov. 21, 2022) [hereinafter *Potential End*] (“[Seven]-year-old Melissa Moreira was attacked by a dog who bore resemblance to a Pit Bull.”).

<sup>26</sup> See Elfrink, *supra* note 24 (describing how the neighbor’s Pit Bull ran at Melissa and leapt); see also *Fresh Wounds*, *supra* note 24 (recalling how the dog knocked her daughter over and “ripped” at her head).

<sup>27</sup> See Elfrink, *supra* note 24 (“The dog tore apart the girl’s face and arms as she screamed. It then savaged her mother and grandmother before a neighbor shot it four times in the head.”); see also *Fresh Wounds*, *supra* note 24 (“Nothing deters the dog until [the mother] throws a canvas car cover over the frenzied animal. Then a neighbor, running up with a pistol, shoots the dog four time before killing it.”).

<sup>28</sup> See *Potential End*, *supra* note 25 (“Moreira’s face was severely injured, the skin torn back to the bone in places. Her injuries required eight reconstructive surgeries, the story of her attack making headlines across the country.”); see also *Fresh Wounds*, *supra* note 24 (“Melissa, covered in blood and dog saliva, has lost her lower lip. Her face seems to have been nearly ripped away from her skull. As they rush her inside the house, pieces of her scalp fall to the floor. Both arms had been savaged.”).

<sup>29</sup> See Elfrink, *supra* note 24 (“Soon after that attack, Miami-Dade banned all [P]it [B]ulls. It was probably the first such countywide measure in the nation. Since then, thousands of the breed have been killed . . .”); see also *Potential End*, *supra* note 25 (“The Miami-Dade County, Fla., ban was first initiated in 1989, after then [seven]-year-old Melissa Moreira was attacked by a dog . . .”).

<sup>30</sup> See Luisa Yanez, *Dade Oks Ban on New Pit Bulls in Emotional Vote*, S. FLA. SUN-SENTINEL (Apr. 5, 1989, 12:00 AM), <https://www.sun-sentinel.com/news/fl-xpm-1989-04-05-8901180008-story.html> (“In a 6-0 vote, the commission, which heard five hours of emotional testimony at a public hearing, decided to ban the stocky, powerfully jawed dogs and impose strict guidelines on current owners.”); see also Jesse Scheckner, *Pit Bull Repeal Ordinance Pulled By Sponsor Just One Day Before Its Hearing*, MIA.’S CMTY. NEWS (Nov. 11, 2016), <https://communitynewspapers.com/coral-gables-news/pit-bull-ban-repeal-sides-issue-make-strong-cases> (explaining how former County Commission Joe Gersten championed the Pit Bull ban ordinance two months after Melissa Moreira’s accident).

<sup>31</sup> See Yanez, *supra* note 30 (explaining how Pit Bulls that were acquired before the ordinance had to be registered, kept on leashes and muzzles while walked, kept confined to pens with a “dangerous dog” warning while not walked, remained at least fifty feet away from public schools, and obtained liability insurance of \$300,000 or risked receiving a fine); see also MIAMI-DADE COUNTY, FLA.,

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

While Florida does not ban any dog breeds at a state level, local ordinances—such as the one in Miami-Dade—were grandfathered in once Florida’s “Dangerous Dog” Law passed.<sup>32</sup>

## B. PURPOSE OF FLORIDA’S BREED-SPECIFIC ORDINANCES

Although Florida does not ban any specific breed, it does impose restrictions on “dangerous dogs.”<sup>33</sup> Legislators believe these dogs are “an increasingly serious and widespread threat to the safety and welfare of the people of [Florida] because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs.”<sup>34</sup> Further, Legislators believe “that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of dangerous dogs.”<sup>35</sup> Unfortunately, the vagueness and subjectiveness of this law has caused many innocent dogs to lose their lives in the name of public safety.<sup>36</sup>

---

Ch. 5, § 17.6(b) (2022) (demonstrating how, to date, it is still illegal for Miami Dade residents to own or keep a Pit Bull).

<sup>32</sup> See FLA. STAT. § 767.14 (2022) (“[D]oes not limit any local government from adopting an ordinance to address the safety and welfare concerns caused by attacks . . . provided that no such regulation is specific to breed . . . does not apply to any local ordinance adopted prior to October 1, 1990.”); see also *Potential End*, *supra* note 25 (explaining how breed bans are prohibited in Florida, yet the Pit Bull ban was grandfathered in Miami-Dade after the state voted to outlaw Breed-Specific Legislation).

<sup>33</sup> See § 767.10–16 (outlining the state’s “Dangerous Dog” provisions, originally enacted in 1990); see also *Bill Analysis*, *supra* note 6, at 5 (providing background on Florida’s “Dangerous Dog” Law and definitions).

<sup>34</sup> See § 767.10 (explaining the legislative intent of public safety behind the enactment of this law in 1990); see also *Dog Bites in Florida*, GORDON & PARTNERS, <https://www.fortheinjured.com/west-palm-beach/dog-bite-lawyers/florida-laws> (last visited Nov. 21, 2022) (explaining that Florida’s Dangerous Dog Law is an important statute within Florida’s dog bite laws because it protects the public from dangerous dogs).

<sup>35</sup> See § 767.10 (explaining the legislative intent of public safety behind the enactment of this law in 1990); see also Don Pumphrey Jr., *The Dog Bite Law & Dangerous Dog Statute in Florida*, PUMPHREY L. (Oct. 7, 2021), <https://www.pumphreylawfirm.com/blog/the-dog-bite-law-dangerous-dog-statute-in-florida/> (explaining that if a dog has been classified as a “dangerous dog” and subsequently bites a person or a domestic animal, the owner of the “dangerous dog” can be found guilty of a misdemeanor of the first degree).

<sup>36</sup> See Sascha Cordner, *Bill Making Changes to Florida’s Dog Bite Law Passes First House Panel*, WFSU (Oct. 9, 2015, 6:35 PM), <https://news.wfsu.org/state-news/2015-10-09/bill-making-changes-to-floridas-dog-bite-law-passes-first-house-panel> (explaining how Florida allows “dangerous dogs” to be euthanized); see also R. Scott Nolen, *The Dangerous Dog Debate*, AVMA (Nov. 1, 2017), <https://www.avma.org/javma-news/2017-11-15/dangerous-dog-debate> (“Researchers in a Canada-wide study published in 2013 found no difference between the number of dog bites in municipalities with and without breed-specific legislation.”).

## C. FLORIDA'S BREED-SPECIFIC ORDINANCES DEFINITIONS

A “dangerous dog” is defined as a dog that has: (1) aggressively bitten, attacked, endangered, or inflicted severe injury<sup>37</sup> on a human being; (2) on two or more occasions severely injured or killed a domestic animal outside their owner’s<sup>38</sup> property; or (3) while unprovoked,<sup>39</sup> chased or approached a person in public in a manner foreshadowing an attack, provided that at least one witness can attest to the action in a sworn statement before an investigation is conducted.<sup>40</sup>

A dog will not be declared “dangerous” if: (1) the threat, injury, or damage occurred while the person was trespassing on the owner’s property; (2) the person was lawfully on the owner’s property but was tormenting, abusing, or assaulting the dog, owner, or family member; or (3) the dog was protecting or defending a person from an unjustified attack or assault.<sup>41</sup>

In Miami-Dade, a “Pit Bull” is defined as any dog which exhibits characteristics that: (1) substantially conform to the standards established by the American Kennel Club for American Staffordshire Terriers or Staffordshire

<sup>37</sup> See § 767.11(3) (“‘Severe injury’ means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.”); see also Brandon Dog Bite Attorneys, *Common Dog Bite Injuries*, BOOHOFF L., <https://www.boohofflaw.com/brandon-dog-bite-attorney> (last visited Nov. 21, 2022) (“Lacerations are deep tears into the skin deep within the epidermis and the muscles and nerves. Crossed patterns and excessive bleeding characterize these wounds.”).

