

# *Are You Your Pet's "Owner" or "Guardian?"*

By Judy Babcock, Quixote Humane, Inc.

It was a late afternoon in May and the weather was turning from brilliant sunlight to overcast and cold. My best friend was bringing her mare be bred to a handsome chestnut Arabian in Bosque Farms. I came along to give support and help steady the rather excitable mare. The electricity between the two horses was enough to keep us all on our toes. The weather heightened the urgency of the moment.

Out of the corner of my eye I saw a small, shaggy black dog dragging itself across the yard and then roll-over between my spread feet. As the rain began to fall I called to the stallion owner "Is this your dog?" "No," she yelled back "it has been wandering in the neighborhood this week." Knowing she wasn't safe there, I scooped up the dog, leaving my friend holding the dancing mare, dashed to an empty horse trailer and tossed her inside.

Horse breeding takes a lot of planning and preparation, the act itself takes a very short time. In those few minutes the sky turned from cloudy to greenish-gray. The clouds opened and the rain poured down! Stallion and owner took off for the barn, mare and owner headed for their trailer, and I ducked into the empty trailer to wait it out with the miserable little dog.

We tried to find her owner. The stallion owner's kids checked with all the neighbors. We put up signs, put an ad in the local papers, called all the veterinarians, and notified the animal shelter. I asked the person who answered at the shelter what we should do? The person who I spoke with said that if the owner was not found in three days the dog was mine.

In the meantime, we had taken "Miss Mary Margaret" to Dr. Bowman to see what we could do about her injuries. It appeared her left hind leg was broken. X-rays revealed that there wasn't any bone between the hip joint and knee. Nothing to even screw a pin into. It was an old injury, and no way to find out how it happened. Her long, black coat was matted to the skin so we had her shaved and bathed. And, so, we ended up with Maggie.

I had only owned two dogs before, both Chihuahuas, purchased from breeders. I didn't feel comfortable with the situation. I worried that an owner would show up and demand



**"Miss Mary Margaret" was one of the more than 25,000 unclaimed lost dogs and cats in Valencia County in the past five years. ID tags can help bring a loved one home. Please adopt a pet from the shelter and save a life.**

their dog back. Which I would have been willing to do, if they could give a good explanation for her horrible condition. There must have been a long, sad story. I am glad I never had to hear it.

In New Mexico, as in most areas of the country, domestic pets and livestock are considered property. Each county and municipality has a different animal control ordinance. Most do not define how legal transfer of ownership is made unless adopted through an animal control facility. Legal ownership of a lost and found animals have end-up in court. Never with a resolution that satisfies both parties.

The state of Rhode Island, San Francisco, and several other cities have passed laws recognizing animal "guardians" instead of "owners." The intent is to raise the perception and treatment of animals from merely property to a level between "things" and "people." Our current laws are based on the differences between the two. Should animals, as feeling beings, have a different order of law? The extremist on both sides of the issue will offer examples of bad outcomes of their opponents' view.

The American Kennel Club, according to their website, supports "owner" because they believe "the term guardian reduces the legal status and value of dogs as property and thereby restrict the rights of owners, veterinarians, and government agencies to protect and care for dogs."

Animal welfare organizations propose that animals have intrinsic rights and companionship value that we should recognize legally. New Mexico has statutes that cover abuse and neglect to punish those who abuse. However, the value of the animals is based on a dollar value. Loss of "companionship" and medical care to save a pet is not generally considered.

Back to Maggie - local ordinances do not make a clear determination for the disposition of lost and found animals unless impounded through animal control. As property, if her previous owner were to find her and want to reclaim her they could file a lawsuit and attempt to get her back. If they could show purchase papers from a breeder or adoption forms from the shelter, photos, veterinary records, testimony from family and friends, etc., the court may decide in their favor. On the other hand, I have a copy of the ad placed, the flyer posted, and people who know the effort I made to find the owner. And, time is on my side. But, then again, the value of the "property" is a large consideration. In the meantime I have given her the love and care that she deserves as a living and feeling being.

The legal questions and ramifications of "owner" vs "guardian" will be debated for years to come. In my mind the answer is clear. Maggie found me and claimed my heart.

Rest in peace "Shaggy Maggie" 2-5-2005

**The animals pictured below are only available for three days, but there are plenty of other choices! Visit the Valencia County Shelter, 1209 NM 314, one mile south of Main Street in Los Lunas. Open 8:00 am - 4:00 pm Tues - Sat. 866-2479**