

Request for Decision

Appeal of Vicious Dog Notice 439900

Presented To: Hearing Committee

Presented: Wednesday, Oct 09, 2013

Report Date: Wednesday, Oct 02, 2013

Type: Public Hearings

File Number: 439900

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #439900, issued to Paul Kingsbury of 1280 Ramsey View Court, Unit #98, 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 - 439900

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.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement

Digitally Signed Oct 2, 13

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official

Digitally Signed Oct 2, 13

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth &
Development/Planning Director

Digitally Signed Oct 2, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer

Digitally Signed Oct 2, 13

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 Samantha Secord of 1257 Ramsey View Court, Greater Sudbury, requesting that the dog named Diesel, kept at the address of 1280 Ramsey View Court, Unit #98, be deemed vicious, based on an incident on May 9, 2013 where she and her dog were attacked. The letter of complaint is attached to this report.

The letter contains information regarding the attack and also contains 2 other witnesses names and an additional statement of one of those witnesses. Seven (7) photographs were included in the package with the letter. Information in the letter describes an incident which happened on May 9, 2013. The victim states in the letter that she was walking from her house towards her car on the street with her dog, a dachshund, "when a large bulldog charged across the road almost causing a car accident" towards her. The bulldog struck the right side of her "taking me right out of my shoes and began snapping and biting at me and my dog." She describes how the dog pinned her against the car, jumped on her so hard it knocked her hat and sunglasses off her head. The attack on her dog is described as causing bruises and occurred with such force as to rip off her dog's harness. During the attack, efforts of the owner to control his dog were unsuccessful, and his dog circled around the victim's car and bit the victim's arm and attacked her dog again.

The victim sustained bruises and lacerations from the attack and sought medical attention. Under a doctor's care, she wore a sling as a result of pulled muscles and inflammation due to the attack and was forced to take time off from work.

Photos were provided showing injuries sustained by the victim on her lower back and arm. Additional photos were provided showing injuries to her dog, and showing scratches on her car. The pictures are not attached to this report, however originals are available for viewing by the committee.

The victim provided an additional statement by an individual who witnessed the attack and confirmed the written account of the victim. This statement is attached to this report. The victim also provided names of 2 other independent witnesses to this occurrence. The Manager of Compliance and Enforcement Services contacted the witnesses, and confirmed that they saw the bull dog charge at the victim, cross the road, almost creating an accident and attacking the victim and her dog.

Greater Sudbury Animal Control (GSAC) investigated this incident and at the time of the attack, the owners of the bulldog named Diesel had not registered the dog with the City as required pursuant to the by-law. The owner registered the dog with Animal Control during their investigation. The dog was registered "D-1013" by the name of "Diesel", a 3 year old male American Bulldog, owned by Paul Kingsbury of 1280 Ramsey View Court, Unit #98, Greater Sudbury.

On May 10, 2013, the owner of the dog was served a Certificate of Infraction for the offence of "Permit Dog to Attack", payable by a penalty of \$125.

A Vicious Dog Notice, #439900, dated August 7, 2013, was prepared and delivered to the registered owner of the dog. (See Attachment of the "Notice" 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. A copy of the 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. A copy of this notice is 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 Paul Kingsbury of 1380 Ramsey View Court, Unit #98, 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.

May 13, 2013

To Whom it May Concern,

My name is Samantha Secord and on May 9, 2013 at approximately 3:00pm my dog and I were attacked by a dog. I was walking toward my car with my dog, which was parked in front of my townhouse. When a large bulldog charged across the road almost causing a car accident. I then picked up my dog quickly so he would not get mauled by the dog. The owner was yelling at the dog to come back but the dog kept charging toward us. The dog then struck the right side of me taking me right out of my shoes and began snapping and biting at me and my dog (dachshund). The dog then pinned me against my car, he jumped and hit my hat off my head, removed my sunglasses from my face and knocked my keys out of my hand. He also ripped off my dog's harness. As the attack was happening the owner was yelling at the dog to stop but the dog kept going. The owner had no control due to the fact that he had no collar or leash to restrain the dog. When the owner finally got a hold of him, the owner was unable to control his dog and he circled around my car and came back at us again. The dog bit my arm causing a laceration from his teeth, he also bit my dog removing hair from his right rear leg. My dog is also bruised from the attack. I have also seen a doctor and have been taken off work from the attack. I have pulled muscles and inflammation in my arm and neck. I have to wear a sling and can barely move my arm. When the attack was over a lady grabbed all my things from the road and told me to go inside and call the police. Which I called and also called animal control. When I went back outside to speak to the