<sup>38</sup> See § 767.11(7) (“‘Owner’ means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of [eighteen], that person’s parent or guardian.”); see also *Dog Bites in Florida*, *supra* note 34 (“[I]f the owner of a dangerous dog has proper warning signs and precautions in place, they most likely will not be held liable for any damages. However, the victim may still have grounds to file a claim depending on other circumstances.”).

<sup>39</sup> See § 767.11(2) (“‘Unprovoked’ means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.”); see also *Dog Bites in Florida*, *supra* note 34 (“In situations where the victim had some fault in the attack—such as if they provoked the dog—the damages will be reduced by the percentage of fault attributed to the victim.”).

<sup>40</sup> See § 767.11(1) (defining a “dangerous dog” as used in Florida’s “Dangerous Dog” Law); see also *What to Do After You Were Bitten & Injured By Someone Else’s Dog in Florida*, THE FLA. L. GRP., <https://www.thefloridalawgroup.com/news-resources/what-to-do-after-you-were-bitten-injured-by-someone-elses-dog-in-florida> (last visited Nov. 21, 2022) [hereinafter *Dog Bite Guide*] (explaining that Florida is a strict liability state, meaning that dog owners are completely responsible for their dog’s bites, even if the owner does not have reason to suspect their dog would bite).

<sup>41</sup> See § 767.12(2) (explaining the exceptions to Florida’s “Dangerous Dog” Law); see also *Dog Bites in Florida*, *supra* note 34 (“If the owner of a dangerous dog has proper warning signs and precautions in place, they most likely will not be held liable for any damages. However, the victim may still have grounds to file a claim depending on other circumstances.”); see also *Dog Bite Guide*, *supra* note 40 (explaining that there are three potential defenses, or exceptions, to Florida’s strict dog bite liability).



2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

Bull Terriers;<sup>42</sup> (2) substantially conform to the standards established by the United Kennel Club for American Pit Bull Terriers;<sup>43</sup> or (3) veterinarians, zoologists, animal behaviorists, or animal control officers<sup>44</sup> testify are distinguishing physical characteristics of a Pit Bull, which establishes a rebuttable presumption.<sup>45</sup>

## D. FLORIDA’S PROCESS FOR CLASSIFYING DOGS AS DANGEROUS

Animal control officers investigate reported incidents involving dogs.<sup>46</sup> A dog may be immediately confiscated by animal control, placed in quarantine, or impounded and held if it is the subject of a dangerous dog investigation due to a severe injury to a human being.<sup>47</sup> A dog that is being investigated, but not impounded, must be confined by its owner in a securely enclosed area while the investigation is ongoing.<sup>48</sup> Once the investigation ends, the animal control

<sup>42</sup> See MIAMI-DADE COUNTY, FLA., Ch. 5, § 5–17.1 (2022) (describing how Pit Bulls are defined based on the physical appearance of an American Staffordshire Terrier or Staffordshire Bull Terrier); see also *American Staffordshire Terrier*, AKC, <https://www.akc.org/dog-breeds/american-staffordshire-terrier> (last visited Nov. 21, 2022) (describing the breed as stocky with a broad head, well-defined jaw, pronounced cheekbones, and set apart eyes).

<sup>43</sup> See § 5–17.1 (describing how Pit Bulls are defined based on the physical appearance of an American Pit Bull Terrier); see also *American Pit Bull Terrier*, UKC, <https://www.ukcdogs.com/american-pit-bull-terrier> (last visited Nov. 21, 2022) (describing the breed as medium-sized, solidly built, short-coated, powerful, with a deep muzzle, and flat skull).

<sup>44</sup> See § 5–17.1 (relying on “animal experts” which results in subjectivity); see also § 5–1 (“‘Animal Control Officer’ means a person employed by the Department . . . authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty, to issue citations for violations of this chapter, and to assist in criminal investigations relating to animal control or cruelty.”).

<sup>45</sup> See § 5–17.1 (listing the characteristics that define a Pit Bull dog in Miami Dade County); see also Maureen Finn, *Staffordshire Bull Terrier v. Pit Bull: What’s the Difference?*, ROVER, <https://www.rover.com/blog/staffordshire-bull-terrier-vs-pit-bull-whats-the-difference> (last visited Nov. 21, 2022) (“[T]he Pit Bull [is not] technically a breed . . . rather, [it is] basically a catch-all-term for many of the so-called bully breeds such as the American Staffordshire Terrier, American Pit Bull Terrier, American Bully, American Bulldog, and even the Staffordshire Bull Terrier.”).

<sup>46</sup> See FLA. STAT. § 767.12(1) (2022) (explaining that the dog’s owner should be interviewed, and a sworn affidavit should be required from anyone seeking to have the dog classified as dangerous); see also *Pumphrey*, *supra* note 35 (explaining that local animal control authority ultimately makes the determination of whether a dog is a “dangerous” dog or not).

<sup>47</sup> See § 767.12(1)(a) (explaining that a dog may not be “destroyed” while an appeal is pending, and that the owner is held liable for paying all boarding costs and fees that may be required to keep the dog during any hearing or appeal); see also *What To Do If Your Dog Is In Danger Of Being Declared Vicious, Or If Your Dog Has Bitten Someone Who Is Now Suing You*, ALDF, <https://aldf.org/article/what-to-do-if-your-dog-is-in-danger-of-being-declared-vicious-or-if-your-dog-has-bitten-someone-who-is-now-suing-you> (last visited Nov. 21, 2022) (explaining that a dog accused of an attack may be placed on a “bite hold” at a local shelter).

<sup>48</sup> See § 767.12(1)(b) (explaining that the confined dog cannot be relocated from the address that is provided to the animal control officer, nor can ownership of the dog be transferred to another person pending the outcome of the hearing or appeal); see also *Bill Analysis*, *supra* note 6, at 2 (“A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority

officer must initially determine whether there is sufficient cause to classify the dog as dangerous.<sup>49</sup> If so, the owner must be allowed to a hearing before a final classification or penalty is determined.<sup>50</sup>

Once a dog is ultimately classified as dangerous, the owner must abide by certain responsibilities including registering the dog,<sup>51</sup> restraining the dog from possibly escaping,<sup>52</sup> and creating a permanent identification on the dog.<sup>53</sup> If a dangerous dog is sold or given away, the new owner must comply with these requirements.<sup>54</sup>

If a classified dangerous dog attacks or bites another person, the owner is guilty of a misdemeanor of the first degree.<sup>55</sup> Similarly, if a classified dangerous

---

must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.”).

<sup>49</sup> See § 767.12(3) (“The animal control authority shall provide written notification of the sufficient cause finding and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformance with the provisions of [C]hapter 48 relating to service of process.”); see also *Dog Bites in Florida*, *supra* note 34 (demonstrating that dog owners can be held civilly and criminally responsible for injuries caused by their “dangerous” dog).

<sup>50</sup> See § 767.12(1)(b) (explaining that the owner may file a written request for a hearing within seven calendar days after receipt of the notice and that the hearing is held no later than twenty-one calendar days but no sooner than five days after receipt of the request from the owner); see also *Bill Analysis*, *supra* note 6, at 3 (“If a hearing is not timely requested, the authority’s determination becomes final.”).

<sup>51</sup> See § 767.12(5)(a)(1)(a) (explaining that the owner must obtain an annual certificate of registration from its local animal control authority within fourteen days of the final order, and obtain a current certificate of rabies vaccination for the dog); see also *Florida Legislature Passes New Dog Bite Law*, THE ST PETE LAW., <https://www.thestpetelawyer.com/news/florida-legislature-passes-new-dog-bite-law> (last visited Nov. 21, 2022) [hereinafter *New Dog Bite Law*] (“The dog owners must register their dogs with the state and immediately report if the dog goes missing.”).

<sup>52</sup> See § 767.12(5)(a)(1)(b) (“A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property.”); see also *New Dog Bite Law*, *supra* note 51 (explaining that the dog owner must restrain its dog at all times and post warning signs throughout their property’s entry points).

<sup>53</sup> See § 767.12(5)(a)(1)(c) (“Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.”); see also *New Dog Bite Law*, *supra* note 51 (“The dog must also be tattooed or implanted with a chip to identify it as a dangerous dog.”).

