



CITY OF WELLAND

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HEARING

Monday, January 6, 2020 2:00 p.m.
City Hall – Community Room
Log File No. 2019-02

MINUTES

Committee Members: Diane Zakraysek-Bourque – Chair
John Ingrao
Gary Galambos

Staff Present: Tony Ranalli – Building Services Technician/Property Standards Secretary

Others in Attendance: Derek Stonier – Appellant
Matthew Conner – Animal Control Officer – O.S.P.C.A.
Amanda Ellis – Enforcement Manager – O.S.P.C.A.
Julia Goulden, Welland, ON
Matthew McIntyre, Welland, ON
Jacob Naumann, Welland, ON
Keith Stonier, Welland, ON
Mike Cormier, Welland, ON
Paige Cormier, Welland, ON
Peyten Stonier, Welland, ON
Jeremy Vittie, Welland, ON
J. Homan, Welland, ON

1. Committee Members and all others in attendance met at approximately at 2:00 p.m.
2. Committee appointed Diane Zakraysek-Bourque as Chair.
3. Hard copies of Rules of Procedure and Schedule #1 Purpose of Committee and Format of Hearing was given by the Secretary to all parties present at Hearing.
4. Hearing called to order at 2:00 pm by Chair and introduces Committee Members and Secretary.
5. Committee established/adopted Rules of Procedure (attached). The Committee noted they have no conflict of interest with the Appellant.
6. Committee adopts the minutes of previous meeting (August 16, 2019) – Ms. Zakraysek-Bourque.
7. Chair calls Appellant (Mr. Derek Stonier) to come forward to state case. Appeal begins.

8. Appellant states the following: he was out of the country, not in attendance at time of incident. States victim entered house unannounced at 2 a.m. to pick up his girlfriend. (Appellant's sister-in-law). Appellant notes his son (Keith Stonier) was home at night at time of incident. The dog is under 2 years old and shows no aggression to any dog. He would not have this type of dog around small children if it was aggressive. He believes the dog was provoked and received pain intentionally or unintentionally. Appellant notes the victim was previously in the home. Appellant notes the dog is docile. The appellant states he is not in agreement with the muzzle order, neutering, and liability insurance policy for the dog.
9. Committee member (Gary Galambos) notes that the report states the Appellant entered the home at 11:30 a.m. but Appellant noted 2 a.m. Committee member (Gary Galambos) notes that victim entered the home and son (Keith) states that the dog was injured, but there is no proof. Committee member (Gary Galambos) states he has no evidence that the dog was provoked. Committee member (Gary Galambos) asks the weight of the dog. Appellant responds dog weights about 60 lbs.
10. Committee member (John Ingrao) asks Appellant if daughter resides at dwelling. Appellant notes the daughter does not reside at this dwelling. Committee member (John Ingrao) notes the report indicates the victim was invited. Committee member (John Ingrao) clarified the following with the Appellant: It is confirmed that the son (Keith Stonier) was at the house at time of incident and was not on the same floor at time of incident. The niece Trina and friend Adrian were upstairs at time of incident. After the incident, Trina asks if the dog was ok. Victim ran out of the house. Checked with victim was ok. Adrian was helping Trina complete a school assignment. Three dogs reside at the house. Committee member (John Ingrao) asks if there is any pit bull bloodline in the dog. The Appellant states no. The Committee member (Diane Zakraysek-Bourque) ask if the dog is licensed. The Appellant states the dog is not licensed. The other two dogs at the house owned by the spouse of the Appellant are licensed. Four dogs were present at time of incident. Fourth dog was visiting for two weeks. Committee member (Diane Zakraysek-Bourque) asks if all dogs up to date on immunization shots. Appellant confirms all dogs up to date on immunization shots. Committee member (Diane Zakraysek-Bourque) clarifies the following with the Appellant: The spouse and Appellant were not present at time of incident. The daughter Trina and son Keith were present at time of incident. The Appellant confirms property is currently fenced at 6 ft. height.
11. Committee member (Gary Galambos) asks how many times the victim visited the house. The Appellant responds approximately half-dozen times. The Appellant notes Trina (niece) was present at time of incident. Committee member (Gary Galambos) asks why dog was aggressive if it knows the victim. Appellant responds by stating he is asking the same thing and this is why he is appealing the order. Committee member (Gary Galambos) further notes per the report the dog attacked on two occasions, once in the house and once outside of the house.
12. Committee member (Diane Zakraysek-Bourque) asks if the order and report gets sent to the victim. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) responds that only through an Freedom of Information request then victim or Appellant can receive the incident report.
13. Appellant's son (Keith S.) states that Trina and Adrian would not be at the front door because they were doing a school project in the Dining Room. He then states the dog was never in the front yard.
14. Committee member (Gary Galambos) reads report from the order. Committee member (Diane Zakraysek-Bourque) asks to Appellant's son (Keith S.) if there were four dogs on property. Appellant's son (Keith S.) confirms the four dogs were on the property at time of the incident. Appellant's son (Keith S.) states he only spoke to Public Health representative after the incident. Committee member (John Ingrao) clarifies that Appellant's son (Keith S.) went back to his room at approx. 2:20 a.m. Appellant's son (Keith S.) states he heard commotion at