owner he accused me of hitting his dog and blaming me for the attack. Another body told me to go in the house and the owner started yelling and swearing at her. I do not feel safe with this animal around my house nor do the other people who live here. I have not left my house in 5 days alone because I am horrified and terrified from this event. This attack has changed my life for the worse and has only caused me pain. Please help me in removing this dog from my area or have him muzzled at all times when outside.

The owners name and address is:

Paul Kingsbury
1280 Ramsey View Court apt 98

The dogs name is Diesel

Sincerely,

Samantha Secord

Samantha Secord

2013 05 10

TO WHOM IT MAY CONCERN:

THE FOLLOWING RELATES TO A VICIOUS DOG ATTACK
ON MAY 9 AT ABOUT 3 PM, ON RAMSEY VIEW CRT
IN FRONT OF #1257 UNIT.

A LADY CAME OUT OF HER HOME, ^{WITH HER OWN DOG ON A LEASH,} AND GOT TO THE
SIDEWALK WHEN A LARGE WHITE DOG RAN ALONG
THE FENCES AT THE BACK OF THE TOWNHOUSE UNITS.
A MAN (THE OWNER) YELLED AT THE DOG WHICH WAS
NOT ON A LEASH NOR DID IT HAVE A COLLAR OR TAG.
THE DOG RAGED ACROSS THE LAWN, THE ROAD (ALMOST
CAUSING A CAR ACCIDENT AS THE DRIVER HAD TO
BRAKE DRASTICALLY TO MISS THE DOG. THE DOG
THEN ATTACKED THE WOMAN AND HER DOG. THE
ANIMAL REFUSED TO STOP ATTACKING, PUSHED THE
WOMAN AGAINST THE CAR, KNOCKED THE WOMAN OUT OF
HER SHOES, MADE HER ARM BLEED, BIT THE DOG,
REMOVED HAIR FROM THE SMALL DOG. ANOTHER WOMAN
TRIED TO HELP. THE "OWNER" WAS ARROGANT YELLING
TO LEAVE HIS "FINE" DOG ALONE. THE PEOPLE
IN THE AREA WANT TO FEEL SAFE WHEN

WE WALK OUR DOGS ON THE SIDEWALK,
WE ARE TOLD THERE ARE THREE DOGS IN HIS HOME,
I HOPE THIS DOG IS NEVER ALLOWED TO REPEAT
THIS ACT AGAIN.



DOG TAG ANNUAL REGISTRATION 2013 D 1013

Entered into System Initial

Date Tag Purchased: May 09, 2013
(No Refunds)

As per By-law 2002-285, Tag Registration Expires:

- Dec 31, 2013
- Death of animal
- Transfer of Ownership

Owner's Information: (Please print clearly)

Last Name: Kingsbury
First Name: Paul
Phone: Home: 561-8032 Work: _____ Cell: _____
Home Address: 1280 Ramsey View
(For return of pet)
Box # 98 Apt. # _____ City: Sudbury Postal Code: _____
Have you moved since last registration? ☐ yes ☒ no
If yes, then last Address / Home Phone: _____

Pet Information:

Pet's Name: Diesel
Breed: American Bull Terrier Colour: White/Brown
Sex: ☐ F ☒ M Age: 2yrs Date acquired pet: _____

WHITE - client YELLOW - animal control PINK - agent/office copy

Agent / CSC Name: GSA
Agent / CSC Phone Number: _____
Agent / CSC Signature: DO

Check dates and follow across for fees

Prices:

	REGULAR	SENIOR*	SPAY/NEUTER**
Before Jan. 31, 2013 - fee ➡	<input type="checkbox"/> \$30.00	<input type="checkbox"/> \$15.00*	<input type="checkbox"/> \$15.00**
After Jan. 31, 2013 - fee ➡	<input checked="" type="checkbox"/> \$40.00	<input type="checkbox"/> \$25.00*	<input type="checkbox"/> \$25.00**
or if newly acquired within 7 days ➡	<input type="checkbox"/> \$30.00	<input type="checkbox"/> \$15.00*	<input type="checkbox"/> \$15.00**
After Oct. 1, 2013 - fee ➡	<input type="checkbox"/> \$40.00	<input type="checkbox"/> \$25.00*	<input type="checkbox"/> \$25.00**
or if newly acquired within 7 days ➡	<input type="checkbox"/> \$15.00	<input type="checkbox"/> \$15.00*	<input type="checkbox"/> \$15.00**
Replacement pet tag - replacing tag # _____ (MUST be filled in for replacement rate to be charged.)	<input type="checkbox"/> \$ 5.00		

MUST BE FILLED OUT IF SENIOR RATE OR SPAY/NEUTER - BOX CHECKED

* Senior year of birth: _____ (must be 55)
** Spayed / Neutered Information: _____

Date Spayed / Neutered: _____

Name of Animal clinic: _____

Female - Spayed ☐ Male - Neutered ☐

The information may be verified by the City of Greater Sudbury, Compliance and Enforcement Services.

Owner's signature: _____

Office Use: Date Picked Up: _____ Amount Confirmed: _____

VICIOUS DOG NOTICE #439900

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: Paul Kingsbury
1280 Ramsey View Court, Unit #98
Sudbury, ON P3E 2G4

The City of Greater Sudbury is in receipt of a written complaint that your dog, named Diesel, registration number 2013 D1013, has attacked a person and another dog without provocation on May 9, 2013, in front of 1257 Ramsey View Court, in the City of Greater Sudbury.

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 7th day of August, 2013



Darlene Barker, Registrar
Manager of Compliance and Enforcement
City of Greater Sudbury

C: Greater Sudbury Animal Control

Paul Kingsbury
1280 Ramsey View Court, Unit 98
Sudbury, ON P3E 2G4
705-561-8032

August 17, 2013

Po Box 5000, Stn A
200 Brady Street
Sudbury, ON P3A 5P3
705-671-2489

RECEIVED
AUG 27 2013
BY-LAW DEPT

Subject: Request for Appeal

Dear Darlene Barker:

I am writing this letter to request an appeal to Vicious Dog Notice #439900 dated August 7, 2013.

On May 9, 2013 I had just come home from a job interview at Jutras Group and I noticed one of my three dogs (Deizel, American Bulldog) was about to be sick. I let him into the back gateway to get sick because he wanted to eat grass and our yard does not have any. My dog was getting physically ill and therefor I did not put a leash on him.

As I was cleaning up the mess, Deizel saw another dog and took off towards it. It was a lady walking a shih-tzu. He ran across the street. Once I saw him run off I yelled out "I'm sorry he won't hurt you, he just wants to play." I ran after Deizel yelling "no, no Deizel no" he was bumped by an oncoming car but kept running. He reached the lady and her dog; he was sniffing the dog and the lady started kicking him. She kicked him so hard her shoe flew off under a parked car. The lady picked up her dog. Deizel jumped on her after being kicked and accidentally scratched her. Her dog then bit Deizel in the jowls repeatedly so Deizel bit down to stop the dog from biting him. He did not shake the dog just held him still. There was only a puncture wound not a full bite. I grabbed Deizel and he let the dog go. The lady had a scratch on her arm so I apologized to her. She was still yelling and screaming. I offered to help pay any vet bills and she told me off. I left and brought him home. My neighbour was a witness and can contest to her hitting my dog.

