

Staff Report



Corporate Services Department

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REPORT TO: Committee of the Whole

DATE OF MEETING: March 20, 2023

SUBMITTED BY: Dog Designation Appeal Committee

PREPARED BY: Mariah Blake, Committee Administrator, 519-741-2200 ext. 7277

WARD(S) INVOLVED: All

DATE OF REPORT: March 7, 2023

REPORT NO.: COR-2023-124

SUBJECT: Dangerous Dog Designation Appeal – Johnson

RECOMMENDATION:

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

REPORT HIGHLIGHTS:

- On December 8, 2022, the Humane Society of Kitchener-Waterloo and Stratford Perth designated “Misty” as a Dangerous Dog.
- Officer S. Canavan designated “Misty” as dangerous due to an incident that occurred where the dog attacked with a lack of mitigating factors.
- The Committee affirmed the Dangerous Dog Designation.
- This report supports the delivery of core services.

BACKGROUND:

On December 8, 2022, the Humane Society of Kitchener-Waterloo and Stratford Perth designated ‘Misty’, a dog owned by D. Johnson, as a Dangerous Dog. The designation was applied after determining that on November 26, 2022, ‘Misty’ attacked a dog and person without provocation in contravention to City of Kitchener By-law 2014-142 (Being a By-law with respect to the designation of Potentially Dangerous, Dangerous, Prohibited and Restricted Dogs). On December 13, 2023, the Office of the City Clerk subsequently received correspondence from D. Johnson appealing the Dangerous Dog Designation; and a Notice of Hearing was issued to the Respondent and Appellants, advising on March 7, 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:

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

The Dog Designation Appeal Committee established by the Council of the Corporation of the City of Kitchener pursuant to City of Kitchener Municipal By-law 2014-142 and the Statutory Powers Procedures Act R.S.O 1990 Chapter S.22, sat on March 7, 2023, to consider an appeal filed with the City by D. Johnson, 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 'Misty' was involved in an incident on November 26, 2023, where 'Misty' did attack a dog and person without provocation;
- testimony and photographic evidence from D. Ferrari, Witness for the Respondent, regarding an incident on November 26, 2023 at the rear of a residential complex municipally addressed as 60 Centreville Street where 'Misty' attacked their dog 'Chelsea' and while trying to separate the dogs, D. Ferrari then sustained bite wounds on their hands;
- testimony of D. Johnson, Appellant and Dog Owner, acknowledging that the dog attack incident on November 26, 2023 did occur; and made a request to the Committee to rescind the Designation based on the fact that the Kitchener-Waterloo and North Waterloo Humane Society implied the designation was warranted due to the incident being a second offence, when in fact 'Misty' is just over one-year old and the previous incident on record at the Humane Society is prior to the dog being in their possession.

In addition, the Committee reviewed and considered the provisions of City of Kitchener Municipal By-law 2014-142 and recommends that having considered all of the evidence and exhibits presented during the Hearing regarding the incidents, the Dangerous Dog Designation applied to 'Misty' **be confirmed** with modified conditions.

The modifications to the requirements for keeping of the Dangerous Dog include;

- an amendment to the condition imposed in the initial decision related to the warning sign, to require the owner to maintain a "beware of dog sign", as well as
- an additional condition to require the dog owner to ensure that the designated dog is sterilized and shall provide proof satisfactory to the animal services provider that such a procedure has been performed within 30 days of the designation being a confirmed designation.

The Committee hereby recommends the designation of Dangerous Dog applied to "Misty," 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 the designated dog is kept, when it is on the lands and premises of the owner, confined:
 - a. Within the dwelling;
 - b. The owner shall ensure that the designated dog wears a securely attached muzzle that is satisfactory to the animal services providers 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 service provider
- k) The owner shall ensure that a "Beware of Dog" warning sign is 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 passerby 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;
- l) The owner shall ensure that the designated dog is not kept or harbored in a multiple unit dwelling or lodging house and where the owner's current dwelling is a multiple unit dwelling or lodging house the dog may be kept or harbored at other premises subject to all the conditions imposed on the keeping of the dog pursuant to this designation;
- m) 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.
- n) The owner shall ensure that the designated dog is sterilized and shall provide proof satisfactory to the animal services provider that such a procedure has been performed within 30 days of this designation becoming a confirmed designation.

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 March 7, 2023 Hearing were advised of the Committee’s decision and that it would be considered at the March 20, 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 March 13, 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