<sup>54</sup> See § 767.12(5)(a)(2) (“[T]he owner shall provide the name, address, and telephone number of the new owner to the animal control authority . . . must comply with all of the requirements of this section and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state.”); see also *Dog Bites in Florida*, *supra* note 34 (explaining that a dangerous dog must wear a muzzle and kept restrained with a leash or harness when taken off its owner’s property).

<sup>55</sup> See § 767.13(1) (explaining how the dangerous dog is immediately confiscated by an animal control authority, placed in quarantine, or impounded and held for ten business days after the owner is given written notification before it is euthanized); see also *New Dog Bite Law*, *supra* note 51 (“If a dangerous dog attacks another person, the dog owner must not only pay civil fines, but may also be guilty of criminal misdemeanors and felonies depending on the severity of the injury.”).

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

dog causes severe injury or death to a person, the owner is guilty of a felony of the third degree.<sup>56</sup> In both scenarios, the dog is immediately confiscated by an animal control authority and is placed in quarantine or impounded before being “destroyed in an expeditious and humane manner.”<sup>57</sup>

#### E. HISTORY OF PUBLIC HOUSING AUTHORITIES

In the 1930s, the federal government created programs to provide housing for lower-income households, including the Homeowner’s Loan Corporation.<sup>58</sup> The National Housing Act of 1934 created the Federal Housing Administration that insured banks and mortgage companies, and encouraged the construction of new homes or repairing of existing buildings.<sup>59</sup> To alleviate social and economic disparity, the Wagner-Steagall Housing Act was signed into law in

---

<sup>56</sup> See § 767.13(2) (explaining how the dangerous dog is immediately confiscated by an animal control authority, placed in quarantine, or impounded and held for ten business days after the owner is given written notification before it is euthanized); see also *New Dog Bite Law*, *supra* note 51 (“Even if a dog had not been previously declared dangerous, if an attack results in severe injury or death to a human, the dog must be confiscated and euthanized following [ten] days’ notice to the owner.”).

<sup>57</sup> See § 767.13(1) (explaining that the dog’s owner receives a written warning and then has ten business days to request a hearing to appeal the process); see also MIAMI-DADE COUNTY, FLA., Ch. 5, § 5–22(1)(2) (2022) (“The euthanasia determination . . . may be appealed by providing . . . a written request for an administrative hearing . . . If a request for a hearing is received after the expiration of the ten-day impoundment period, the hearing officer shall be precluded from exercising jurisdiction, and the appeal shall be dismissed as untimely.”).

<sup>58</sup> See *Federal Housing*, *supra* note 12 (explaining how at first, the federal government supported the mortgage market and promoted the construction of low-rent public housing for lower-income families through local PHAs); see also *FDR and Housing Legislation*, FDR LIBR. & MUSEUM, <https://www.fdrlibrary.org/housing> (last visited Nov. 21, 2022) (“The Homeowner’s Loan Corporation (HOLC) was created in 1933 to provide mortgage relief to [homeowners] at risk of losing their homes through foreclosure. The HOLC also developed a comprehensive housing plan that served as the basis for the National Housing Act of 1934.”).

<sup>59</sup> See Lisa Thompson, *National Housing Act (1934)*, THE LIVING NEW DEAL (Nov. 18, 2016), <https://livingnewdeal.org/glossary/national-housing-act-1934/> (explaining that the purpose of the National Housing Act was to encourage the improvement of housing standards and conditions while providing a system of mutual mortgage insurance); see also *FDR and Housing Legislation*, *supra* note 58 (“Although the 1934 National Housing Act and the [Federal Housing Administration] met the needs of existing [homeowners] and those Americans financially able to purchase homes, it did little to address the housing needs of the poor, including many African-Americans living in slums.”).

1937.<sup>60</sup> This law established the United States Housing Authority which provided millions in loans for low-cost housing projects across the country.<sup>61</sup>

“Public housing was established to provide decent and safe rental housing for eligible low-income families,<sup>62</sup> the elderly,<sup>63</sup> and persons with disabilities.”<sup>64</sup> To date, public housing developments are typically owned and operated by each state’s Public Housing Authorities (“PHAs”).<sup>65</sup> The PHAs receive funding from the United States Department of Housing and Urban Development

<sup>60</sup> See *FDR and Housing Legislation*, *supra* note 58 (explaining how despite the opposition believing that public housing initiatives were socialistic ideas and only favored larger cities, the bill was fully supported by President Roosevelt as a means to improve modern civilization and the health of future generations); see also Lisa Thompson, *United States Housing Act (1937)*, THE LIVING NEW DEAL (Nov. 18, 2016), <https://livingnewdeal.org/glossary/united-states-housing-act-1937/> (explaining that some of the purposes of the Wagner-Steagall Housing Act was to provide financial assistance to governments for the elimination of unsanitary housing conditions, for the eradication of slums, for the provision of safe dwellings for families of low income, for the reduction of unemployment, for the stimulation of business activity, and to create a United States Housing Authority).

<sup>61</sup> See *FDR and Housing Legislation*, *supra* note 58 (“Under the new law, the USHA acted as a loan granting agency to state and local housing authorities to build low-cost housing in both small and large urban areas. The USHA was empowered to advance loans amounting to 90% of project costs, at low-interest and on [sixty]-year terms.”); see also Thompson, *supra* note 60 (“[The] USHA lent about \$800 million towards the construction of 587 low-rent housing developments, as well as some housing for defense industry workers, creating over 170,000 dwelling units. Tenants were typically expected to pay half the rent, with federal, state, and local governments pitching in the rest.”).

<sup>62</sup> See *HUD’s Public Housing Program*, HUD, [https://www.hud.gov/topics/rental\\_assistance/phprog](https://www.hud.gov/topics/rental_assistance/phprog) (last visited Nov. 21, 2022) (“[The U.S. Department of Housing and Urban Development (“HUD”)] sets the lower income limits at 80% and very low-income limits at 50% of the median income for the county or metropolitan area in which you choose to live.”); see also *Federal Housing*, *supra* note 12, at 10 (explaining that families living in public housing pay 30% of their adjusted income toward rent).

<sup>63</sup> See *Federal Housing*, *supra* note 12, at 13 (explaining that through the Section 202 Supportive Housing for the Elderly program, nonprofit organizations build rental properties for low-income elderly households, where at least one family member is above the age of sixty-two, with funds provided by HUD); see also *Government Assisted Housing Options (HUD) for Aging Seniors*, PAYING FOR SENIOR CARE (Apr. 14, 2009), <https://www.payingforseniorcare.com/resources/hud-section-202> (emphasizing that public housing is not the best option for elders who require accommodating housing and care assistance, though it is a viable option for elders who can live independently).

<sup>64</sup> See *Federal Housing*, *supra* note 12, at 14 (explaining that through the Section 811 Supportive Housing for Persons with Disabilities Program, HUD provided grants to nonprofit organizations to create affordable rental housing to very low-income household with an adult who has a disability); see also *Section 811 Supportive Housing for Persons with Disabilities*, BENEFITS, <https://www.benefits.gov/benefit/5892> (last visited Nov. 21, 2022) (stipulating that an adult with a disability includes a person with either a physical or developmental disability, or a chronic mental illness).

<sup>65</sup> See *Federal Housing*, *supra* note 12 (“Over time, the federal government has shifted away from providing construction-based subsidies toward providing rental subsidies, and private developers and property owners have been playing a larger role.”); see also *HUD’s Public Housing Program*, *supra* note 62 (“[HUD] administers Federal aid to local housing agencies that manage the housing for low-income residents at rents they can afford. HUD furnishes technical and professional assistance in planning, developing, and managing these developments.”).