This is not the first time these dogs have seen each other as we walk in the same neighbourhood all the time.

My dog is not vicious, we have two other dogs in our home and they are both shih-tzus. Our dogs cohabitate without any problems. I have pictures to prove this.

Also, we live in a townhouse complex where there are a lot of children. They often come up to our screen door where he is sitting and poke the screen and he does not even bark at them.

I have three letters from neighbours who have children and other dogs and who can attest that Deizel is not vicious. Please see the attached letters.

RECEIVED

AUG 27 2013

BY-LAW DEPT

Thursday, August 22nd, 2013

To whom it may concern,

Over the last two years I have gotten to know Diesel. People judge by appearances and it is not right. Humans do it with each other every day and unfortunately it carries over to our pets. He is a large dog with a huge heart. He is playful, sweet and makes us laugh. He is far from a threat to anyone or any pet. I trust him out with my two daughters who were 2 and 6 at the time they first met Diesel. We recently added a puppy to our family and the two of them love to play together. It is my opinion and that of my entire family that he is anything but vicious. I sincerely hope you will reconsider him being labelled that way.

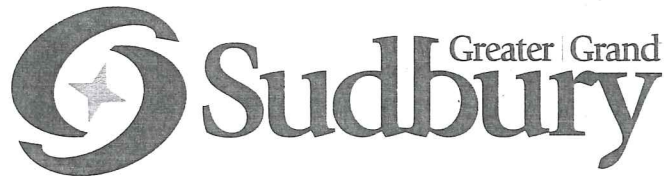
RECEIVED
AUG 27 2013
BY-LAW DEPT

To whom it may concern;

My Name is Dorothy Penny and I have lived beside Paul Kingsbury for a year and half. I have two daughters who are four and ten years old. We also have a male boxer puppy.

We have never had any problems with Deizel. My daughters can walk up to the screen door of their house and poke at the screen when Deizel is sitting there and he barely acknowledges her. Our dogs have played and Deizel has never been dominant or vicious.

If you have any additional questions or concerns, please feel free to contact me.



September 9, 2013

Phil Kingsbury
1280 Ramsey View Court, Unit 98
Sudbury, ON P3E 2G4

Dear Mr. Kingsbury:

Re: Vicious Dog Notice #439900

This will acknowledge receipt of your letter on August 17, 2013 appealing Vicious Dog Notice #439900 pursuant to the City of Greater Sudbury Animal Control By-law 2002-285.

This matter will be heard by the Hearing Committee at **4:00 p.m. on Wednesday October 9, 2013** in Council Chamber at Tom Davies Square. Bring any information you feel relevant in presenting your position. 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.

I am enclosing a copy of the relevant sections of the City of Greater Sudbury's by-law to regulate the keeping of animals and the registration of dogs and cats, By-law 2002-285, for your convenience. If you require any further information, do not hesitate to contact the undersigned at 705-674-4455, ext. 4206.

Yours truly,

A handwritten signature in cursive script that reads 'Lisa Miller'.

Lisa Miller
Deputy City Clerk

/ec

Enclosure

cc: **D. Barker**, Manager of Compliance & Enforcement Services

PART VIII -VICIOUS DOG

21.-(1)No owner of a dog shall permit his or her dog to attack without provocation or to bite a person or domestic animal.

(2) Where the Registrar is informed upon written complaint, and is satisfied that a dog has attacked without provocation or bitten a person or domestic animal, and has 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).

(3) Service of notice that a dog has been deemed a vicious dog may be effected on the person who shows in the City's records as the owner of the dog, or where the dog does not appear to be registered pursuant to this By-law, on such other person who appears to be the owner of the dog. Service may be effected by personal service, by mail or by posting up in a conspicuous place at the address shown in the records of the City as the address for the owner of the dog, or where the dog is not registered under this By-law, at such address as appears to be the address of the owner of the dog. Service of the notice shall be effective upon the date that personal service is effected, or where served by mail or by posting, shall be deemed effective on the third day after mailing or posting as the case may be.

(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 the

- (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.

(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 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.