

Staff Report



Corporate Services Department

www.kitchener.ca

REPORT TO: Committee of the Whole

DATE OF MEETING: November 6, 2023

SUBMITTED BY: Dog Designation Appeal Committee

PREPARED BY: Marilyn Mills, Committee Administrator, 519-741-2200 ext. 7275

WARD(S) INVOLVED: All

DATE OF REPORT: October 18, 2023

REPORT NO.: COR-2023-483

SUBJECT: Dangerous Dog Designation Appeal – Corbett

RECOMMENDATION:

That the decision of the Dog Designation Appeal Committee regarding an appeal filed by O. Corbett, wherein the Committee affirms the Dangerous Dog Designation applied to the dog ‘Poppy’ by the Humane Society of Kitchener-Waterloo and Stratford Perth, be ratified and confirmed with modified conditions.

REPORT HIGHLIGHTS:

- On June 24, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth designated “Poppy” as a Dangerous Dog.
- Officer E. Maciel designated “Poppy” as dangerous due to an incident that occurred where “Poppy” bit another dog with a lack of mitigating factors.
- The City’s Dog Designation Appeal Committee affirmed the Dangerous Dog Designation.
- This report supports the delivery of core services.

BACKGROUND:

On June 24, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth designated ‘Poppy’, a dog owned by O. Corbett, as a Dangerous Dog. The designation was applied after determining that on June 10, 2023, ‘Poppy’ bit a dog without provocation in contravention to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code. On June 28, 2023, Legislated Services received correspondence from O. Corbett appealing the Dangerous Dog Designation; and a Notice of Hearing was issued to the Respondent and Appellants, advising on October 13, 2023 and on October 16, 2023, a hearing of the Dog Designation Appeal Committee would be held to consider the matter. The Committee heard and considered evidence from all parties and found that due to the severity of the attack, and the lack of substantive mitigating factors, the Dangerous Dog Designation should be confirmed.

REPORT:

The Dog Designation Appeal Committee established by the Council of the Corporation of the City of Kitchener pursuant to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code and the Statutory Powers Procedures Act R.S.O 1990 Chapter S.22, sat on October 13, 2023 and October 16, 2023 to consider an appeal filed with the City by O. Corbett, and reports as follows:

The Committee considered the following:

- testimony provided on behalf of the Respondent by Officer E. Maciel, Kitchener-Waterloo and North Waterloo Humane Society, which demonstrates 'Poppy' was involved in an incident on June 10, 2023, where 'Poppy' did bite another dog without provocation;
- testimony from N. Clark, Witness for the Respondent, regarding a dog bite incident on June 10, 2023 at a Kitchener-Waterloo Canine event where 'Poppy' bit another dog, 'Arlyn', requiring N. Clark to perform first aid on the injuries sustained to 'Arlyn';
- testimony and photographic evidence from A. Scott, Witness for the Respondent and owner of the dog 'Arlyn', regarding a dog bite incident on June 10, 2023 at a Kitchener-Waterloo Canine event where 'Poppy' bit 'Arlyn' and while trying to separate the dogs, A. Scott sustained bite wounds on their hands;
- testimony of O. Corbett, Appellant and owner of the dog 'Poppy', acknowledging that the dog bite incident on June 10, 2023 did occur; and requesting the Committee to rescind the Designation as they were of the opinion it was an isolated incident. It was also raised that there may have been mitigating factors that led to the incident.

In addition, the Committee reviewed and considered the provisions of Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code and recommends that having considered all the evidence and exhibits presented during the Hearing regarding the incident, the Dangerous Dog Designation applied to 'Poppy' **be confirmed** with modified conditions to include additional optional conditions outlined within the By-law to address how the dog should be kept when within the City or if the owner does relocate to Kitchener.

