

Request for Decision

Appeal of Vicious Dog Notices issued to Kevin Cote of 1729 Paris Street

Presented To:	Hearing Committee
Presented:	Monday, Jan 30, 2012
Report Date	Monday, Jan 23, 2012
Type:	Public Hearings
File Number:	378874

Recommendation

That the Hearing Committee uphold the Vicious Dog Notices 378874-1 and 278874-2, issued to Kevin Cote of 1729 Paris 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 Notices - 378874(1) and 378874(2)

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 Jan 23, 12

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
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Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed Jan 23, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 23, 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 via fax from Greater Sudbury Animal Control requesting that the dogs at the address of 1729 Paris Street be deemed vicious, based on an incident that the two dogs attacked and bit a person on November 8, 2011.

The Registrar further investigated by reviewing a report and contacting Greater Sudbury Animal Control, the Sudbury and District Health Unit and Greater Sudbury Police Services. These investigations confirmed the information in the letter and the Registrar was satisfied that the 2 dogs ran from the property of their owner and attacked and bit a person without provocation.

The Registrar also received a telephone call of complaint from an area resident who expressed concern about the safety of himself and his dog as a result of the dog biting incident and the manner in which the dogs are kept on the property of the owner at 1729 Paris Street.

The report from GSAC also included a copy of the registration of both dogs showing their owner as Kevin Cote of 1729 Paris Street, Sudbury.

Two Vicious Dog Notices, 378874-1 and 378874-2, were prepared and delivered to the owner of the dogs, Kevin Cote at 1729 Paris Street. See Attachment 1 and 2 to this report. One copy of both notices was hand delivered by GSAC to the owner on December 14, 2011 and another copy of the notices was delivered registered mail on December 13, 2011. The notices contain the requirements of Subsections 21(4) and 21(5) of the by-law; ensuring the dogs are 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).

The effective date of service was December 14, 2011 as per subsection 21(3); the date that personal service was effected by GSAC to the owner of the dogs.

Appeal Notice

A letter of appeal of the Vicious Dog Notices was hand delivered to the Compliance and Enforcement Section on December 19, 2011. See Attachment 3 to this report. The notice of appeal satisfies the requirement in writing within 14 days of receipt pursuant to subsection 21(7) of the by-law.

Subsequent Events

On January 10, 2012, the Registrar received a call from the original complainant to advise that she witnessed the dogs at 1729 Paris Street, at approximately 11 am on that date, running loose in the yard of the property, not muzzled and barking at people as they walked by.

Officer Richard Paquette Sr. of GSAC was contacted and attended on January 10, 2012. Although he did not witness the alleged non-compliance of the Notice as described by the complainant, he had a conversation with the owner of the dogs and provided a warning as per subsection 21(8) of the by-law; the Vicious Dog Notices are effective on the date they are served, even if a hearing before the Committee has been requested. During his attendance at the property that date, the Officer also made some observations about the behaviour of the dogs and the state of the fence on the property intended to keep the dogs from running at large.

Witnesses

Officer Richard Paquette Sr., of Greater Sudbury Animal Control will confirm the letter of complaint sent to the Registrar, confirm the record of ownership of the dogs, provide information about the attack on November 8, 2011, and describe his findings during his attendance at 1729 Paris Street on January 10, 2012.

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 Kevin Cote, of 1729 Paris 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 notices 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 Notices be upheld by the Committee.



VICIOUS DOG NOTICE #378874-1

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

REGISTERED MAIL & HAND DELIVERED

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

CP 5000 SUCC A
200, RUE BRADY
SUDBURY ON P3A 5P3

To: Kevin Cote
1729 Paris Street,
Sudbury, ON P3E 3C4

705.671.2489

www.greatersudbury.ca
www.grandsudbury.ca

The City of Greater Sudbury is in receipt of a written complaint that your dog, Sanuk, registration number D2314-2011, has attacked a person without provocation on November 8, 2011.

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:

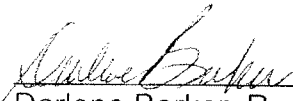
- 4) "Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that
 - a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal; and
 - b) the vicious dog 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 13th day of December, 2011.



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

C: Greater Sudbury Animal Control



VICIOUS DOG NOTICE #378874-2

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

REGISTERED MAIL & HAND DELIVERED

PO BOX 500111A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUDBURY
200 RUE BRADY
SUDBURY ON P3A 5P3

To: Kevin Cote
1729 Paris Street,
Sudbury, ON P3E 3C4

705.671.2489

www.greater-sudbury.ca
www.grandsudbury.ca

The City of Greater Sudbury is in receipt of a written complaint that your dog, Kundun, registration number D2315-2011, has attacked a person without provocation on November 8, 2011.

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:

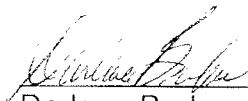
- 4) "Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that
 - a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal; and
 - b) the vicious dog 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 13th day of December, 2011.



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

C: Greater Sudbury Animal Control

VICIOUS DOG NOTICE 378874-1 AND 378874-2

RECEIVED
DEC 19 2011

LICENSING DEPT

Hello,

My name is Kevin Cote, address 1729 Paris st. Sudbury, On., P3E 3C4 and I am requesting a hearing in front of a council or committee regarding "VICIOUS DOG NOTICE # 378874-1 AND VICIOUS DOG NOTICE # 378874-2". I am to understand that one of the 2 dogs and not both physically attacked. As well, Sanuk and Kundun, the 2 dogs in question are puppies approximately 7 to 8 months old and where new residence and new to the area. As well, I had started a new job that week and this was there first time the where away from me, there owner.

On the second day of my new job the dogs in question escaped my home through a broken window that was patched by plastic and tape. I had requested to my landlord that it be fixed immediately a pond moving in but did not think it would be a way for my dogs to escape. The window has been repaired since.

Sanuk and Kundun, now own their own for the first time, unfamiliar to the area and unfamiliar to not having there person around to direct them where stressed and scared not knowing where I was and if I where to return. In this unfamiliar situation they where now presented with felt they needed to defend their territory and bite a pedestrian.

Sanuk and Kundun are good dogs. They have more often then not been in social environments, in small rural communities and have played with many children in the past and there have never been any prior incidents of them biting.

I am currently unemployed and I do not have enough money to pay rent. I most likely in the near future will be leaving the Sudbury area all together. I plan on also getting the dogs neutered, Sanuk first because he is the more alpha one of the 2 and if I would have to guess which of the 2 where the guilty culprit, I would have to assume him.

Thank you,
Kevin Cote