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

(“HUD”) to pay the difference between what the low-income tenants pay in rent and the costs to maintain public housing.<sup>66</sup> However, some PHAs contract with private management companies that must then operate the development under public housing rules.<sup>67</sup>

In Florida, there are over ninety active HUD-registered PHAs.<sup>68</sup> “PHAs are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body.”<sup>69</sup> PHAs have certain powers including operating<sup>70</sup>, providing<sup>71</sup>, leasing<sup>72</sup>, and investing.<sup>73</sup>

---

<sup>66</sup> See *Federal Housing*, *supra* note 12, at 11 (“PHAs receive operating funds and capital funds through a formula allocation process; operating funds are used for management, administration and day-to-day costs of running a housing development, and capital funds are used for modernization needs.”); see also *Policy Basics: Public Housing*, CBPP (June 16, 2021), <https://www.cbpp.org/research/public-housing> (explaining that PHAs can also obtain funds by applying through Choice Neighborhoods revitalization grants, where the funds are used to demolish and rebuild, or extensively rehabilitate, distressed public housing and replacing it with mixed-income housing).

<sup>67</sup> See *Rules for Tenants in Public and Subsidized Housing*, PEOPLE’S L., <https://www.peoples-law.org/rules-tenants-public-and-subsidized-housing> (last updated Jan. 18, 2022, 5:02 AM) (“At certain public housing developments and in some scattered site/rehabilitation public housing[,] a private management company manages the property for Housing Authority.”); see also *Policy Basics: Public Housing*, *supra* note 66 (explaining that the approximately 2,830 PHAs can also transfer ownership to a private subsidiary or entity).

<sup>68</sup> See *Bill Analysis*, *supra* note 6, at 4 (explaining that of the ninety-nine active HUD-registered PHAs, ninety-one are special districts); see also *PHA Contact Information*, HUD, [https://www.hud.gov/sites/dfiles/PIH/documents/PHA\\_Contact\\_Report\\_FL.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_FL.pdf) (last visited Nov. 21, 2022) (listing ninety-seven active PHAs in Florida by city with their contact information as provided in the system).

<sup>69</sup> See *Bill Analysis*, *supra* note 6, at 4 (“The powers of each authority are vested in housing authority commissioners and action may be taken upon a majority vote of the commissioners.”); see also FLA. STAT. § 421.08(6) (2022) (“[T]o administer fair housing ordinances and other ordinances as adopted by cities, counties, or other authorities who wish to contract for administrative services and to co-operate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems[.]”).

<sup>70</sup> See *Bill Analysis*, *supra* note 6, at 4 (explaining that PHAs have the power to operate housing projects); see also FLA. STAT. § 421.08(2) (“Within its area of operation, to prepare, carry out, acquire, lease, and operate housing projects[.]”).

<sup>71</sup> See *Bill Analysis*, *supra* note 6, at 4 (explaining that PHAs have the power to provide for construction and repairs within the housing units); see also FLA. STAT. § 421.08(2) (“[T]o provide for the construction, reconstruction, improvement, alteration, or repair of any housing project or any part thereof.”).

<sup>72</sup> See *Bill Analysis*, *supra* note 6, at 4 (explaining that PHAs have the power to lease any of the housing units); see also FLA. STAT. § 421.08(4) (“To lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and, subject to the limitations contained in this chapter, to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property[.]”).

<sup>73</sup> See *Bill Analysis*, *supra* note 6, at 4 (explaining that PHAs have the power to invest funds held in sinking funds or reserves); see also FLA. STAT. § 421.08(5) (“To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in

## F. PUBLIC HOUSING AND PET REGULATIONS

Although HUD regulations allow public housing tenants to own “common household pets,”<sup>74</sup> they also enable PHAs to establish reasonable<sup>75</sup> rules and policies restricting the pets allowed.<sup>76</sup> Some PHAs in Florida include pet provisions in their policies that prohibit certain animals or breeds.<sup>77</sup> Nevertheless, a “dangerous dog” is not mentioned in every PHA policy in Florida.<sup>78</sup>

---

which savings banks may legally invest funds subject to their control[.]”).

<sup>74</sup> See *Pet Ownership in Public Housing*, HUD 3 (Dec. 2020), <https://www.hud.gov/sites/dfiles/PIH/documents/PHOGPetOwnership.pdf> (“For the Public Housing program, HUD does not define common household pets but allows PHAs to develop a reasonable definition or otherwise develop reasonable restrictions on the types of common household pets allowed in their rules and policies.”); see also 24 C.F.R. § 5.318(a)(1) (explaining that a PHA may establish a reasonable definition of a common household pet in its pet rules).

<sup>75</sup> See § 960.707(b) (listing some “reasonable” requirements that may be included in the PHAs’ rules such as: paying a non-refundable nominal pet fee; limiting pets by size or weight; paying a refundable pet deposit; prohibiting “dangerous” animals as classified by state and local laws; requiring pet registrations; and requiring spayed or neutered pets); see also HUD, *supra* note 74, at 5 (“Where PHAs have discretion in developing pet rules or policies, they should be reasonably related to furthering a legitimate interest of the PHA, such as protecting and preserving a safe and sanitary living environment for existing and prospective tenants . . . without imposing unnecessary burdens and restrictions on pet owners . . .”).

<sup>76</sup> See *ACOP Development Guide*, HUD EXCHANGE 2 (2022), <https://files.hudexchange.info/resources/documents/ACOP-Guide-Chapter-9-Pet-Ownership.pdf> (“If the PHA opts to not set rules, there must be language in the lease stating that owning and keeping pets will be subject to general obligations imposed in the lease as well as applicable State and local laws.”); see also 24 C.F.R. § 960.707(a) (explaining that a public housing tenant may own one or more common household pet subject to the reasonable requirements of the PHA).

<sup>77</sup> See *Public Housing Agency Plan*, TAMPA HOUS. AUTH. G-15 (2022), <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (“Animals or breeds of animals that are considered by THA to be vicious and/or intimidating will not be allowed . . . [including] reptiles, Rottweiler, Doberman Pinscher, Pit Bulldog, German Shepherd, Chow, and/or any animal that displays vicious behavior.”); see also *Housing Authority of the City of Key West, Florida Admissions & Continued Occupancy Policy*, KEY WEST HOUS. AUTH. 10-3 (2009), [https://www.kwha.org/egov/documents/1614973714\\_73249.pdf](https://www.kwha.org/egov/documents/1614973714_73249.pdf) (“Dog breeds including [Pit Bull], [R]ottweiler, [and] Doberman are considered vicious or intimidating breeds and are not allowed.”).

<sup>78</sup> See *Bill Analysis*, *supra* note 6, at 5 (explaining that under Florida law, the definition of a “dangerous dog” is not uniformly applied in all PHA policies); see also FLA. STAT. § 767.11(1) (2022) (providing the definition of a “Dangerous dog” in Florida).

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

### III. DISCUSSION: BREED SPECIFIC ORDINANCES’ INEFFECTIVENESS AND ATTEMPTS TO BAN THEM IN RECENT LEGISLATION

#### A. BREED-SPECIFIC ORDINANCES ARE INEFFECTIVE AND EXPENSIVE

Breed-specific ordinances discriminate against certain dog breeds; yet, it is nearly impossible to reliably determine a breed simply by looking at a dog.<sup>79</sup> More often than not, bigger dogs are incorrectly classified as “Pit Bulls,” and run the risk of euthanasia.<sup>80</sup> Although DNA testing is more accessible nowadays, it is an expensive and lengthy process that is not required when determining a dog breed.<sup>81</sup>

Statistics show that breed-specific legislations are ineffective in reducing dog bites or deaths.<sup>82</sup> They also do not bear in mind that dogs, regardless of

<sup>79</sup> See *Incorrect Breed Identification*, MADDIE’S FUND (Feb. 2012), <https://www.maddiesfund.org/incorrect-breed-identification.htm> (showing that sixteen staff members at four Florida shelters incorrectly identified fifty-five out of one hundred and twenty dogs as being “Pit Bulls” when DNA tests confirmed that only twenty-five were); see also *Why Breed-Specific Legislation is Ineffective*, BEST FRIENDS, <https://bestfriends.org/advocacy/ending-breed-specific-legislation/why-breed-specific-legislation-is-ineffective> (last visited Nov. 21, 2022) [hereinafter *BSL Ineffective*] (“Numerous studies have shown that visual breed identification, even by animal welfare professionals, is highly unreliable.”).