approx. 2:00 a.m. Committee member (John Ingrao) asks if the Appellant's son (Keith S.) has spoken to the S.P.C.A. The Appellant's son (Keith S.) states no.

15. Member from the public Michael Cormier states his children attend the Appellant's house and plays with his children and their dog. He states he never has seen aggression from this dog.
16. Committee member (Gary Galambos) read portions of the report in which states somebody was outside to chase dog back into the house. Appellant responds that he can't speak to that report. Committee member (John Ingrao) clarifies with Appellant's son that only Trina, Adrian, and Keith were in the house at the time of the incident.
17. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) noted the incident occurred on Nov. 24th. Appellant noted that he left for vacation on Nov. 18th. It was clarified that the accused dog is not neutered and the two female dogs owned by the Appellant are not spayed. The female visiting dog was spayed. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) asked the Appellant when the accused dog was last in heat. The Appellant responded last spring. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) asked the Appellant did any of the dogs show spotting. The appellant stated no.
18. Enforcement Officer – O.S.P.C.A. (Matthew Conner) read portion of the report and stated the dog was aggressive because it was nipping at the victim. Enforcement Officer – O.S.P.C.A. (Matthew Conner) noted there is photos in the report of the severity of the bites and states the muzzle order was required for safety of the public.
19. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) that the male dog is the dominant dog to protect the pack, i.e. lead of the pack. Also she noted there is a three week window when hormones are active, but does not believe this scenario happened for this incident.
20. Enforcement Officer – O.S.P.C.A. (Matthew Conner) confirmed date of order was Dec. 4th. The enforcement officer spoke with the son (Peyten) and a friend when order was issued.
21. Chair noted that the Welland By-Law allows only three dogs per household. Enforcement manager responded by stating visiting dogs do not apply to the total number of dogs allowed per household. Appellant asked when dog bite was reported. Enforcement officer responded Nov. 29th.
22. Chair asks the Enforcement manager if the city is liable if the muzzle order is not followed. The enforcement manager responded that the City and the O.S.P.C.A. is liable if there is no decision and there is another incident. The enforcement manager and officer state the muzzle order should be enforced. The enforcement manager responded as follows: since the victim is not present we base the order on the evidence of the report. The muzzle order is for protection of another incident. The enforcement manager stated the dog knew what he was doing and that neutering the dog helps the behaviour of male dogs.
23. Appellant noted that the victim is not here. Appellant's son (Keith Stonier) stated the dog was always indoors. Appellant's son (Keith Stonier) checked on the victim and in his opinion the wounds did not look so bad.
24. Additional witness James Homan noted he has two children and his kids play with the dog. Also noted he doesn't know how this happened. Chair asked if witness has entered house. Witness responded by stating has visited the home several times.
25. Additional witness Jeremy Vittie notes his children frequent the home. He has a dog that is not neutered and the dog accused and his dog frequent each other. His children play with the dogs.

26. Enforcement Manager – O.S.P.C.A. (Amanda Ellis) states they cannot change the order and that only the committee can adjust the time frame of the order. There is liability to the City and the O.S.P.C.A. if the dog attacks again even if the muzzle order is changed.
27. Committee member (John Ingrao) noted the issue of risk. Committee member (John Ingrao) states it is important to note that the victim and the victim's friend are not here to help with the decision.
28. Chair asks the enforcement manager to read the report. The enforcement manager circulates the photos of dog bites to the victim.
29. Chair ask if there are any additional comments from the Appellant. Appellant's son (Keith Stonier) denies the allegation that the dog was chased indoors with a rake. The Appellant questions the legitimacy of the bite marks on the photo. The enforcement manager responded and states the dog only has to show propensity to bite and therefore the dog does not have to bite to issue an order. The Appellant questions the accuracy of the report and asked why did the victim waited 5 days to report the incident. The enforcement manager stated some victims wait for a year to report an incident.

DECISION:

All items listed in the Order to remain with an extension for items 4, 7, & 8 to be completed by February 6, 2020.

30. Adjournment 3:30 p.m.