

Appeal No.: 001 2020 3429  
Hearing Date: June 25, 2020

RED DEER APPEAL AND REVIEW BOARD DECISION

CHAIR: K. Howley  
PANEL MEMBER: R. Boerger  
PANEL MEMBER: M. Kartusch  
PANEL MEMBER: C. Mah  
PANEL MEMBER: G. Paradis

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BETWEEN:

Rebekah & Brandon Enman

Appellant

And

CITY OF RED DEER  
Represented by Amy Fengstad, Inspections & Licensing

Respondent

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This decision pertains to an appeal to the Red Deer Appeal and Review Board in respect to The City of Red Deer, Bylaw No. 3429 2009, *Dog Bylaw* (September 21, 2009) and Council Policy #6118-C *Aggressive Dog Designation Policy* (referred to as the Dog Bylaw and the Policy).

The Appeal was heard on the 25<sup>th</sup> day of June, 2020 via Zoom Video Conference in the City of Red Deer, within the Province of Alberta.

**DECISION:**

Based on the evidence submitted in writing and presented at the hearing, The Red Deer Appeal & Review Board Confirms the Aggressive Dog Designation, as issued on May 20, 2020, by the Inspections & Licensing Department at The City of Red Deer.

A detailed summary of the decision is provided herein.

**JURISDICTION AND ROLE OF THE BOARD**

1. The Board is established by The City of Red Deer, By-law No. 3619/2019, *Appeal Boards Bylaw* (April 1, 2019). The duty and purpose of the Board is to hear and make decisions on appeals for which it is responsible.

2. None of the Parties had any objection to the constitution of the Board. There were no conflicts identified by the Board Members.
3. There were no preliminary issues for the Board to decide.

**ISSUES**

4. Does the Level 4 Aggressive Dog designation apply to the Dog “Diesel” subject to this Appeal? The Board must either confirm or revoke the designation based on the evidence submitted by the Parties.

**LEGISLATION & POLICY**

5. The legislation governing municipalities in the Province of Alberta is the Municipal Government Act, RSA 2000 (MGA), c. M-26. The MGA provides that a Council may pass bylaws for municipal purposes respecting wild and domestic animals and activities in relation to them (s. 7(h)).
6. Council of The City of Red Deer passed the Dog Bylaw, for the purpose of regulating and controlling dogs within The City of Red Deer, Alberta.
7. Council of The City of Red Deer established the Policy to “set out the criteria The City of Red Deer will use to determine and designate a dog as aggressive.”
8. The Dog Bylaw states, “The Inspections and Licensing Manager may designate a Dog as an Aggressive Dog if he or she determines that the Dog has caused or is likely to cause damage, injury, or death to another domestic animal or person” (s. 15(3)).
9. The Policy includes a “behavior assessment chart,” with 6 levels to be referred to in evaluating a dog for aggressive behavior.

<b>Level</b>	<b>Description</b>
<b>1</b>	Dog growls, lunges, and/or snarls. Chases a person in a menacing fashion. No teeth touch skin. Mostly threatening behaviour toward a person.
<b>2</b>	Teeth touch skin but no puncture of the skin. May have red mark/minor bruising. A minor injury to a person.
<b>3</b>	Puncture wounds to the skin, no more than ½ the length of the dog’s canine tooth; one to four puncture holes from a single bite. No tearing or slashing of the skin. Probable bruising. A minor injury.
<b>4</b>	One to four holes from a single bite; one hole deeper than ½ the length of the canine tooth, typically with contact or punctures from more than just the canines only. Deep tissue bruising, tears, and/or slashing wounds. Dog usually clamped down and held, shook, or slashed the victim. A severe injury*. Also, an attack that results in the death of another domestic animal.
<b>5</b>	Multiple bites at Level 4 or above. A concerted, repeated attack. A severe injury.
<b>6</b>	Any bite resulting in the death of a human.

\*A severe injury is described in the Policy is “any physical injury to another domestic animal or a person, caused by a dog or aggressive dog, that results in broken bones or lacerations requiring sutures or cosmetic surgery.

10. Section 2 of the Policy states:

The City may designate a dog as aggressive if:

- a) the dog has been involved in more than three incidents evaluated to be at Level 1;
- b) the dog has been involved in more than two incidents evaluated to be at Level 2 or 3; or
- c) the dog has been involved in an incident evaluated to be at Level 4.

## **BACKGROUND**

11. On April 27, 2020, The City of Red Deer contracted Alberta Animal and Municipal Enforcement Services to enforce the Dog Bylaw.
12. On May 5, 2020, following an investigation by Alberta Animal Services in relation to the incident on April 27, 2020, an Aggressive Dog Designation Report was received by The City of Red Deer with a recommendation to designate the Dog "Diesel" as Aggressive.
13. On May 20, 2020, the designation was served to the Appellant by Sergeant Duane Thomas of Alberta Animal and Municipal Enforcement Services.
14. On May 27, 2020, the Notice of Appeal was received.
15. On June 3, 2020, a Notice of Hearing was sent to the Parties.
16. The Board entered into evidence the following:

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| Exhibit A.1: | Hearing Materials (6 pages)                  |
| Exhibit B.1: | Inspections & Licensing Report (5 pages)     |
| Exhibit B.2: | Inspections & Licensing Exhibit A (1 page)   |
| Exhibit B.3: | Inspections & Licensing Exhibit B (23 pages) |
| Exhibit B.4: | Inspections & Licensing Exhibit C (2 pages)  |
| Exhibit B.5: | Inspections & Licensing Exhibit D (2 pages)  |
| Exhibit B.6: | Inspections & Licensing Exhibit E (3 pages)  |
| Exhibit B.7: | Inspections & Licensing Exhibit F (3 pages)  |
| Exhibit B.8: | Inspections & Licensing Exhibit G (3 pages)  |

## **SUMMARY OF EVIDENCE AND ARGUMENT:**

*The City of Red Deer Inspections & Licensing Department:*

17. Ms. Amy Fengstad, Parking & Licensing Supervisor for The City of Red Deer, appeared at the hearing on behalf of the Respondent. Sergeant Duane Thomas, Director of Enforcement with Alberta Animal and Municipal Enforcement Services also appeared on behalf of the Respondent.
18. On April 27, 2020, at approximately 13:20 hours, Alberta Animal and Municipal Enforcement Services' Sergeant Thomas received a report of a dog attack, resulting in the injury of a dog on Lancaster Drive.
19. Sergeant Thomas is authorized to enforce the Dog Bylaw.

