

Presented To: Hearing Committee
Presented: Tuesday, Dec 04, 2012
Report Date: Tuesday, Nov 27, 2012
Type: Public Hearings
File Number: 412411

Request for Decision

Appeal of Vicious Dog Notices issued to Theresa Pagnutti

Recommendation

That the City of Greater Sudbury uphold the Vicious Dog Notice 412411, issued to Theresa Pagnutti of 1372 Regent Street, 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 - 412411

Subsection 2.(1) of By-law 2002-285 designates the Manager of By-law Enforcement for the City as the Registrar pursuant to the By-law.

Subsection 21.(2) of the by-law states "Where the Registrar is informed upon written complaint, and is

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Nov 27, 12

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Nov 27, 12

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed Nov 27, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Nov 28, 12

satisfied that 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 the victim, Stephen Lenahan through his employer, Canada Post, requesting that the dog at the address of 1372 Regent Street be deemed vicious, based on an incident that the dog attacked and bit the victim on September 25, 2012.

The letter contains the following information. The victim, a letter carrier, explains in his statement when he would deliver the mail to 1372 Regent Street. The dog was always tied up and would "bolt out of the back entrance until there was no chain left, head jolting back from the impact, barking profusely, showing teeth and hair standing stright up on his back. This continued every day the dog was out and not only me, but people walking by also." He explains the incident in his statement. The dog bit him in the leg on September 25, 2012 while the dog owner's neighbour was walking him on the sidewalk on Regent Street. The "Letter of Request" including a statement from the victim and the employer is attached to this report.

Greater Sudbury Animal Control attended in response of the dog bite and investigated, with a charge for an offence of the Animal Control By-law, pending.

The dog is registered "D684/2012" by the name of "Echo", a 2 year old male lab mix, owned by Theresa Pagnutti of 1372 Regent Street.

A Vicious Dog Notice, 412411, was prepared and delivered to the registered owner of the dog, Theresa Pagnutti, of 1372 Regent Street; 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 on October 22, 2012. 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.

Conclusion

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

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

The Registrar is confident that the Vicious Dog Notices issued to Theresa Pagnutti, of 1372 Regent Street, satisfy 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. The Registrar recommends that the Vicious Dog Notice be upheld by the Committee.

412 411



Fax cover sheet / Entête de télécopie

Date :	OCT 4, 2012	Number of pages / Nombre de pages :	4
--------	-------------	--	---

To / À l'intention de :

From / De la part de :

Name / Nom :	Richard Paquette Sr.	Name / Nom :	Lorraine Mitchell C&D Supervisor
Company name / Nom de l'entreprise :	Animal Control	Company name / Nom de l'entreprise :	Canada Post Corporation Dell Depot
Telephone number / Numéro de téléphone :	705 673-3647	Telephone number / Numéro de téléphone :	(705) 677-0258 x 2006
Fax number / Numéro de télécopieur :	705-983-5147	Fax number / Numéro de télécopieur :	(705) 677-0383
Subject / Sujet :	Dog attack re: Letter Carrier, Stephen Lenahan, bitten on Regent St.		

 Comments /
Commentaires :

As per our telephone conversation, please see attached statement from Mr. Steve Lenahan, Letter Carrier at Canada Post, who was bitten by a black lab (Ecco) who belongs to Ms Theresa Pagnutti, 1372 Regent St. in Sudbury on September 25/12.

Lorraine Mitchell

Oct. 3. 2012

To Whom This May Concern:

I have known Mrs. Paquetti for a few years now. We have talked many times when she had for her first dog. It was an older dog and I myself had no issues with it. Unfortunately it passed away or had to be put down. She then got this dog now called Echo. She used to take it for walks and I tried numerous times to get acquainted with it but it just was to set back in its ways. Mrs. Paquetti would leave the dog tied up at the back door were I had to enter the driveway to go to the mailbox at the front. The dog would bolt out of the back entrance until there was no chain left, head jolting back from the impact, barking profusely, showing teeth and hair standing straight up on his back. ~~From~~ This continued everyday the dog was out and not only me, but people walking by also. Over this period of time I could count on one hand the times she came out to say anything to the dog. The day came when I had enough, when I saw Daycare children led by a rope walking by and the dog did this to them also. I reported to my Supervisor Lorraine and she investigated. I used to deliver the mail by crossing on the grass which had no front entrance even in the winter which never was shoveled.

