

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], 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)