

Recommendation

That the City of Greater Sudbury uphold the Vicious Dog Notice #1049355, issued to [REDACTED], [REDACTED], City of Greater Sudbury.

Background

City of Greater Sudbury By-Law 2017-22, as amended, became effective on March 01, 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 - 1049355

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 the complainant [REDACTED] of [REDACTED], Greater Sudbury, requesting that the dog named "[REDACTED]", kept at the address of [REDACTED], Greater Sudbury, be deemed vicious, based on an incident that occurred September 28, 2020.

On Monday, September 28 2020 at approximately 6:30pm, the complainant was walking their two dogs on leashes; one being a male Pomeranian/Chihuahua mix 12 weeks of age named "██████" and the second dog being a male Pomeranian/Chihuahua mix roughly 1.5 years of age named "██████". While the complainant was walking their dogs, they noticed from roughly a football field away two unleashed, and without care and control of an owner, husky mix dogs that reside at ██████████ named "██████" and "██████" charging toward them. The complainant was able to pick up their one dog ████████ before the two husky mix dogs arrived but unfortunately did not have time to pick up their second dog ████████. When ████████ and ████████ approached the complainant's dog ████████, they were "growling and showing teeth". ████████ began to circle the complainant, while ████████ had the complainant's dog ████████ pinned and locked in her mouth off the ground and continued to vigorously shake ████████.

██████████, owner of the two unleashed dogs ████████ and ████████, was outside their residence when the attack took place and immediately ran towards the complainant to help remove the attacking dog ████████ off the complainant's dog ████████. During the investigation, the owner of the attacking dog ██████████ had mentioned that the reason the dog ████████ got off leash was due to switching ████████ from the outside lead to a walking leash when the dog ████████ got loose and started running down the road. After the incident took place, ████████ and ████████ were brought back to ██████████ and the attacking dog owner ██████████ drove the complainant and the injured dog ████████ to seek medical attention at an after-hours local veterinarian clinic to assess the injuries.

The veterinarian at the clinic assessed the injured dog ████████ on September 28, 2020 and reported several puncture wounds on flanks and ventral abdomen, active hemorrhage as well as constant drip of dark coloured blood, swelling in the right inguinal fold, and massive bruising in the large patches on ventral abdomen. The veterinarian then proceeded to do an exploratory surgery to assess the extent of damage from the bite wounds. It was determined there was massive amounts of damage and that the injured dog's injuries were devastating. The veterinarian informed the complainant of the risks associated with the continued surgery, after care, and expected quality of life, and due to the poor prognosis the complainant selected humane euthanasia. Also noteworthy, the offending dog owner ██████████ also e-transferred a total of \$1400.00 to the complainant to pay for the vet bills incurred.

As a result of the By-Law Services investigation, Vicious Dog Order #1049355 was issued on October 02, 2020 as the attack occurred without provocation and the injuries sustained were severe which resulted in the death of the dog.

In addition, a Certificate of Offence was served on the offending Vicious Dog Owner for the offence "Owner permit dog to behave in a manner endangering safety of domestic animal" Contrary to City of Greater Sudbury bylaw 2017-22 Animal Care and Control Bylaw Section 26 (2) on October 02, 2020.

On October 14, 2020, the owner of the Vicious Dog contacted the Licence Issuer to request the removal of Section 29(1)(2), Section 30(2)(c)(i)(iv) and Section 31(1) (2)(a)(b)(c)(d). A formal appeal to the Hearing Committee was made for a final determination.

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. Complainant Statement OCT 01 2020
2. Request to Deem Vicious from Complainant
3. Vet Assessment and Injuries
4. Investigation Photos (6 Photos)
5. Certification of Infraction- PON 7986279B
6. ACR notes 1049355
7. Animal Registration 2020
8. Vicious Dog Notice
9. Notice of Appeal from Vicious Dog Owner
10. Sections Vicious Dog Owner wants to Appeal from Notice
11. Copy of Vet Bill