

Request for Decision

Vicious Dog Notice Appeal - #629189

Presented To:	Hearing Committee
Presented:	Thursday, Mar 12, 2015
Report Date	Wednesday, Mar 04, 2015
Type:	Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #629189, issued to Daniel Ross.

AND THAT the City of Greater Sudbury _____ the request of the appellant to modify the Notice to remove the requirement of muzzling only while the dog is swimming, provided that the dog be leashed at all times.

Finance Implications

No Finance Implications.

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.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Mar 4, 15

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Mar 4, 15

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth &
Development
Digitally Signed Mar 4, 15

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Mar 4, 15

By-law Procedure Vicious Dog Notice - 629189

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 requesting that the dog named Harley be deemed vicious, based on an incident on April 24, 2014 where the complainant and their dog were attacked. A copy of the Victim Statement is Attachment 1 to this report.

The letter contains information regarding past attacks which were not reported prior, and the attack describing the incident which happened on April 24, 2014. The victim states that they were walking on their street with their two dogs both held on a lease, that being a 7 lbs. Yorkie and Lab, with a family member. The victim describes that their dogs started barking as they saw the dog charging towards them out of the dog's driveway. "Teeth are bared and its hair is up on its back". It was then described that the victim started yelling while the dog circled around their Lab "several times, charging and growling ferociously and trying to bite them. My dog lay down. My family member was trying to get between that dog and my lab". The victim then describes the dog went after their Yorkie. "He jumped on Tiger, flattened him to the ground with his paws and body. Then he grabbed a hold of my dog with his mouth around his neck. We were both screaming at the dog. I pushed him off and he bit the sleeve of my polar fleece jacket." Then the victim describes that they saw the owner of the dog racing towards them, yelling at his dog who got away several times. "When he caught the dog, he slapped the dog under the chin. He pulled the dog into his yard", and then they left and went home.

Greater Sudbury Animal Control (GSAC) investigated this incident and it was recorded in the report by the Animal Control Officer that the owner, Mr. Daniel Ross was very co-operative when receiving Provincial Offence Notices for "Permit Dog to Attack" and "Permit Dog to run at large", on April 26, 2014. The dog owner confirmed the incident, and provided proof they have been trying to deal with the dog's behavior by taking their dogs to obedience training at Skiplin Kennels.

The registration of the dog that attacked is #2014 D-4734 and confirms ownership of the dog to Daniel Ross, Hanmer, Greater Sudbury [Attachment 2 to this report].

The owner Mr. Daniel Ross plead guilty to the offence "Permit Dog to Attack", paying a fine and costs of \$125, and the charge for "Dog to run at large" was withdrawn by the prosecutor, with court completion date of July 4th 2014. A copy of the Certificate of Offence is Attachment 3 to this report.

A Vicious Dog Notice, #629189, dated September 11, 2014, was prepared and delivered to the registered owner of the dog. 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) of the by-law. The Vicious Dog Notice is attachment 4 to this report.

Appeal Notice

A letter of Appeal of the Vicious Dog Notice dated September 24, 2014, sent by the dog owners, requests to modify the muzzling restriction while the dog is in the water for the purpose of swimming and agrees to the leashing requirement. A copy of the Letter Requesting Appeal is Attachment 5 to this report. The hearing was scheduled, and a notice was sent to the owners of the dog advising of the date and time of this hearing. A copy of the notice of the Appeal Notification is Attachment 6 to this report.

Conclusion

The Registrar is confident that the Vicious Dog Notice issued to Mr. Daniel Ross 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 similar incidents and provide an assurance of safety for the area residents and the general public. The Registrar is of the opinion that, due to the dog owner taking responsibility for the offence of 'Permit dog to Attack', a specific modification to the Notice of allowing the dog to swim without a muzzle providing the dog is still leashed at all times, will not jeopardize the safety of the area residents and the general public.

The Registrar recommends that the Vicious Dog Notice be upheld by the Committee and that the Committee considers modifying the Notice to remove the requirement of muzzling only while the dog is swimming, provided that the dog be leashed at all times.

Dear Sir/Madam,

April 25, 2014

I wish to make a formal complaint about [redacted]

[redacted] (Mr. & Mrs. Ross and their 2 dogs) at [redacted] Hammer. We were attacked by one of his 2 dogs while walking our dogs on a leash.

Description of animal: honey brown, waist high, short hair, not sure of breed of dog - but I can identify it.

Incident: occurred April 24/2014 at 7 pm.