Even during the summer had to walk through weeds that were 2 feet tall. Yes there were times when I had gone by her hedges to the next house but stopped when Mrs. Pagnutti complained that I was going through there. They also were surrounded by tall weeds. Her neighbour Mr. Melanson at 1896 Regent which is a pleasant man ^{said} that Don't worry about Echo. He is harmless months before this vicious attack on me. The Tuesday that the incident occurred, Mr. Melanson was walking his dog with Echo down Regent st on the sidewalk. As I was approaching them I seen both dogs sitting while he gave them treats. As I walked by them, I noticed Echo from the corner of my eye react to me ~~and~~ by eye sight, and it was to late. He lunged at my lower leg with quite an impact. Thank god I was wearing pants or the damage I feel would of been much worse. Reaction was pulling my leg away leaving 5 puncture wounds which my Super Visor Lorraine took pictures of it about 40 minutes later on my walk. Mr Melanson immediately started beating the dog calling it BAD DOG BAD DOG and continued to walk away with the both of them. Yes I had said a few choice words to say and told him "I told you about that dog" Now he knows that dog cannot be trusted.

(5)

In my opinion, yes the sole and the chain may be safe, but a leather collar is not checked every time and I feel that dog should be put behind a fence or some day, some one else may have this happen to them or worse children that cannot defend for themselves.

This dog has not been raised properly just by neglect left in the yard and no control on the leash when being walked. I have a dog and have been around many dogs in my life and on my route for 24 1/2 years and this dog is a danger what I have seen.

Signed

~~Stephan~~ Kevaha

Dated this Oct. 03. 2012.

Given name of person injured/Prénom de la personne accidentée: STEPHEN LENAHAH

Log Number/Numéro du registre: 000000000000170129

Date of accident/Date de l'accident: 2012/09/25

Description of What Happened/ Description de ce qui est arrivé:

2012/09/25

On Sept 25/12, at 09:12, deliver agent Stephen Lenahan was delivering mail on Regent Street when he sustained a dog bite, puncturing the skin on his lower left leg in front of 1326 Regent Street. Mr. Lenahan was passing a customer, Mr. Melanson, who was out walking 2 dogs. One of the dogs (a black lab named Ecco) belongs to a customer, Theresa Pagnutti, who resides at 1372 Regent Street. Ms Pagnutti was warned on several occasions via telephone, notices, and face to face, about her dog being a safety risk for our delivery agent, Stephen Lenahan. This customer has disregarded the numerous efforts we made to ensure the safety of our delivery agent, thus resulting in him getting bit.

Mr. Lenahan was walking past Mr. Melanson and the 2 dogs on Sept 25/12 at approx 09:12. Mr. Melanson was giving the dogs a treat and had his back to Mr. Lenahan. When Mr. Lenahan passed by them, the black lab turned and lunged at him, biting him in the lower left leg, causing 5 punctures to the skin. Mr. Melanson claims he did not notice the dog biting the delivery agent and said he was picking up feces at the time (not giving treats).

Although Mr. Lenahan felt able to continue delivery, his leg began to swell after approx 1 hour. I provided him with a FAF and sent him to a clinic. Mr. Lenahan feels he can complete full duties, with no lost time. I am awaiting the FAF and will provide an update with the results and medical recommendations.

Lorraine Mitchell
C&D Supervisor, Sudbury

Revision:

2012/09/26

FAF received on Sept 26/12. Mr. Lenahan is able to complete full duties. No lost time.

Lorraine Mitchell

Canada Post Log # / N° de reg. d'incident de la SCP	Claim Number / N° de la réclamation	Original Print Date / Date d'impression initiale	Revised Print Date / Date d'impression révisée
000000000000170129		2012/09/26	2012/09/26

VICIOUS DOG NOTICE #412411

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

REGISTERED MAIL & HAND DELIVERED

To: Theresa Pagnutti
1372 Regent Street,
Sudbury, ON P3E 3Z4

The City of Greater Sudbury is in receipt of a written complaint that your dog, Echo, registration number D684/2012, has attacked a person without provocation on September 25, 2012.

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 22nd day of October, 2012



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

C: Greater Sudbury Animal Control

		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON		
Address	Adresse	www.canadapost.ca or/ou www.postescanada.ca		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1 888 550-6333		
Declared Value Valeur déclarée	\$	CPC Tracking Number Numéro de repérage de la SCP		
		RW 690 596 262 CA		
33-086-584 (11-04)				

Page 2 of 2