

Request for Decision

Vicious Dog Appeal, ACR #718312 - Florrie Bursey

Presented To:	Hearing Committee
Presented:	Wednesday, Sep 21, 2016
Report Date	Tuesday, Aug 23, 2016
Type:	Public Hearings

Resolution

THAT the City of Greater Sudbury upholds the Vicious Dog Notice #718312, issued to Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury.

Signed By

Report Prepared By

Tina Whitteker
By-law Enforcement Officer
Digitally Signed Aug 24, 16

Division Review

Brendan Adair
Manager of Security and By-Law
Digitally Signed Aug 24, 16

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Aug 24, 16

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Aug 26, 16

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #718312, issued to Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury.

Background

City of Greater Sudbury By-law 2002-285, as amended, became effective on January 1, 2003 and regulates the keeping of animals and the registration of dogs and cats. Part VIII of the by-law entitled "Vicious Dogs"; section 21 of the by-law, contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation.

The effect of the notice is to ensure the owner of a dog deemed vicious by receipt of the notice, muzzle and leash the dog when not inside the owner's dwelling at all times.

The by-law is specific about how the process is carried out and the contents of the notice. Several provisions in the by-law for the issuance of the notice are mandatory requirements of the Registrar and of the recipient of the Notice.

This section also provides for an appeal of the notice by the owner of the dog requesting a hearing of the matter by Council or Committee of Council. The Committee may uphold the notice and its contents, exempt the owner from the muzzling or leashing requirements or from both, or may modify the conditions for muzzling or leashing.

By-law Procedure Vicious Dog Notice - 718312

Subsection 2.(1) of By-law 2002-285 designates the Manager of Compliance and Enforcement Services for the City of Greater Sudbury as the Registrar pursuant to the By-law, and By-law Officers in Compliance and Enforcement have been appointed by the Registrar to perform the task of issuing Vicious Dog Notices pursuant to the by-law.

Subsection 21.(2) of the by-law states "Where the Registrar is informed upon written complaint, and is satisfied that the dog has attacked without provocation or bitten a person or domestic animal, and had further been provided with satisfactory evidence as to the name and address of the owner of the dog the Registrar shall serve notice on the owner of the dog that the dog is deemed to be a vicious dog and requiring the owner to comply with any or all of the requirements set out in Subsections 21(4) and 21(5)."

A written complaint was received by the Registrar from [REDACTED] of [REDACTED] [REDACTED], Greater Sudbury, requesting that the dog named Xena, kept at the address of 1920 Paris Street, Unit D306, be deemed vicious, based on an incident on May 30, 2016 where [REDACTED] dog was attacked and bitten. (See attachment of the Victim statement, letter of complaint to this report.)

The letter describes the incident which happened on May 30, 2016 at approximately 7pm where [REDACTED] small dog, named Jack was attacked and bitten. [REDACTED] states in the letter that [REDACTED] was letting [REDACTED] dog out to urinate from the back entrance into a common area in the yard where Xena ("Zeana" as spelled in the letter of complaint) was already in the yard. Xena then ran towards and attacked and bit Jack, unprovoked.

The next morning, the owner [REDACTED] brought [REDACTED] dog Jack to seek medical attention and saw the veterinarian at Martindale Animal Hospital. At this appointment it was noted that wounds were found on the left hind leg. [REDACTED] was provided with "pain medication and a needle for prevention from infection from the bite" as stated in the letter.

Greater Sudbury Animal Control (GSAC), Animal Control Officer Mills investigated this incident, where the owner of the dog, Florrie Bursey was served a Certificate of Infraction for the offence of "Permit Dog to Attack" on May 30, 2016. (See GSAC Investigation report and the Certificate of Infraction attached to this report.)

On June 01, 2016, By-law Officer Tina Whitteker was assigned Case #718312, whereby the written complaint letter and the GSAC report was reviewed. Contact was made with both Florrie Bursey, owner of the dog Xena, and [REDACTED] regarding [REDACTED] dog Jack and the incident of May 30, 2016. It was determined that there was no provocation to the attack and bite with Jack being occupied at the time urinating and having a ball in its mouth.

During the conversation with Florrie Bursey, the owner of the dog Xena, she informed that she keeps her dog muzzled as there was some history of her dog with others in the complex with other attacks in 2014, and has paid the fine issued to her for this incident and offence of 'Permit Dog to Attack'. She also provided the Animal Tag Registration of 2016-D2137 of her dog Xena.