<sup>80</sup> See *Incorrect Breed Identification*, *supra* note 79 (“Labeling a dog a ‘[P]it [B]ull’ can result in difficulty finding him a home or even his death.”); see also *Why Breed-Specific Legislation is not the Answer*, AVMA, <https://www.avma.org/resources/pet-owners/why-breed-specific-legislation-not-answer> (last visited Nov. 21, 2022) [hereinafter *BSL Not Answer*] (“BSL can lead to the euthanasia of innocent dogs that fit a certain ‘look,’ and to responsible pet owners being forced to move or give up dogs that have never bitten or threatened to bite.”).

<sup>81</sup> See *BSL Ineffective*, *supra* note 79 (“DNA testing is now available, of course, but that means municipalities have the burden (and the cost) of proving the heritage of a pet dog if they enact breed restrictions.”); see also Camille Schake, *Breed-Specific Legislation’s Dirty Little Secret*, GOOD PET PARENT (Feb. 10, 2019), <https://www.goodpetparent.com/2019/02/10/breed-specific-legislation-secret/> (“[BSL] applies only to dogs of a certain appearance. It does not require the dog to take a DNA test to confirm its actual genetic makeup, or [consider] how the owner has raised, trained, or managed the dog. And most importantly, it [does not consider] the dog’s actual behavior.”); see also Jacey Birch, *Pit Bulls Easy to Buy Although Illegal in Miami-Dade County*, LOCAL10 (Feb. 13, 2014), <https://www.local10.com/news/2014/02/13/pit-bulls-easy-to-buy-although-illegal-in-miami-dade-county/> (“Miami-Dade Animal Services can determine whether a dog is a legitimate [P]it [B]ull or a mixed breed by looking at the dog, with no DNA testing, which can create possible legal issues.”).

<sup>82</sup> See *Comprehensive Study Concludes that BSL is Ineffective*, PITBULL INFO, <https://www.pitbull-info.org/bsl-is-ineffective.html> (last updated Feb. 3, 2023) [hereinafter *Comprehensive Study*] (explaining that most peer-reviewed studies have concluded that breed-specific legislations do not reduce the number or severity of bite-related injuries and, therefore, are ineffective in increasing public safety); see also *Breaking Down “BSL”*, LIFELINE ANIMAL (Feb. 21, 2017), <https://lifeline-animal.org/breaking-down-bsl/> (“Because BSL has been proven to be ineffective, bite reports and fatalities often remain stagnant or can even increase after BSL is passed.”).

size or breed, are prone to bite.<sup>83</sup> Consequently, instead of targeting reckless dog owners<sup>84</sup>, these legislations are discriminatory against responsible owners of certain dog breeds.<sup>85</sup>

Furthermore, enforcing breed-specific legislations are costly.<sup>86</sup> They also take a mental toll on members of society, particularly dog owners.<sup>87</sup> Housing is the number one reason why dogs are surrendered to Florida shelters.<sup>88</sup> Additionally, public housing greatly limits families who must choose between a roof

---

<sup>83</sup> See *BSL Not Answer*, *supra* note 80 (“Any dog can bite, regardless of its breed. It is the dog’s individual history, behavior, general size, number of dogs involved, and the vulnerability of the person bitten that determines the likelihood of biting and whether a dog will cause a serious bite injury.”); see also Victoria Stilwell, *Breed Specific Legislation*, POSITIVELY, <https://positively.com/animal-advocacy/breed-specific-issues/breed-specific-legislation/> (last visited Nov. 21, 2022) (“Any dog can bite, especially a dog that is in the hands of an abusive, neglectful, or irresponsible owner.”).

<sup>84</sup> See *BSL Ineffective*, *supra* note 79 (“Any dog can bite, so when it comes to legislation designed to prevent such incidents, the focus should be on the behavior of the owner and the behavior of the dog. Because reckless dog owners, like reckless drivers, are often recidivists, public safety ordinances should target them.”); see also *BSL Not Answer*, *supra* note 80 (explaining how dogs are more prone to aggressiveness when they are unsupervised, unneutered, and unconditioned to live around others, yet the breed bans do not address these social issues of irresponsible ownership).

<sup>85</sup> See *Breaking Down “BSL”*, *supra* note 82 (“Responsible owners of properly supervised and well-socialized dogs who fall within a targeted breed are required to follow local breed laws, despite their dog’s behavior. This can lead to housing issues, legal fees, or even surrendering of the animal to a local shelter.”); see also *BSL Not Answer*, *supra* note 80 (explaining how breed-specific legislation affects responsible pet owners by forcing them to move or give up dogs that have never bitten or threatened to bite anyone simply because of how they look).

<sup>86</sup> See *Comprehensive Study*, *supra* note 82 (explaining how breed-specific legislation is a financial burden to cities and taxpayers by using funds to train public safety officials and pay animal control agencies); see also *Breed-Discriminatory Legislation in Florida*, BEST FRIENDS (2012), <http://best-friends.guerrillaeconomics.net/reports/5d93ca61-97db-4997-a105-b32c3c8e43f4?> (showing that administering breed-discriminatory legislation in Florida would cost taxpayers about \$29 million between enforcement, kenneling and veterinary care, euthanizing and disposal, litigation costs, and DNA testing).

<sup>87</sup> See Wayne Pacelle, *BSL is Bad, Senseless Lawmaking*, HUMANE SOC’Y (Jan. 31, 2017), <https://blog.humanesociety.org/2017/01/breed-specific-legislation-bad-senseless-lawmaking.html> (“So many people who love their dogs will risk non-compliance because they cannot stomach the idea of giving up their animal. [It is] an act of loyalty and love for them not to submit to a law that makes little sense and breaks the bond of a lifetime.”); see also Ledy Vankavage, *A Model Dog Law to Save More Lives*, BEST FRIENDS (Nov. 7, 2018), <https://bestfriends.org/stories/julie-castle-blog/model-dog-law-save-more-lives> (“Discriminating against a family because of the type of dog they love runs counter to the values we most cherish in our country: freedom and personal responsibility.”).

<sup>88</sup> See *PHA Fact Sheet*, FKSPCA (2022), <https://fkspca.org/wp-content/uploads/2022/07/Info-on-FL-Pets-in-Public-Housing-Bills.pdf> (“In 2020, Best Friends data shows that more than 30,000 dogs were surrendered to [Florida] shelters; housing was the number one reason for surrender.”); see also McRoberts, *supra* note 1 (stating that Kelsey Gilmore-Futeral from Best Friends Animal Society believes that housing changes and struggles are the top reason in Florida and nationwide why people surrender their pets).



2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

over their head or a four-legged family member.<sup>89</sup> Thus, these bans are a product of racism, classism, and ableism.<sup>90</sup>

## B. FLORIDA’S SENATE BILL 614

In order to fight these bans, on October 25, 2021, Senator Ileana Garcia filed and sponsored the Florida’s Senate Bill 614.<sup>91</sup> The bill proposed prohibiting PHAs from imposing policies banning dogs solely on their breed and nullifying the grandfathered breed-specific ordinances adopted before October 1, 1990.<sup>92</sup> Supporters of the bill were ecstatic for a possible change,<sup>93</sup> especially

---

<sup>89</sup> See Farrow, *supra* note 3 (“What we did see was during COVID, a huge uptick of our shelters in Miami-Dade . . . We just could not handle the amount of animals that were coming in because people were transitioning to public housing.”); see also McRoberts, *supra* note 1 (explaining how the increasing costs and limited housing have forced families to make the tough decision of surrendering their pet to meet housing restrictions).

<sup>90</sup> See Higgons, *supra* note 10 (explaining how Miami-Dade’s Pit Bull ban stemmed from growing anxiety and social tension about Cuban immigration); see also *Real Impact*, *supra* note 10 (describing how researchers have traced back breed restrictions from a place of racist and classist hysteria stemming back to the 1970s and 80s when the media was sensationalizing dog fights, as well as the War on Drugs, and stereotyping “dangerous” minority people in urban communities and their “dangerous” dogs).

