

Staff Report



Corporate Services Department

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REPORT TO: Committee of the Whole

DATE OF MEETING: April 8, 2024

SUBMITTED BY: Dog Designation Appeal Committee

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

WARD(S) INVOLVED: All

DATE OF REPORT: March 19, 2024

REPORT NO.: COR-2024-113

SUBJECT: Dangerous Dog Designation Appeal – Bertin and Freddi

RECOMMENDATION:

That the decision of the Dog Designation Appeal Committee regarding an appeal filed by C. Bertin, wherein the Committee affirms the Dangerous Dog Designation applied to the dog ‘Broly’ by the Humane Society of Kitchener-Waterloo and Stratford Perth, be ratified and confirmed with modified conditions, as outlined in Corporate Services Department report COR-2024-113; and further,

That the decision of the Dog Designation Appeal Committee regarding an appeal filed by C. Bertin and S. Freddi, wherein the Committee substitutes the Dangerous Dog Designation applied to the dog ‘Meeko’ by the Humane Society of Kitchener-Waterloo and Stratford Perth and assigns the designation of Potentially Dangerous Dog with modified conditions, as outlined in Corporate Services Department report COR-2024-113.

REPORT HIGHLIGHTS:

- On November 20, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth designated “Broly” and “Meeko” as Dangerous Dogs.
- Officer Canavan designated “Broly” and “Meeko” as Dangerous Dogs due to an incident where “Broly” and “Meeko” did attack another dog without provocation.
- The City’s Dog Designation Appeal Committee affirmed the designation of “Broly” as a Dangerous Dog and substituted the designation of “Meeko” as Dangerous Dog with the designation of Potentially Dangerous Dog.
- This report supports the delivery of core services.

BACKGROUND:

On November 20, 2023 the Humane Society of Kitchener-Waterloo and Stratford Perth designated ‘Broly’, a dog owned by C. Bertin, as a Dangerous Dog. The designation was applied after determining that on October 24, 2023, ‘Broly’ did attack another dog without provocation, in contravention to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code. In addition, on November 20, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth

designated 'Meeko', a dog owned by C. Bertin, and S. Freddi as a Dangerous Dog. The designation was applied after determining that on October 24, 2023, 'Meeko' did attack another dog without provocation, in contravention to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code.

On November 21, 2023, the Office of the City Clerk received correspondence from C. Bertin and S. Freddi appealing both the Dangerous Dog Designations laid on their dogs. A Notice of Hearing was issued to the Respondent and Appellants, advising on February 16, 2024, 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 determined that the Dangerous Dog Designation applied to 'Broly' should be confirmed and the Dangerous Dog Designation applied to 'Meeko' should be substituted with a designation of Potentially Dangerous Dog.

REPORT:

The Dog Designation Appeal Committee established by the Council of the Corporation of the City of Kitchener pursuant to 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 February 16, 2024 and February 26, 2024 to consider two appeals filed with the City by C. Bertin and S. Freddi, and reports as follows:

The Committee considered the following:

- testimony provided on behalf of the Respondent by Officer S. Canavan, Kitchener-Waterloo and North Waterloo Humane Society, which demonstrates 'Broly' and 'Meeko' were involved in an incident on October 24, 2023 where 'Broly' and 'Meeko' did attack a dog without provocation.
- testimony and photographic evidence from M. Scott, Witness for the Respondent, regarding an incident that occurred on October 24, 2023, where their dog was attacked by 'Broly' and 'Meeko' and sustained wounds on their head.
- testimony and photographic evidence from C. Bertin, Appellant and owner of the dog 'Broly' and co-owner of the dog 'Meeko'; and, S. Freddi, Appellant and owner of the dog 'Meeko' acknowledging the incident did occur on October 24, 2023 and requesting the Committee rescind the dangerous dog designation as it was an isolated incident.
- testimony from D. Hallman, Witness for the Appellant, regarding an incident that occurred on October 24, 2023, where 'Broly' and 'Meeko' attacked a dog. It was noted 'Meeko' attacked another dog because the dog had bitten 'Meeko's' owner, C. Bertin.

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 'Broly' **be confirmed** with modified conditions; and further, that the Dangerous Dog Designation applied to 'Meeko' **be substituted** with a designation of Potentially Dangerous Dog.

The Committee hereby recommends the designation of Dangerous Dog applied to 'Broly', by the Humane Society of Kitchener-Waterloo and Stratford Perth; 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 the designated dog is kept, when it is on the lands and premises of the owner, confined:
 - a. within the dwelling;
 - b. 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

- c. 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 meters (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 (c);
- k) The owner shall ensure that the designated 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
- l) 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;
- m) The owner shall ensure that the warning signs or signs provided by the animal services provider are displayed at the entrance to the owner's dwelling which a person would normally approach and at any other place on the property as directed by the animal services provider. The sign(s) shall be posted in such a manner that it/they cannot be easily removed by passersby and the sign posted at the entrance which a person would normally approach must be clearly visible to a person approaching the entrance or, when In a multiple unit dwelling, the owner will provide the name of the property owner and property manager if any and allow the animal services provider to request that person to post a sign or signs;
- n) 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;
- o) The owner shall ensure that 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.

- p) The owner shall ensure that the designated 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.
- q) The owner shall ensure that the designated 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.
- r) The owner shall ensure that the designated 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.

Further, the Committee hereby recommends the designation of Potentially Dangerous Dog; and, pursuant to By-law 2014-142 assigns the following modified conditions for the keeping of said Potentially 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 the designated dog is kept, when it is on the lands and premises of the owner, confined:
 - a. within the dwelling;
 - b. 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
 - c. 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 meters (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 (c);
- k) The owner shall ensure that the designated 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
- l) 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;
- m) The owner shall ensure that the warning signs or signs provided by the animal services provider are displayed at the entrance to the owner's dwelling which a person would normally approach and at any other place on the property as directed by the animal

services provider. The sign(s) shall be posted in such a manner that it/they cannot be easily removed by passersby and the sign posted at the entrance which a person would normally approach must be clearly visible to a person approaching the entrance or, when In a multiple unit dwelling, the owner will provide the name of the property owner and property manager if any and allow the animal services provider to request that person to post a sign or signs;

- n) 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;
- o) The owner shall ensure that 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.
- p) The owner shall ensure that the designated 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.
- q) The owner shall ensure that the designated 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.
- r) The owner shall ensure that the designated 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.

STRATEGIC PLAN ALIGNMENT:

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

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this report.

COMMUNITY ENGAGEMENT:

INFORM – All those in attendance at the February 16, 2024, Hearing were advised of the Committee's decision and that it would be considered at the April 8, 2024 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 February 28, 2024; 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.

APPROVED BY: Victoria Raab, General Manager, Corporate Services