Officer Whitteker confirmed the dog registration 2016-D2137, a 5 year old female Huskie/lab/German Shepherd, named Xena, owned by Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury. (See the Animal Registration attached to this report.)

A Vicious Dog Notice, #718312, dated Friday, June 10th, 2016, was prepared and delivered to the registered owner of the dog. (See the Vicious Dog Notice attached to this report.) One copy of the notice was hand delivered by GSAC to the owner and another copy was delivered registered mail. The notice contains the requirements of Subsections 21(4) and 21(5) of the by-law; ensuring the dog is muzzled and leashed when not inside the owner's dwelling unit, notifying the owner of his requirement to provide a change of address, the owner's right to appeal the notices and the effective date of the notice, pursuant to subsections 21(6), 21(7) and 21(8).

Appeal Notice

A letter of appeal of the Vicious Dog Notice was received by the owner of the dog and the hearing was scheduled. (See Letter of Appeal is attached to this report.) A notice was sent to the owner of the dog advising of the date and time of the hearing.

To note, after receipt of the Appeal request, Officer Whitteker then contacted and spoke to Florrie Bursey and advised that until the Hearing date, possibly in September, the Notice requirements, including the muzzling order, must be complied with, as per section 21.-4.8), "The notification that a dog is a vicious dog is effective from the date it is served, even if a hearing before Council is requested by the owner of the dog affected". She acknowledged.

However, the owner failed to follow the muzzling requirements and Animal Control Officer Mills charged Florrie Bursey the owner of the dog, with a Certificate of Infraction for the offence of "Fail to Muzzle" on July 24, 2016. (See Certificate of Infraction attached to this report.)

Conclusion

In consideration of this report, the witnesses and the appellant, pursuant to subsection 21(7) the Hearing Committee may decide one of three options below;

1. Uphold the Notice;
2. Modify the Notice - exempting the owner from muzzling or leashing or modify the conditions for such muzzling or leashing; or
3. Quash the Notice - exempting the owner from all requirements to muzzle and leash.

The Registrar is confident that the Vicious Dog Notice issued to Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury, satisfies the requirements of By-law 2002-285, Part VIII, Section 21, a by-law to regulate the keeping of animals and the registration of dogs and cats. The purpose of the notice is to mitigate the recurrence of a similar incident and provide an assurance of safety for the area residents and the general public. The Registrar recommends that the Vicious Dog Notice be upheld by the Committee.

Supporting Documents

1. Victim Statement Letter of Complaint of Vicious Dog 718312 (pdf)
2. GSAC Investigation Report ACR 718312 (pdf)
3. Certificate of Infraction Permit Dog to Attack May 30 2016 PON# 2142818B (pdf)
4. Animal Registration 2016-D2137 ACR 718312 (pdf)
5. Vicious Dog Notice 718312 (pdf)
6. Letter of Appeal of Vicious Dog Notice 718312 (pdf)
7. Certificate of Infraction Fail to Muzzle July 24 2016 PON 6776483B (pdf)

To the Animal Control,

case # 10566.

May 31, 2016.

I [redacted] on May 30, 2016.
at approximately Seven P.M. I Left my apartment
with my small dog "Jack" to Leave the building by the
back entrance. "Jack" as usual had his red and blue
rubber ball in his mouth. He had his leash. When I
opened the back entrance door, I Let "Jack" go loose
to go pee. I followed him. I noticed a lot of people
at the picnic table then realized "Zeana's" owner was
at the table. I yelled out "Jack" is here! While
I was looking at "Jack" peeing and walking toward
Jack. Then I saw Zeana dashing at Jack.
Zeana had her mouth on him and Jack squealed.
A gentleman grabed Zeana by the Collar. My dog came
to me. Then I realized I was in frozen State.
I bend over to assess the harm. My Jack would
not let me touch him. I tried to pick him up,
he almost bit me. He peed a lot low to the ground.
The owner of Zeana came close. She asked how
he is. Told her could not know without looking
under his body. The Owner of Zeana turned to
the gentleman holding Zeana and yeld told him
pat the muzzle on her. It took a few minutes to
take Jack inside. He walked very slowly and
shaky with his head down almost to the ground.
Jack peed a lot on his way inside the building.

In the dog bed there was fresh blood.
Jack was constantly licking his Left hind
leg.