<sup>91</sup> See *SB 614: Authorization of Restriction Concerning Dangerous Dogs*, THE FLA. SENATE, <https://www.flsenate.gov/Session/Bill/2022/614> (last visited Nov. 21, 2022) [hereinafter *SB 614*] (showing a timeline of the bill which was filed in the Senate on October 25, 2021); see also *Bill Aims to Repeal Dog Breed Specific Laws*, CBS NEWS (Jan. 31, 2022, 11:18 PM), <https://www.cbsnews.com/miami/news/bill-repeal-dog-breed-specific-laws/> [hereinafter *Aim to Repeal*] (explaining that Senator Ileana Garcia sponsored the bill and how its passing could prevent dogs from being discriminated against by prohibiting PHAs from banning specific dog breeds).

<sup>92</sup> See Hendren, *supra* note 9 (explaining how the bill would get rid of laws targeting specific dog breeds and instead ensure a dog is only judged by their behavior under the Florida’s Dangerous Dog Law); see also *Bill Analysis*, *supra* note 6, at 1 (explaining the two effects of the proposed bill and how, if passed, the bill would take effect on October 1, 2022).

<sup>93</sup> See Hendren, *supra* note 9 (“Because of 2020, a lot of families were forced to go into [PHAs] . . . They had to leave their dogs behind because they had no choice. What would happen is they were thrown in the streets. They were put in local shelters, etc. This would prevent that.”); see also *Aim to Repeal*, *supra* note 91 (“[P]ets become a part of our families and this bill would keep families together by eliminating pet housing restrictions in the state of Florida. SB 614 seeks to increase housing options for Florida families with pets and keep good dogs out of our state’s animal shelters.”).

after an attempted repeal failed in 2012.<sup>94</sup> Thankfully, on March 2022, the Florida Senate unanimously voted in favor of Bill 614.<sup>95</sup>

### C. FLORIDA'S HOUSE BILL 721

On November 23, 2021, Florida's House Bill 721—the Senate's companion bill—was filed by Representative James Buchanan.<sup>96</sup> It was unanimously approved by the House Local Administration and Veterans Subcommittee.<sup>97</sup> Advocates for the bill were once again hopeful for a final change.<sup>98</sup> However, on March 2022, Bill 721 was indefinitely postponed and withdrawn from consideration without an appropriate explanation.<sup>99</sup>

<sup>94</sup> See Anne Geggis, *Bill that Would Repeal State's Last Remaining Pit Bull Bans Advances*, FLA. POLS. (Jan. 26, 2022), <https://floridapolitics.com/archives/490423-bill-that-would-repeal-states-last-remaining-pit-bull-bans-advances/> (“Miami-Dade offered voters the chance to repeal its [P]it [B]ull ban in 2012, but only 36% agreed.”); see also Dahlia Canes, *Our Mission*, MCABSL, <http://mcabsl.com/about/about-us/> (last visited Nov. 21, 2022) (explaining how the organization has been working for eighteen years to lift the ban against Pit Bulls and will continue to fight until their mission is achieved).

<sup>95</sup> See 10 Tampa Bay, *Bill Moves Forward to Repeal Florida's Last Pit Bull Bans*, WTSP, <https://www.wtsp.com/article/news/regional/florida/dog-breed-ban-legislation-unanimously-passes-senate/67-5d48a3c9-8f70-486e-88f9-296b9cb898f5> (last updated Feb. 8, 2022) [hereinafter *Repeal Ban*] (explaining that the Senate Community Affairs Committee unanimously passed the bill, and the companion House bill was waiting to be heard by the House Regulatory Reform Committee); see also SB 614, *supra* note 91 (showing that Senate passed the bill with thirty-five votes in favor, and zero against).

<sup>96</sup> See CS/HB 721: *Authorization of Restriction Concerning Dangerous Dogs*, THE FLA. SENATE, <https://www.flsenate.gov/Session/Bill/2022/721> (last visited Nov. 21, 2022) (showing a timeline of the bill which was filed in the House on November 23, 2021); see also *Best Friends Animal Society Applauds the Florida Senate for Passing SB 614*, BEST FRIENDS (Mar. 4, 2022), <https://best-friends.org/about/media/best-friends-animal-society-applauds-florida-senate-passing-sb-614> [hereinafter *Best Friends Applauds*] (explaining how SB 614's companion bill, HB 721, was filed by Representative Buchanan and will ultimately decide the future of this legislation).

<sup>97</sup> See 10 Tampa Bay, *supra* note 95 (explaining how after passing the House Local Administration and Veterans Subcommittee, the bill must now wait to be heard by the House Regulatory Reform Committee); see also HB 721 *Authorization of Restrictions Concerning Dangerous Dogs* (2022 Session), LOBBYTOOLS, <https://public.lobbytools.com/index.cfm?type=bills&id=61324> (last visited Nov. 21, 2022) [hereinafter *HB 721*] (showing that on Jan. 13, 2022, the Local Administration and Veterans Affairs Subcommittee placed sixteen votes in favor and zero against, and on Feb. 8, 2022, the Regulatory Reform Subcommittee placed seventeen voted in favor and zero against).

<sup>98</sup> See 10 Tampa Bay, *supra* note 95 (“Breed-based restrictions are inaccurate, outdated and are disproven in keeping communities safe. These bills would keep Florida families from having to choose between putting a roof over their head or keeping their beloved pet”); see also *Best Friends Applauds*, *supra* note 96 (“These policies are outdated and ineffective and I am relieved to see them finally being repealed. I hope to see the House continue this leadership and pass legislation quickly.”).

<sup>99</sup> See HB 721, *supra* note 97 (showing that the bill died in the State Affairs Committee after being indefinitely postponed since Feb. 8, 2022, without offering an explanation); see also Farrow, *supra* note 3 (“A bill that would have repealed remaining bans on owning [P]it [B]ulls and other dog breeds in Florida failed in the legislature. SB 614 passed in the Senate but failed to move forward

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

## D. WHY THE FLORIDA BILLS SHOULD HAVE PASSED

The Florida House let down many dog owners who heavily yearned for a stop to these bans.<sup>100</sup> The passage of the bill would have finally repealed the current laws that have caused certain dog breeds from enduring over thirty years of discrimination and higher rates of euthanasia.<sup>101</sup> Although Miami-Dade commissioners have pushed to retain these bills in the name of public safety, it is evident that money is a louder cause.<sup>102</sup>

The current housing crisis has affected millions,<sup>103</sup> and these dog breed bans have continuously forced families to surrender their dogs to qualify for public housing.<sup>104</sup> Responsible families should be able to own dogs, despite their

---

after it was sent to the House.”).

<sup>100</sup> See Farrow, *supra* note 3 (“We are saddened that yet another bill in response to animal welfare has failed in the Florida legislature. There is no evidence that breed-specific laws make communities safer for people or companion animals. People must choose housing over their beloved pets.”); see also *Repeal Ban*, *supra* 95 (explaining that breed-based restrictions are ineffective and keeping communities safe and the proposed bills would have ended unfair policies to keep Floridian families together).

<sup>101</sup> See Farrow, *supra* note 3 (“[F]lorida is the minority when it comes to having responsible animal welfare laws. It ranks number three in euthanasia rates in the United States.”); see also *Pit Bull Bans – Top 3 Pros and Cons*, PROCON, <https://www.procon.org/headlines/pit-bull-bans-top-2-pros-and-cons/> (last updated Mar. 2, 2022) [hereinafter *Top Three Pros*] (explaining how Miami-Dade County has had a Pit Bull ban since the 1980s yet continues to euthanize about 800 illegally owned Pit Bulls each year).

<sup>102</sup> See *Pit Bull Owner Fights Miami City Hall*, COURTHOUSE NEWS (Nov. 15, 2013), <https://www.courthousenews.com/pit-bull-owner-fights-miami-city-hall/> (describing how a disabled man was fined \$715 for having a Pit Bull as his service dog; Miami-Dade County then gave the man ten days to send his dog into exile under threat of death, fined him an additional \$10,000, and threatened to put a lien on his property within thirty days); see also Clary, *supra* note 13 (emphasizing how Miami-Dade County would lose millions of dollars in fines and penalties if the breed ban is lifted; the County made \$1.7 million between 2009 and 2011 by fining Pit Bull owners and placing liens on homes when the fines were not timely paid).