[redacted] (my [redacted]) & myself with my 2 dogs went for a walk on our street. Both animals are leashed & walking beside us. My dogs start barking. We see this big brown dog charging towards us, out of their driveway. Teeth are bared and its hair is up on his back. He is racing towards us. I start yelling. The attack dog is circling Honey (my lab dog) several times, charging and growling ferociously and trying to bite her. My dog lay down. [redacted] was trying to get between

that dog and my lab. Then the attack dog went after Tiger (my 7 lb Yorkie). He jumped on Tiger, flattened him to the ground with his paws & body. Then he grabbed a hold of my dog with his mouth around his neck. Both [redacted] & I were screaming at the dog. I pushed him off & he slit the sleeve of my polar fleece jacket.

at this time, we spotted the owner racing towards us. He yelled at the dog who got away several times. When he caught the dog, he slapped the dog under the chin. He pulled the dog into his yard. We left & came home.

Past incidents (2013)

1st Last year, my [redacted] was attacked by the Ross' same 2 dogs. The wife opened the garage door and released the 2 dogs loose. This time both dogs (Ross's) charged & attacked my [redacted] and our 2 dogs. The top of my [redacted] hand was torn open after [redacted] was knocked down by these 2 big dogs (Note: My [redacted] is [redacted] and weighs [redacted] lbs).

The animals persisted in attacking my 2 dogs & my
"Honey" got a slash on her leg which required medical
attention from the Vet. Tiger was O.K.

2nd last Summer, the Ross's dogs are loose again and
 race towards the beach in an attack mode toward
 our [redacted] yr old & [redacted] yr old [redacted] playing in the sand.
 My [redacted] tried to protect them, waving a stick. No physical
 injuries at this time but the children are crying, shaken up, terrified

3rd A few weeks later, the same 2 dogs attacked a German Sheppard dog who was tied up in his own backyard. The Sheppard's owner & other [REDACTED] had to pull these dogs off to avoid the sheppard sustaining severe injuries.

4th A couple of weeks later, the litter of the 2 dogs attacked a small black dog of another [redacted] on his beach.

There are more incidents involving other people on the street
We feel unsafe taking our dogs for a walk and using
our own beach.

Please help us.

Thank you for the support

Respectfully,

[REDACTED] Hammer, Out

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]



CITY OF GREATER SUDBURY

Printed: September 09, 2014

DOG Tag Registration #2014 D-4734

Date Tag Purchased Wed, June 18, 2014
Cost \$25.00
Receipt No 861479

Expires, as per By-Law 2002-285, on
Dec 31, 2014
Death of Animal
Transfer of Ownership

Owner's Information

Last Name ROSS
First Name DAN
Street Address [REDACTED]
Unit/Appt # [REDACTED]
City [REDACTED]
Postal Code [REDACTED]
Home Phone Number [REDACTED]
Work Phone Number [REDACTED]
Cell Phone Number [REDACTED]

Animal's Information

Name HARLEY
Breed MASTIFF MIX
Description RED
Gender FEMALE
Date of Birth Sunday, November 20, 2011
Date Acquired Thursday, January 5, 2012
Veterinarian CHELMSFORD ANIMAL HOSPITAL

Agent /CSC Information

Name VANESSA GILLIARD
Location VALLEY EAST CSC
Phone 688-3961

Owner's Signature: _____

SD 26 APR 14 152135039B

4060
FILED APR 28 2014

From 1. Provincial Offences Act, Ontario (R.S.O. 1990, c. P. 45, s. 121(1))
Article 1. Loi sur les infractions provinciales, Ontario (R.S.O. 1990, c. P. 45, s. 121(1))

Certificate of Offence / Procès-verbal d'infraction

I/Je soussigné(e) **D. DUMOULIN**
Believe and certify that on the day of **2014** at **ROSS DANIEL**
que je **2014** **140424** **7:00 PM**
Name **ROSS DANIEL**
Matière **DANIEL**

Address **[REDACTED]**
Address **[REDACTED]**

Driver's licence No./Numéro de permis de conduire **[REDACTED]**

Birth date / Date de naissance **19** Sex **M** Minor Vehicle **[REDACTED]** Collision **[REDACTED]** Witnesses **[REDACTED]**
Date **19** Sex **M** Minor Vehicle **[REDACTED]** Collision **[REDACTED]** Witnesses **[REDACTED]**

Did commit the offence of: **PERMIT DOG TO ATTACK**
A commis l'infraction de: **PERMIT DOG TO ATTACK**

Contrary to: **GREATER CITY OF SUDBURY BY-LAW #2002-285**
Sect./Art. **21**

Plate number / N° de plaque d'immatriculation **[REDACTED]** Date **[REDACTED]** Commercial **[REDACTED]** CVOR/NOV **[REDACTED]** NSC/DNS **[REDACTED]** Code **[REDACTED]**

CVOR No. - NSC No. / N° de l'UVU - N° du CNS **[REDACTED]**

And I further certify that I served an offence notice personally upon the person charged in the offence date **2014/04/26**
J'atteste également qu'il a été servi de l'avis de l'infraction, l'ai signifié, en mains propres, au prévenu d'infraction à la personne accusée

