

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #835338, issued to Jennifer Hodgins, 3510 Keith Avenue, Chelmsford, City of Greater Sudbury.

Background

City of Greater Sudbury By-Law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals and the registration of Dogs and Cats. Part 3 of the By-Law entitled "Vicious Dog"; section 28 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, erect vicious dog signs on the owner's property, muzzle and leash the dog when not inside the owner's dwelling at all times, provide that the dog is microchipped and requires the owner to obtain additional liability insurance.

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 erecting of the signs, muzzling, leashing, microchipping or obtaining insurance requirements or from all, or may modify the conditions for any of these conditions.

By-Law Procedure Vicious Dog Notice - 835338

Part 3 of By-Law 2017-22 designates the Manager of Security and By-Law Services for the City of Greater Sudbury as the License Issuer pursuant to the By-Law, and By-Law Officers in Compliance and Enforcement have been appointed by the License Issuer to perform the task of issuing Vicious Dog Notices pursuant to the By-Law.

Subsection 28(1) of the By-Law states "*The License Issuer may conduct an investigation to determine if a Dog should be found to be a Vicious Dog, where the License Issuer receives:*

- (a) A written complaint, signed by the complainant, that a Dog has Attacked or Bitten a Person or a Domestic Animal without provocation or mitigating factors;*
- (b) Particulars of the name and address of the owner of the Dog or adequate information to ascertain the Owner of the Dog which is subject of the complaint; and*
- (c) Particulars of the Incident or Incidents giving rise to the complaint.*
and if deemed to be a vicious dog, requiring the owner to comply with any or all of the requirements set out in sections 28, 29 and 30."

A written complaint was received by the License Issuer from [REDACTED] of [REDACTED], [REDACTED], Greater Sudbury, requesting that the dog named "[REDACTED]", kept at the address of [REDACTED], [REDACTED], Greater Sudbury, be deemed vicious, based on an incident that occurred October 09, 2018.

On Tuesday, October 09, 2018 at approximately 3:00pm, the Complainant and their dog "██████" were attacked and bitten on their own property. The Complainant states that they were in their own yard cleaning their car. The Complainant then observed the ██████████, known as ██████, run towards them with "teeth and gums showing" without leash, and without care and control of an owner. The Complainant stated they attempted to get inside their home to avoid an attack however the dog known as "██████" attacked unprovoked, pinned the Complainant against the front door, and bit the complainant resulting in puncture wounds to the buttocks region. The Complainant opened the door to their home to escape, where the dog "██████" at this time entered the home as well and proceeded to attack and bite the Complainant's dog "██████" resulting in puncture wounds. It took three people at the scene, the Complainant, the dog owner ██████████, and the dog owner's ██████████ ██████████, to stop the attacking dog and remove said dog from the complainant's home during the attack on the complainant's dog.

Afterwards, the Complainant brought their dog "██████" to seek medical attention and saw the Veterinarian at ██████████ Animal Hospital. At this appointment it was noted that wounds resulted. The Complainant was provided with medication for pain and for prevention from infection as well as a buster collar to prevent further injury as stated in the invoice.

Greater Sudbury By-Law Enforcement Officer, Gerald Sagle, investigated this incident where the owner of the dog "██████", ██████████, was served three Certificates of Infraction for the offences of "Owner of Dog or Cat Permit Dog or Cat to be at Large, Owner permit Dog to behave in manner endangering safety of Domestic Animal, Owner permit Dog to behave in manner endangering safety of Person " on October 10, 2018.

On October 10, 2018, Officer Gerald Sagle, as part of his investigation in Case #835338, reviewed and considered facts contained within the complaint letter and statements. Results of that investigation were presented to the License Issuer for consideration for a Vicious Dog Notice. It was determined that there was no provocation to the attack and bite on the Complainant and their dog "██████". The Complainant was on their own property attempting to clean their car and entered their home in an attempt to get away from the attacking dog, and "██████" was inside the home behind a closed door.

Vicious Dog Notice, #835338, dated Wednesday, October 10, 2018, was prepared and delivered to the registered owner of the dog, ██████████. One copy of the Notice was hand delivered by By-Law Enforcement Officer Gerald Sagle to the owner and another copy was delivered registered mail. The Notice contains the requirements of Subsections 29, 30 and 31 of the By-Law; ensuring vicious dog signs are posted, the dog is muzzled and leashed when not inside the owner's dwelling unit, the requirement of having liability insurance, notifying the owner of his requirement to provide a change of address, the owner's right to appeal the Notice and the effective date of the Notice, pursuant to subsections 32, 33 and 34.

On January 16, 2019, the owner of vicious dog ██████████ contacted the Licence Issuer to request removal of the Vicious Dog Notice, as explained by them; "it is profoundly incorrect that my dog attacked without provocation and there were no mitigating factors".

Relating to the Part I Certificate of Infractions that were issued to ██████████ for the offences of "Owner of Dog or Cat Permit Dog or Cat to be at Large" "Owner permit Dog to behave in manner endangering safety of Domestic Animal" "Owner permit Dog to behave in manner endangering safety of Person", these matters are scheduled for Early Resolution to be heard in Provincial Offences Court on March 27, 2019 at 9:30am. Early Resolution is a formal court process, whereby a defendant has the option to meet with the Municipal Prosecutor to discuss the charge(s). Early Resolution meetings are typically used to ask the position of the prosecutor, to discuss the time to pay a fine, to request disclosure for the charge(s) or to discuss the possibility of pleading to a lesser offence supported by the facts.

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.

Conclusion

In consideration of this report, the witnesses and the appellant, pursuant to subsection 33(1) the Hearing Committee may decide one of three options below;

1. Uphold the Notice;
2. Modify the Notice - exempting the owner from erecting vicious dog signs, muzzling or leashing, obtaining liability insurance or modifying any of these conditions; or
3. Quash the Notice - exempting the owner from all requirements to muzzle and leash.

The License Issuer is confident that the Vicious Dog Notice issued to [REDACTED], [REDACTED], [REDACTED], City of Greater Sudbury, satisfies the requirements of By-Law 2017-22, Part 3, Section 28, 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 835338
2. Request to Deem Vicious 835338
3. Copy of Vet Bill
4. Ten (10) Investigation Photos
5. Certification of Infractions- PON 6155895B, 6155896B, 6155897B
6. Animal Registration 2018
7. Vicious Dog Notice
8. Letter of Appeal from Vicious Dog Owner
9. Officer Notes ACR 835338