The Committee hereby recommends the designation of Dangerous Dog applied to "Poppy," be affirmed; and pursuant to By-law 2014-142, assigns the following modified conditions for the keeping of said Dangerous Dog:

- a) The owner shall ensure that all conditions pertaining to the dog when it is off the property of the owner including any leashing and muzzling requirements are complied with in any City Off-Leash Park unless specified otherwise in this designation;
- b) The owner shall ensure that the animal services provider is provided with the new address and telephone number of the owner within two working days of moving the Designated Dog;
- c) The owner shall provide the animal services provider with the name, address and telephone number of the new owner within two working days of selling or giving away the Designated Dog;
- d) The owner shall advise the animal services provider within two working days of the death of the Designated Dog;
- e) The owner shall advise the animal services provider forthwith if the Designated Dog runs

- at large or has bitten or attacked any person or animal;
- f) The owner shall provide a copy of this designation to any person who keeps or harbors the Designated Dog;
 - g) The owner shall provide a copy of this designation to any veterinarian treating the Designated Dog and within the veterinarian's premises shall be exempt from the requirements of this designation to the extent necessary to secure veterinary treatment for the dog at the discretion of the veterinarian;
 - h) The owner shall ensure that the Designated Dog has a current City dog license;
 - i) The owner shall ensure that the Designated Dog wears the tag or tags provided by the animal services provider at all times and shall pay the reasonable cost for such tag or tags;
 - j) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, it is kept, when it is on the lands and premises of the owner, confined:
 - a. within the dwelling;
 - b. in an outdoor pen that is both secure and provides humane shelter to the satisfaction of the animal services provider;
 - c. in an area with a secure and adequate fence to the satisfaction of the animal services provider however the animal services provider may refuse to approve any fenced area if, in the sole discretion of the animal services provider, a fenced area would provide insufficient protection to members of the public including unsupervised children who may wander into the area; or
 - d. when outside of the dwelling and the approved pen or fenced area contemplated by subsections (b) and (c), under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 metres (6 feet) in length and to be approved by the animal services provider and, where the dog is required to wear a muzzle off its property by this designation shall also wear a muzzle when confined in accordance with this subsection (d);
 - k) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, the dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen is in the owner's dwelling;
 - l) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, the dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen who does not habitually reside in the owner's dwelling is present;
 - m) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, the dog is kept under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 metres (6 feet) in length and to be approved by the animal services provider, at all times when the designated dog is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal services provider;
 - n) The owner shall ensure that the Designated Dog wears a securely attached muzzle that is satisfactory to the animal services provider at all times when it is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal services provider.
 - o) The owner shall ensure that the Designated Dog is sterilized and shall provide proof satisfactory to the animal services provider that such procedure has been performed within 30 days of this designation becoming a confirmed designation;

- p) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, the Designated Dog is microchipped by a licensed veterinarian and supply the microchip information to the animal services provider. The owner shall also permit the animal services provider to verify the implantation of such microchip;
- q) The owner shall ensure that if and when the Designated Dog resides within the City of Kitchener, the dog is kept caged, penned, in a locked room not accessible to children or through inadvertence, or under the control of an occupant of the dwelling who is at least 18 years of age when any person who does not habitually reside in the owner's dwelling is present;
- r) The owner shall not be permitted to take the Designated Dog to any Off-Leash Park within the City of Kitchener;
- s) The owner is strongly encouraged not to take the Designated Dog to any Canine friendly events within the City of Kitchener.

STRATEGIC PLAN ALIGNMENT:

The recommendation of this report supports the achievement of the city's strategic vision through the delivery of core service.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this report.

COMMUNITY ENGAGEMENT:

INFORM – All those in attendance at the October 13, 2023 and October 16, 2023 Hearing were advised of the Committee's decision and that it would be considered at the November 6, 2023 Council meeting as required in the By-law. In addition, a Notice of Decision was sent to the Appellant and the Respondents via email and registered mail on October 19, 2023; thereby, further notifying both parties of when the Committee's decision would be considered by Council and the process for registering as a delegation.

PREVIOUS REPORTS/AUTHORITIES:

There are no previous reports/authorities related to this matter.

ACKNOWLEDGED BY: Victoria Raab, General Manager, Corporate Services