<sup>103</sup> See John Kennedy, *Sizzling Housing Market in Florida Hurts Many, But Help Slow to Come from Legislature*, TALLAHASSEE DEMOCRAT (Feb. 4, 2022, 6:00 AM), <https://www.tallahassee.com/story/news/politics/2022/02/04/florida-affordable-housing-crisis-homes-legislature-bills-market-real-estate/9293475002/> (explaining that Florida is currently leading the nation in rental unaffordability due to a drastic increase in housing prices and widening gap between salaries and housing costs); see also John Pacenti, *Priced Out of Paradise: Housing Crisis Spares No One – Renters, Buyers, Owners*, WPTV, <https://www.wptv.com/money/real-estate-news/priced-out-of-paradise-housing-crisis-spare-no-one-renters-buyers-owners> (last updated Feb. 18, 2022, 1:18 PM) (“The residents impacted the most are those who can least afford it: the renters. Monthly rent has gone up by hundreds of dollars a month, forcing some to move or take on roommates. Some have been forced to live out of their cars or couch hop.”).

<sup>104</sup> See McRoberts, *supra* note 1 (“The growing costs and limited housing inventory are forcing some families to make the toughest decision any pet owner can make—having to surrender a pet to meet housing restrictions.”); see also *Best Friends Applauds*, *supra* note 96 (explaining how the current policies are outdated and fuel misinformation on certain dog breeds, ripping families apart from their beloved pets).

socioeconomic status or the dog's breed.<sup>105</sup> Families looking into public housing are already attempting to amend a stressful situation and do not need to face the additional hardships accompanying unjust restrictions banning their furry friend.<sup>106</sup> Therefore, Florida's dog owners currently lack access to inclusive public housing laws.<sup>107</sup>

#### IV. SOLUTIONS: THREE OPPORTUNITIES TO ELIMINATE DOG BREED BANS IN FLORIDA'S PUBLIC HOUSING

##### A. PASS CONGRESS'S "PETS BELONG WITH FAMILIES ACT"

The best solution to resolve Florida's discriminatory dog breed restrictions is for Congress's "Pets Belong with Families Act" to pass.<sup>108</sup> The bill would prohibit vague restrictions against dogs based solely on their breed or size, allowing owners needing public housing to remain with their pets.<sup>109</sup> The passing of this bill would be one step closer to removing racist barriers affecting pet owners' public housing opportunities throughout the country.<sup>110</sup> Ultimately,

<sup>105</sup> See *FL: Action Needed to Keep Pets and Families Together*, BEST FRIENDS, <https://best-friends.org/advocacy-alerts/fl-action-needed-keep-pets-and-families-together> (last visited Nov. 21, 2022) ("[L]ocal government shall not be involved in telling people which breed of dog they may own. This should apply to all responsible pet owners, regardless of income."); see also *Many Local Dog Breed Bans Violate the Constitution*, BEST FRIENDS, <https://best-friends.org/advocacy/ending-breed-specific-legislation/dog-breed-bans-infringe-property-rights> (last visited Nov. 21, 2022) [hereinafter *Constitution Violation*] (explaining that every American should have the right to own whatever dog breed they want).

<sup>106</sup> See *PHA Fact Sheet*, *supra* note 88 ("Removing arbitrary restrictions around dog breed will neutralize a major barrier to stable housing the families most in need of stability face."); see also Geggis, *supra* note 94 (explaining how local governments and PHAs should be free to adopt rules about dogs that have bitten or attacked people, but not discriminate against dogs solely by their breed).

<sup>107</sup> See *PHA Fact Sheet*, *supra* note 88 ("PHAs] will not experience any additional liability when they include all breeds/sizes on their properties because Florida law insulates landlords from liability when they do not know or have reason to know that a dog owned by a tenant is dangerous."); see also *Support the Act*, *supra* note 14 ("While regulations require [PHAs] to allow pets, [PHAs] can impose restrictions based on a dog's breed and size and charge residents more money if they have a pet.").

<sup>108</sup> See Rifkin, *supra* note 4 (noting how the bill was introduced in the House as H.R. 5828 on Nov. 2, 2021, by Representative Adam Schiff); see also Farrow, *supra* note 3 ("While nothing was passed in the state legislature, there is a bill in [C]ongress called the Pets Belong With Families Act that would offer some of the same protections.").

<sup>109</sup> See Schiff, *supra* note 4 ("The Pets Belong with Families Act would remove these unfair barriers for residents of public housing because no one should have to forfeit an affordable and stable home to stay with the pet they love."); see also Rifkin, *supra* note 4 (explaining how the bill would amend Section 31 of the Housing Act of 1937 to prohibit pet restrictions based on the breed, while still allowing exceptions for certain restrictions like the number of pets in a given unit and a ban based on the animal's behavior or actions).

<sup>110</sup> See *Congress Members Cite MFA's Pet-Inclusive Housing Initiative Report in Introducing the 'Pets Belong with Families Act'*, MICHELSON FOUND ANIMALS,

2023] *DOG OWNERS DESERVE PUBLIC HOUSING*

this change on the federal level would trump Florida's current dog breed restrictions.<sup>111</sup>

## B. LET THE PEOPLE DECIDE: ADD IT TO THE NEXT VOTING POLLS

Alternatively, Florida could place the future of dog breed restrictions in the hands of voters during the next election.<sup>112</sup> Although the repeal in Miami-Dade County failed in 2012, data shows a promising turnaround since then.<sup>113</sup> The past decade has demonstrated increased pet ownership, pet organizations, and public housing inhabitants.<sup>114</sup> As a result, voters are now more informed about

---

<https://www.foundanimals.org/congress-members-cite-mfas-pet-inclusive-housing-initiative-report-in-introducing-the-pets-belong-with-families-act/> (last visited Nov. 21, 2022) [hereinafter *MFA*] (quoting Representative Cori Bush about the bill finally eliminating a barrier that Black and Brown community members face when securing safe and stable housing); see also Higgons, *supra* note 10 ("Support for BSL remains strongest with older, white, and more conservative voters in predominantly white suburbs.").

<sup>111</sup> See Laura Isensee & The Miami Herald, *Pit Bull Owners Skirt Miami-Dade Ban by Using Dogs as Service Animals*, SUNSENTINEL (July 12, 2010, 12:00 AM), <https://www.sun-sentinel.com/news/fl-xpm-2010-07-12-fl-pit-bull-servicedogs-20100712-story.html> (explaining that certain dog owners have found a loophole as, under federal rules, any guide or signal dog that is trained to assist someone with a physical or mental disability qualifies as a service animal in Miami-Dade County, even if it is a Pit Bull; federal law trumps Miami-Dade's ordinance); see also *Legal Loophole Allows Pit Bulls in Miami*, UPI (July 12, 2010), <https://www.upi.com/Legal-loophole-allows-pit-bulls-in-Miami/62371278972831/> (explaining that federal rules do not require special certification for service animals and Miami-Dade County cannot legally ask owners about their medical conditions).

<sup>112</sup> See *Voters Reject "Pitbull" Bans by a Landslide*, PITBULL INFO, <https://www.pitbull-info.org/voters-reject-pit-bull-ban.html> (last updated Aug. 26, 2022) [hereinafter *Landslide*] (explaining how a national survey disclosed that 84% of Americans do not support breed-specific bans); see also *BSL Continues to Crumble*, *supra* note 14 ("[S]ince only 2018, at least [seventy-three] cities have either successfully repealed their ineffective and obsolete bans or have eliminated breed-specific ordinances against dogs labeled as "[Pit Bulls] . . ."); see also Schake, *supra* note 81 ("Even when elected officials are adamantly opposed to repealing a ban, the public can organize and make their opinions crystal clear . . . [about the] unfounded fear, hatred and harassment of the dogs who are irreplaceable members of their human families.").