Signature of issuing Provincial Offences Officer **[Signature]** Officer No. **127** **GS AC**
Signature of the person charged **[Signature]** Officer No. **127** **GS AC**

Set fine of **\$100.00** Total payable **\$125.00**
Amende fixée de **\$100.00** Montant total exigible **\$125.00**

Summons issued. You are required to appear in court on **2014** at **0**
Assignation. Vous êtes tenu(e) de comparaître devant le tribunal le **2014** à **0**

Q. remède d'audience at the Ontario Court of Justice P.O.A. Office at **200** **200** **200**
à la Cour de justice de l'Ontario, Bureau des infractions provinciales au **200** **200** **200**

Issued on the 25th day of April 2014 at the Provincial Offences Act, Ontario (R.S.O. 1990, c. P. 45, s. 121(1))
Émis le 25^e jour d'avril 2014 au titre de la Loi sur les infractions provinciales, Ontario (R.S.O. 1990, c. P. 45, s. 121(1))

2 0

**VICIOUS DOG NOTICE ACR#629189**

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

REGISTERED MAIL & HAND DELIVERED

To: Daniel Ross

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

The City of Greater Sudbury is in receipt of a written complaint, and a Certificate of Offence #2135039B where you were charged and plead guilty to "permit dog to attack" whereby your dog, Harley, registration number #2014-D-4734, has attacked another dog without provocation on April 24, 2014 on Onwatin Lake Road in Hanmer.

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:

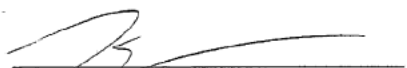
- 4) "Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that
 - a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal; and
 - b) the vicious dog 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 11th day of September, 2014


 Tina Romanyszyn, B.A., C.P.S.O.
 By-law Enforcement Officer
 Compliance and Enforcement Services
 City of Greater Sudbury

cc: Greater Sudbury Animal Control

		REGISTERED DOMESTIC	RECOMMANDE RÉGIME INTÉRIEUR																															
		CUSTOMER RECEIPT	REÇU DU CLIENT																															
<table border="1"> <tr> <td colspan="2">Destinataire</td> <td colspan="2">FOR DELIVERY CONFIRMATION</td> <td colspan="2">ACCOMPLIATION DE LIVRAISON</td> </tr> <tr> <td>Nom</td> <td>Rem</td> <td colspan="4">www.cityofsudbury.ca</td> </tr> <tr> <td colspan="2">Adresse</td> <td colspan="4">1 888 550 6333</td> </tr> <tr> <td colspan="2">City / Prov. / Postal Code</td> <td colspan="4">CPC Tracking Number Numéro de suivi de la SCP</td> </tr> <tr> <td colspan="2"></td> <td colspan="4">RW 743 903 585 CA</td> </tr> </table>					Destinataire		FOR DELIVERY CONFIRMATION		ACCOMPLIATION DE LIVRAISON		Nom	Rem	www.cityofsudbury.ca				Adresse		1 888 550 6333				City / Prov. / Postal Code		CPC Tracking Number Numéro de suivi de la SCP						RW 743 903 585 CA			
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CC-808-804 (11-04)																																		

Page 2 of 2

[REDACTED] ROSS
[REDACTED]
[REDACTED]

COPY

September 24, 2014

City of Greater Sudbury
P.O. Box 5000 STN A
200 Brady Street
Sudbury, ON P3A 5P3

Attention: Compliance and Enforcement Services

RE: ACR#629189

As per the registered mail letter dated September 11, 2014 and received via hand delivery September 14, 2014, we request a hearing by Council or Committee to discuss a modification to the conditions for muzzling of our dog Harley for the purposes of swimming while on our property. Please be advised that we agree to the leashing requirement.

Should you require further information, please do not hesitate to contact us at the information provided above.

Regards,


[REDACTED] Dan Ross

C: Clerk Department



January 22, 2015

Daniel Ross & Lynda Flintoff
[REDACTED]

Dear Mr. Ross and Ms. Flintoff:

Re: Appeal – Vicious Dog Notice – ACR #629189

This will acknowledge receipt of your letter dated September 24, 2014 appealing the Vicious Dog Notice issued under the City of Greater Sudbury's Animal Control By-law 2002-285.

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Vicious Dog Appeals. The Committee Meeting will begin at **4:00 p.m.** on **Thursday, March 12, 2015** in **Committee Room C-11** at Tom Davies Square. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

Please be advised that this hearing is a public Process; the agenda will be made available on the City's website and the hearing is open to the public to attend.

If you require any further information, do not hesitate to contact me at 674-4455, ext. 4206.

Yours truly,

T. Thompson

Tanya Thompson
Deputy City Clerk

cc: *D. Barker, Manager of Compliance & Enforcement Services*
T. Ronanyshyn, By-law Enforcement Officer

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

CP 5000 SUCCA
200 RUE BRADY
SUDBURY ON P3A 5P3

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