I brought Jack to see the Veterinarian at the Martindale Animal Hospital at 11:30 AM. May 31, 2016. The result.

I have a vet bill of \$143.26 as of today. I am to keep Jack quiet for the next 48 hours. To let the puncture wounds to heal. Pain Med. & a needle for prevention from Infection, from the bite.

I would like to report as a witness that Zeana the German Sheperd owned by Fleury Blursey at 306-1928 Paris Street Greater Sudbury, Ontario P3E 4T9. To be deemed Vicious under the bylaw.

This is not the first time Zeana approached my Jack in attack mode. With no leash and muzzle.

I am willing to pay a fine for letting the leash out of my hand when Jack went for pee. I acknowledge my mistake.

Sincerely,

case no. 10566
May 31, 2016.

VISITING PARKING AREA BEHIND 71928 PARIS ST.

Tina Whitteker - Call summary: Dog attack (other domestic animal): 10566D dated 05/31/2016

From: Rainbow District Animal Shelter <rdshelter@gmail.com>
To: <tina.whitteker@greatersudbury.ca>
Date: 6/9/2016 12:41 PM
Subject: Call summary: Dog attack (other domestic animal): 10566D dated 05/31/2016

Dog attack (other domestic animal):
10566D

Priority: High

Call location

Florrie Bursey
1920 Paris
Sudbury, ON

See address history below

Phone(s):

- Home [REDACTED]
- Home [REDACTED]

Call taken

05/31/2016 at 10:06 AM

Dispatched by

Richard M. Paquette

Call description/notes

At 7:15 pm last night [REDACTED] let [REDACTED] dog loose in the back of 1920 Paris..A dog named Xena, Ger Shep type attacked [REDACTED] dog. [REDACTED] believes the dog lives Unit 306 and is owned by Florrie Martel (Bursey). Wants charges laid and dog ordered vicious under the bylaw.

Case

- No case

Enforcement

No enforcement

Animal(s)

No animals

Prior actions

- 05/31/2016 at 4:32 PM: Action taken - see notes assigned to Sheri Mills (address: 1920 Paris , Sudbury , ON)
Notes: spoke with complainant, got statement, will go to city tomorrow for VDO, understands [REDACTED] could be charged as well, spoke with owner, told her there is a great possibility that a VDO and 2 charges will be laid - she wants surveillance camera pulled as they should both be charged
- 06/06/2016 at 4:53 PM: Served PON assigned to Sheri Mills (address: 1920 Paris, Sudbury, ON)
 PON: 2142818B dated 06/06/2016
 Primary violation: Permit dog to attack (violation: Florrie Bursey)
 Enforcement issued to Florrie Bursey,
 1920 Paris, Sudbury, ON
- 06/06/2016 at 4:54 PM: Spoke with animal owner assigned to Sheri Mills (address: 1920 Paris, Sudbury, ON)
Notes: states she will fight it in court as its not fair, very co-operative, agreed to pay half vet bill cause its half her fault, has contacted victim 3

times without any results, explained all her options so she said she may just pay it, also wanted to inform me that she is being evicted because of this, she also went out and bought a new leash and muzzel

- 06/06/2016 at 5:02 PM: Spoke with complainant assigned to Sheri Mills (address: 1920 Paris, Sudbury, ON)

Notes: doesn't want anything to do with owner, never asked for vet bill to be paid, only wants to make sure this dog never hurts another dog, child or person, informed [REDACTED] of the charge laid and [REDACTED] stated she already delivered [REDACTED] statement to the city for VDO

- 06/06/2016 at 5:08 PM: Spoke with animal owner assigned to Sheri Mills (address: 1920 Paris, Sudbury, ON)

Notes: explained what the vet bill was but the owner does not want it paid just that the dog does not hurt anyone else, states she will pay ticket and take precautions

Address history: 1920 Paris, Sudbury, ON

Current and prior occupants:

- Florrie Bursey (04/04/2014 through present)

Current and prior calls:

- Dog attack (other domestic animal) #5577D on 10/04/2014 (happened oct 2 out with [REDACTED] dog and the other dog comes after [REDACTED] dog no leash or muzzle attacked [REDACTED] dog sheep from apt 306)
- Dog at large #4486D on 06/14/2014 (pit bull type dog at large at the Nepahwin park 2 days ago @ approximately 6:30pm will call back with SU# as the policfe were called and they may be able to provide owner's address if we need to follow up.)
- Dog at large #3715D on 04/04/2014 (Dog at large never on leash in the hallway. Dog's name is "dora" chihuahua/terrier mix has been aggressive with [REDACTED] dog.)
- Dog attack (other domestic animal) #3606D on 03/24/2014 (german shepherd black/tan dangerous dog @ 10:15pm last nite)
- Dog at large #3529D on 03/14/2014 (Jack Russell Bite [REDACTED] German Shepherd last night, Jack Russell is never tied and seems to be aggressive. Happened last night around 9:30pm [REDACTED] is the owner of the Jack Russell's name [REDACTED] does not live at the address visits [REDACTED] at [REDACTED] name is [REDACTED]. March 18th [REDACTED] called saying was [REDACTED] dog doesntlive there but gave me number [REDACTED]

Caller

Phone(s):

- Home: [REDACTED]

21428188

Computer Input/Record Documents
Enter information required for documents

1. Subject: Mathematics
 2. Topic: Algebra
 3. Chapter: Linear Equations
 4. Page: 101

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REC'D - FOREST #20
SUNNY DAY PAGE 47

2004年12月10日

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1976

Grand Canyon / Grand Canyon

Abstract

Figure 1

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1. Name of Applicant: <u>John Doe</u>	2. Social Security Number: <u>123-45-6789</u>	3. Total payables: required any time after 12/31/99 include how we charge and assess the charges (total payable assessment) 4. Payment date: <u>01/15/2000</u> 5. Amount due: <u>\$100.00</u>
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DOG Tag Registration #2016 D-2137

Date Tag Purchased Mon, February 1, 2016
Cost \$25.00
Receipt No Feb 1, 2016

Expires, as per By-Law 2002-285, on
Dec 31, 2016
Death of Animal
Transfer of Ownership

Owner's Information

Last Name BURSEY
First Name FLORRIE
Street Address 1920 PARIS ST
Unit/Appt # 306
City SUDBURY, ONTARIO
Postal Code P3E 4T9
Home Phone Number [REDACTED]
Work Phone Number [REDACTED]
Cell Phone Number [REDACTED]

Animal's Information

Name XENA
Breed HUSKIE/LAB/GERMAN SHE
Description BLACK/TAN/WHITE
Gender FEMALE
Date of Birth Wednesday, March 30, 2011
Date Acquired Thursday, May 5, 2011
Veterinarian WALDEN ANIMAL HOSPITAL

Agent /CSC Information

Name James
Location South End Library
Phone 688-3950

VICIOUS DOG NOTICE #718312

Pursuant to City of Greater Sudbury Animal Control By-law 2002-285

REGISTERED MAIL & HAND DELIVERED

PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCCA
200, RUE BRADY
SUDBURY ON P3A 5P3

705.671.2489

www.greatersudbury.ca
www.grandsudbury.ca

To: Florrie Bursey
1920 Paris St. Unit D306
Sudbury, ON
P3E 4T9

The City of Greater Sudbury is in receipt of a written complaint that your dog, Xena, registration number 2016 D-2137, has bitten another dog without provocation on Monday, May 30th, 2016.

As Registrar pursuant to the Animal Control By-Law #2002-285, I deem your dog, to be vicious. Therefore, you are hereby required to comply with the requirements as set out in Sections 21 (4) and 21 (5) of the by-law which states:


- 4) "Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that
 - a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal; and
 - b) the vicious dog is securely leashed on a leash which does not allow it to go beyond the property line of the owner's lands."
- 5) "Every owner of a vicious dog shall at all times when the vicious dog is not within the boundaries of the owner's premises;
 - a) keep the vicious dog under the effective control of an adult person on a leash held by the person; and
 - b) keep the vicious dog muzzled.

AND FURTHER

- (6) Every owner of a vicious dog shall notify the Registrar within two working days of any change in ownership or residence of the vicious dog and provide the Registrar with the new address and telephone number of the owner.
- (7) Where the owner of a vicious dog is informed that his or her dog has been deemed to be a vicious dog, the owner may, within 14 days of such notice, request in writing a hearing by Council or committee established for that purpose and Council may exempt the owner from the muzzling or leashing requirement, or both such requirements or may modify the conditions for muzzling or leashing.
- (8) The notification that a dog is a vicious dog is effective from the date it is served, even if a hearing before Council is requested by the owner of the dog affected.