<sup>113</sup> See *Miami-Dade Once Again Looking to Repeal 29-Year-Old Breed Ban – Important Info You Need to Know*, KC DOG BLOG (Oct. 3, 2016), <https://btoellner.typepad.com/kcdogblog/miami-dade/> (explaining that the repeal lost in 2012 because Miami-Dade County had spent twenty-five years perpetuating the myth that Pit Bulls were aggressive and left advocates only three months to put together an educational message that would offset decades of negative publicity); see also *Real Impact*, *supra* note 10 ("[P]eople are now more openly discussing the fact that breed restrictions in the housing insurance industry are nothing more than a stand-in for redlining. There is no data that justifies targeting dog owners who have never had a dog bite claim.").

<sup>114</sup> See Amira Sweilem & Finch Walker, *Pets are Being Given up and Abandoned in Brevard as Owners Struggle to Pay Rent and Bills*, FLA. TODAY (June 23, 2022), <https://www.floridatoday.com/story/news/2022/06/23/brevard-county-sees-more-people-deserting-dogs-and-cars-rents-soar/9751119002/> ("Pet ownership has long been associated with both positive physical and psychological health outcomes for homeless and housed individuals. Adoption rates soared at the start of the pandemic as people sought emotional support and companionship through lockdowns."); see also

Public

Housing,

HUD,

these breed-specific restrictions and the dangers they unfairly cause to dog owners.<sup>115</sup>

### C. CREATE EFFECTIVE, NONDISCRIMINATORY, LEGISLATION

Finally, Florida can create effective breed-neutral legislation focusing on aggressive dogs and neglectful owners.<sup>116</sup> The legislature should highly consider the factors most commonly affecting a dog's tendency towards aggression.<sup>117</sup> Furthermore, it should hold irresponsible dog owners accountable for their actions that cause their dog's aggressive behavior.<sup>118</sup> Breed-neutral legislation has been successful elsewhere; therefore, Florida should accordingly adopt its own.<sup>119</sup>

---

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph](https://www.hud.gov/program_offices/public_indian_housing/programs/ph) (last visited Nov. 21, 2022) (explaining how approximately 1.2 million households are currently living in public housing units that are managed by about 3,300 PHAs).

<sup>115</sup> See Jeanette Baker, *Letter: We Need the Pets Belong with Families Act*, TUCSON (May 17, 2022), [https://tucson.com/opinion/letters/letter-we-need-the-pets-belong-with-families-act/article\\_23bb7276-d529-11ec-89ae-afe8cee5c575.html](https://tucson.com/opinion/letters/letter-we-need-the-pets-belong-with-families-act/article_23bb7276-d529-11ec-89ae-afe8cee5c575.html) ("Breed-discrimination policies exacerbate problems such as housing insecurity and inequality, disproportionately impact those most in need of stable and secure housing, and force families to either surrender their pets to animal shelters or choose potentially unsafe or unstable housing options."); see also *Miami-Dade "Pit Bull" Ban Remains, Despite Overwhelming Evidence of Failure and County Officials' View*, NAT'L CANINE RSCH. COUNCIL (Aug. 27, 2012), <https://nationalcanineresearchcouncil.com/miami-dade-pit-bull-ban-remains-despite-overwhelming-evidence-of-failure-and-county-officials-view/> ("An increasing number of political leaders—from both political parties, conservatives and liberals alike—have recognized the successful track-record of breed-neutral responsible dog ownership laws. The Miami-Dade community deserves to benefit from the experiences of responsible dog ownership communities around the country.").

<sup>116</sup> See *BSL Not Answer*, *supra* note 80 (explaining how animal control and legislative approaches should promote responsible pet ownership and develop methods to protect the community from non-breed-specific dangerous dogs); see also *Constitution Violation*, *supra* note 105 ("Individual accountability is the only effective approach to protecting both people and pets. When it comes to enforcing dangerous dog laws, our focus should be on negligent and reckless owners, not the breed of the pet.").

<sup>117</sup> See *Breed-Specific Legislation*, *supra* note 5 ("The CDC has noted that many other factors beyond breed may affect a dog's tendency toward aggression—things such as heredity, sex, early experience, reproductive status, socialization and training."); see also *BSL Not Answer*, *supra* note 80 ("Dogs are more likely to become aggressive when they are unsupervised, unneutered, and not socially conditioned to live closely with people or other dogs.").

<sup>118</sup> See Clary, *supra* note 13 ("Miami-Dade should establish a strong spay-neuter policy, strengthen its anti-tethering ordinance and crack down on owners who keep dogs, not as pets, but for fighting, guarding and image enhancement."); see also *Top Three Pros*, *supra* note 101 (noting three mitigating factors in dog attacks: 97% of owners did not sterilize their dog; 84% of owners abused or neglected their dog; and 78% of owners used their dog as guard dogs or breed dogs instead of loving pets).

<sup>119</sup> See *Breed Legislation*, PITBULL INFO, <https://www.pitbullinfo.org/breed-specific-legislation.html> (last visited Nov. 21, 2022) (emphasizing that 96% of U.S. cities and municipalities use breed-neutral legislation which has consistently been successful because it applies dog bite

2023]

*DOG OWNERS DESERVE PUBLIC HOUSING*

## V. CONCLUSION

The discriminatory motives behind Florida’s dog breed restrictions hinder many owners who must choose between their dog and public housing.<sup>120</sup> BSLs have proven ineffective yet still apply in fewer than 4% of cities nationwide.<sup>121</sup> To prevent further owners from making a tough choice, Congress should pass the Pets Belong with Families Act to trump Florida’s dog breed restrictions.<sup>122</sup> However, if the bill fails, Florida should once again let its voters decide the future of these bans or create an effective breed-neutral legislature.<sup>123</sup> Any of these solutions would finally stop canine profiling by PHAs, such as the one Sissy and her owner unfairly experienced.<sup>124</sup>

---

prevention to all breeds); *see also Top Three Pros*, *supra* note 101 (explaining that Calgary, Canada enacted a policy focusing on dog aggressions rather than breed, resulting in a 56% decrease in aggressive incidents and 21% decline in bites within two years).

<sup>120</sup> *See Real Impact*, *supra* note 10 (“Breed restrictions give discrimination an opportunity to flourish. By ending them, we take away that opportunity.”); *see also MFA*, *supra* note 110 (“[S]uch bans can exacerbate housing insecurity for low-income pet owners who understandably [do not] want to part with their companions.”).

<sup>121</sup> *See Breed Legislation*, *supra* note 119 (explaining that BSLs are used by less than 4% of U.S. cities and municipalities and how they have limited or questionable success since dog bite prevention is not dependent on dog breeds); *see also BSL Not Answer*, *supra* note 80 (“In enacting BSL, cities and states will spend money trying to enforce ineffective bans and restrictions rather than implementing proven solutions, such as licensing and leash laws, and responding proactively to owners of any dog that poses a risk to the community.”).

<sup>122</sup> *See MFA*, *supra* note 110 (“If passed, the Pets Belong with Families Act would prohibit pet restrictions based exclusively on breed in public housing, while still allowing for discretion with regard to potentially dangerous individual animals.”); *see also Schiff*, *supra* note 4 (“Housing is a human right . . . No family should be denied that right because of archaic rules barring certain pet breeds from public housing in this country. Our pets are often integral members of our families, and we [cannot] ask our neighbors to simply leave them behind.”).

<sup>123</sup> *See Landslide*, *supra* note 112 (noting how well-informed citizens are challenging BSL nationwide and in Canada because they are archaic and obsolete); *see also Breed-Specific Legislation*, *supra* note 5 (explaining that studies demonstrated the clear and positive effects of breed-neutral laws which can include low-cost sterilization services, financial accountability for reckless dog owners, and prevention of chaining, tethering, or unreasonable confinement).

<sup>124</sup> *See Hendren*, *supra* note 9 (“A dog is not born inherently dangerous because [it is] born of a specific breed. That is canine profiling.”); *see also Real Impact*, *supra* note 10 (“We believe communities should be inclusive and safe for everyone. Everyone deserves access to housing—and no one should ever have to choose between their home and their family dog. And no institution should ever use the bond between people and their dogs as a tool of discrimination.”); *see also McRoberts*, *supra* note 1 (reporting about the unfair treatment a dog, Sissy, and her owner experienced because of the restrictive housing laws pertaining to dogs).