20. On April 27, 2020, at approximately 14:00 hours, Sergeant Thomas phoned the Appellant who was aware of the situation and had driven Witness #1 and her dog to the vet.
21. On April 28, 2020, Sergeant Thomas received formal witness statements from the victim - Witness #1, and Witness #2.
22. Witness #1 was walking her on dog on April 27, 2020 at approximately 11:45 hours. The dog was on leash and there was a U-Haul blocking the sidewalk. She went on the roadway with her dog and they were coming back towards the sidewalk in front of the residence of Lancaster Drive, when the subject's dog lunged and broke the leash it was tied up with in the front yard.
23. The Appellant's dog charged aggressively at Witness #1 and her dog, knocking the witness down in the process. The Appellant's dog grabbed the witness' dog and was shaking him violently like a "rag toy". The Appellant and a Witness #2 gained control of the dog and confined him inside the house. Witness #1's dog was severely injured with abdominal trauma and multiple bites on the body, and was rushed to Piper Creek Veterinarian Clinic for treatment. Witness #1 was also bitten on her finger.
24. Witness #2 saw Witness #1 on the ground, looking for her glasses, and she saw the Appellant trying to contain a dog in her home. Witness #2 came out to assist and saw Witness #1's dog was badly injured and bleeding, with organs exposed. She called Piper Creek Veterinarian clinic and the Appellant and Witness #1 went to the vet with the injured dog.
25. Sergeant Thomas spoke to Dr. Greg Linnell of Piper Creek Veterinarian Clinic, who indicated the injured dog had to be humanely euthanized once they discovered the severity of the injuries while in surgery. Dr. Linnell indicated to Sergeant Thomas that the dogs' intestines and other organs were disemboweled and were black from severe trauma and bruising. They were unable to continue with surgery, as the prognosis for survival was not likely.
26. Sergeant Thomas determined the attack that resulted in the death of another domestic animal on April 28, 2020 in Red Deer, was considered a Level 4 Dog Bite Classification, as per the Policy.
27. On April 30, 2020, at approximately 10:30 am, Sergeant Thomas issued a violation ticket to the Appellant for the offence of "Owner of a dog causing death to another domestic animal" (Dog Bylaw, s 14(3)(a)) and to the complainant for the offence of "Owner of a dog running at large" (Dog Bylaw, s 10.1).

*The Appellant:*

28. The Appellant indicated that their Dog "Diesel" was a 3 year old mixed breed rescue. They have owned Diesel since July 31, 2019 and are still learning about him. On the day of the incident, Diesel was tied up with a harness and leash. Diesel saw someone approach and without hesitation, ripped the leash in half and ran towards them attacking another domestic animal.
29. The Appellant does not deny that the attack occurred or dispute the facts presented. The Appellant took Witness #1 and her dog to Piper Creek Veterinary Clinic where surgery was performed and the animal was given a chance of recovery. Witness #1 decided to humanly euthanize their Dog and the Appellant paid the Vet bills.

30. The Appellant indicated they thought the surgery was successful and that Witness #1 chose to euthanize their dog. It was not until they received the Respondent's disclosure package that they understood the full extent of the incident.
31. On May 2, 2020, the Appellant hired a trainer to work the Diesel. The Appellant is pleased with the progress that Diesel is making. They are working to set boundaries for Diesel and are teaching him to rely on his other senses outside of eyesight. They are working to redirect Diesel's attention.
32. The Appellant indicated that Diesel had been to the off leash dog park with no aggression or dominance shown prior to the incident.
33. The Appellant has purchased a new lead and muzzle for Diesel to use when out for public walks.

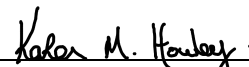
#### **FINDINGS AND REASONS**

34. The Board finds that the Appellant confirmed their dog Diesel was involved in the incident on April 27, 2020 and that Diesel was responsible for the attack.
35. The Board recognizes that the Appellant is trying to be a responsible dog owner shown by the use of new equipment while out on walks and by following the advice of their Trainer.
36. The Board finds that based on the evidence presented by Sergeant Duane Thomas with Alberta Animal and Municipal Enforcement Services, an alternative classification would not be appropriate. The Level 4 Dog Bite Classification was substantiated from the size and number of wounds inflicted by Diesel as well as the death of another domestic animal.
37. The Board finds that based on the evidence presented, the wounds inflicted by Diesel on the day of the incident warrant an Aggressive Dog Designation of Level 4 pursuant to Council Policy 6118-C (Exhibit B.7).

#### **CLOSING:**

Based on the evidence submitted in writing and presented at the hearing, the Board denies the Appeal and confirms the Aggressive Dog designation for Diesel that was issued on May 20, 2020 by the Respondent.

Dated at the City of Red Deer, in the Province of Alberta, this 30th day of June, 2020 and signed by the Chair on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations, and decision of the Board.



Karen Howley, Chair

Red Deer Appeal & Review Board