Failure to comply with this notice will result in charges pursuant to the by-law and Provincial Offences Act, which upon conviction may result in a fine to a maximum of \$5,000.

Dated this Friday, June 10th, 2016


Tina Whittaker
By-law Enforcement Officer
City of Greater Sudbury

cc: Greater Sudbury Animal Control

To whom this may concern,

I am writing this letter in response to the vicious dog notice # 718312 that I received hand delivered and thru registered mail. The [REDACTED] of Apt [REDACTED] of 1920 Paris Street, Sudbury, Ontario P3E-4T9 does not like me or my dog. I have lived at 1920 Paris Street since March 24/2012. I find her to be unreasonable and vindictive. I can not even bring my dog for a walk. She has tried to get me evicted. I can not handle the stress that this is causing for me and my dog Xena. My dog Xena is registered and has been since we moved to Sudbury. Registration # 2016 D-2137. I am requesting a hearing by Council or the

committee established for that purpose.
To have the conditions modified for
muzzling of my dog, I agree with the
conditions to keep her leashed at
all times and that it is the law.
I know my dog Xena is not vicious.
She has never bitten me or harmed me
in any way. She is my best friend.
She has never bitten a human and she is
muzzled whenever there is another dog.
She is muzzled from the time she
leaves my apartment until she returns.
There have been no other incidents.
She is also leashed at all times from the
time she leaves the apartment until she
returns. I walk my dog Xena
four times a day from anywhere from

20 minutes to an hour. Since I have lived at 1920 Paris Street Apt 306 I have bought my dog 3 muzzles. The lady contacted Animal Bylaw on fathers day & stated I did not have a muzzle. Which is untrue as I have the packaging and the receipt. This is harassment. I complied with Officer Mills & was cooperative in resolving the issue. I no longer walk my dog around the building nor do I interfere with other tenants or their pets. I stay in my apartment with my four animals like a prisoner. Xena has lived with cats all her life. She has helped raise two dogs Jet & Rosie. She currently lives with 3 cats ages 3 & 2, since they were all 5 wks old.

She considers them to be her children. She has never bitten or chewed them or harmed them in any way.

Unfortunately on May 30/16 both my dog & apt [REDACTED] dog jack were both at large. Xena was provoked as jack came towards her and was not on a leash and is on camera with the Greater Sudbury Housing Corporation. I went to talk to [REDACTED] multiple times to resolve the issue and offered to pay for half of the vet bill as we were both at fault. [REDACTED] informed Officer Mills that [REDACTED] wanted nothing from me. However [REDACTED] continues to waste your time & to harass me and my dog Xena. For my peace of mind I have

avoided any area that [REDACTED] may be.
[REDACTED] wanted you to deem Xena vicious
yet [REDACTED] is still allowing her dog to
be at large everyday in the back yard
of 1920 Paris. as well as Apts [REDACTED], [REDACTED]
& other tenants are allowing their
dogs to be at large.

No other tenant has complained or
issued a complaint. I received a \$125
charge which I paid the next day and have
the receipt. I do not understand how
you can take one persons word and
deem a beautiful, caring & loving
animal to be vicious

Due to the order my dog Xena has
started chewing her back end, she won't
eat & her nose is all broken out.

i have [REDACTED] & Xena is my
[REDACTED] dog. She is the reason i [REDACTED]
[REDACTED] and [REDACTED] today. i am on [REDACTED]
and [REDACTED] to be fined up to
\$5000 as i don't even [REDACTED]

[REDACTED]. i do not agree with the
muzzling all the time as she can not
pant or breathe properly. also all
packaging says it is only for
TEMPORARY USE not for every day, all
day use. i would like this issue
resolved as fast as possible and in a
timely manner. Due to the harassment
of apt [REDACTED] i am putting in my notice
june 30/16 and will no longer be
living at 1920 Paris Street Apt 306 as
of September 1/16. i will not continue

to be harassed on a daily basis from
this [REDACTED] or put my dog Xena thru any
more trauma.

You can contact me by phone or by
mail to inform me of the date I can
speak to the Council or the Committee
to get this issue resolved.

Sincerely, Florrie
Bursey.

Florrie Bursey
1920 Paris Street
Apt 306
Sudbury, Ontario
P3E-4T9
[REDACTED]

