

Appeal No.: 3429 001/2014  
Hearing Date: 21 November 2014

RED DEER APPEAL & REVIEW BOARD DECISION

CHAIR: B. FARR  
PANEL MEMBER: Z. ORDMAN  
PANEL MEMBER: C. MAH  
PANEL MEMBER: R. KERBER  
PANEL MEMBER: L. MULDER

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BETWEEN:

MARGRET STRICKLAND

Appellant

-and-

CITY OF RED DEER  
INSPECTIONS & LICENSING

Respondent

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This is an appeal to the Red Deer Appeal and Review Board in respect of the City of Red Deer *Dog Bylaw* No. 3429/2009 and Council Policy #6118-C (Aggressive Dog Designation Policy).

The Appeal was heard on the 21<sup>st</sup> day of November, 2014, in the City of Red Deer Council Chambers, within the province of Alberta.

## **INTRODUCTION**

1. By decision dated October 15, 2014, the Inspections & Licensing Manager of The City of Red Deer, Alberta issued a decision to declare a black and white, Female Husky dog (the “Husky”) to be an Aggressive Dog, in accordance with City of Red Deer *Dog Bylaw No. 3429/2009* and Council Policy #6118-C (Aggressive Dog Designation Policy).
2. On October 28, 2014, the Red Deer Appeal and Review Board (the Board) received an appeal from Ms. Margret Strickland, together with the applicable filing fee, opposing the designation of the Husky as an Aggressive Dog.
3. The Inspections & Licensing Manager of the City of Red Deer, Alberta was provided with notice of the appeal.
4. The Appeal was heard by the Board on the 21<sup>st</sup> day of November, 2014, in the City of Red Deer, Alberta.

## **ROLE OF THE BOARD**

5. The Red Deer Appeal and Review Board is established by City of Red Deer, Bylaw No. 3487/2012, *Appeal Boards Bylaw*. The duty and purpose of the Red Deer Appeal and Review Board is to hear and make decisions on appeals for which it is responsible under any city bylaw and in particular, under the *Dog Bylaw (Appeal Board Bylaw, s 17(3)(b))*.

## **PRELIMINARY MATTERS**

6. On November 18, 2014, the Appellant submitted a written request for postponement of the Appeal. On November 19, 2014, the Respondent indicated (via email to the Appeals Board Clerk) its intention to proceed with the hearing and argue against postponement. The Appellant was advised of this position (via telephone call from the Appeals Board Clerk) on the same day. Following hearing commencement on November 21, 2014, the Board Chair confirmed there were no objections from either party to proceeding with the hearing as scheduled.
7. Neither party raised objection to any Board member hearing the appeal.

## **ISSUES**

8. Does the Level 4 Aggressive Dog designation apply to the Husky subject to this Appeal? The Board must either confirm or revoke the designation based on the evidence submitted by the parties.

## **LEGISLATION AND POLICY**

9. 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 (s 7(h)).
10. Council of the City of Red Deer passed City of Red Deer, Bylaw No. 3429/2009, *Dog Bylaw*, for the purpose of regulating and controlling dogs within the City of Red Deer, Alberta. 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)).

11. Council of the City of Red Deer established the Aggressive Dog Designation Policy to “set out the criteria the City will use to determine and designate a dog as aggressive.”
12. The Aggressive Dog Designation Policy includes a “behavior assessment chart,” with 6 levels, in evaluating a dog for aggressive behavior. Level 4 aggressive behavior on this chart is described as: “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” (at para 1).

## **POSITION OF THE PARTIES**

### **Respondent Position**

13. Ms. Erin Stuart, Development & Licensing Supervisor for the City of Red Deer, appeared at the hearing on behalf of the Respondent. Howard Thompson, Inspections & Licensing Manager for the City of Red Deer also appeared on behalf of the Respondent.
14. Prior to the hearing, the Respondent provided Alberta Animal Services file #67412 (within Hearing submission Exhibit A), which contains an investigation report summarizing incidents pertaining to the Husky. The report includes Witness statements, the Prosecutor’s Information Sheet, officer’s notes and four violation tickets involving the Husky, that were issued between September 27 and October 3, 2014
15. The Appellant was charged by Alberta Animal Services with four offences under the *Dog Bylaw* relating to the Husky:
  - September 28, 2014 – Under s. 10.1 of the *Dog Bylaw*, for Dog running at large
  - September 28, 2014 – Under s. 9(1)(a) of the *Dog Bylaw*, for Failing to obtain a dog tag
  - September 28, 2014 – Under s. 14(1)(a) of the *Dog Bylaw*, for Dog causing severe injury to a domestic animal
  - September 28, 2014 – Under s. 14(3)(a) of the *Dog Bylaw*, for Dog causing death to another domestic animal
16. At the hearing, the Respondent called two witnesses who provided verbal testimony:
  - a. Respondent Witness #1: Jessica Pratt
    - i. On September 26, 2014, the Husky was found in the yard of the Witness and she returned it to the Appellant in person. The Witness informed the Board that this was the second time the Husky had been found in her yard; the first time she had met the owner when returning it so knew where it lived.
    - ii. Upon returning from the Appellant’s residence, the Witness discovered that her cat had been injured. The Witness did not observe any attack on the cat, but believes that it was the Husky that attacked the cat and injured it.
    - iii. On September 28, 2014, the Witness found the dog attacking the chickens within the approved chicken enclosure in her yard. The Witness reported the incidents to Alberta Animal Services. The Witness also stated that she had found the Husky with a severely injured chicken in its mouth.
    - iv. The Witness stated that, to her knowledge, there were no other similar dogs in the area and that she is confident that the Husky caused the animal injuries described.

- b. Respondent Witness #2: Charity Briese
- i. On September 26, 2014, the Witness stated their chickens were alive at about 6 p.m. The husband of this Witness advised the Witness that when he closed the chicken coop at about 8pm, he found the Husky with its head in the chicken coop. He chased the Husky away, but did not check on the condition of the chickens at that time.
  - ii. At about 8:30 a.m. on the following morning, the Witness opened the chicken coop to find dead chickens (photos provided in Exhibit B). Following this discovery, the bodies of four chickens were found and a fifth remained missing. The Witness noted there were two locations where a hole had been dug under their chain link fence and confirmed the holes were big enough for a dog to get through.
  - iii. The Witness stated she has lived in the area for eight years and has never seen any other dog in the area that is similar in appearance to the Husky, other than the Appellant's Husky. The Witness confirmed there have been no other similar incidents.

17. The Respondent indicated that Charity Briese's husband was asked to appear at the Hearing, but was not able to attend due to work commitments.

18. The Respondent advised that Officer Duane Thomas, Director of Enforcement Operations for Alberta Animal Services was present and available for questions. Neither party elected to question Officer Thomas.

### **Appellant Position**

19. The Appellant stated the Husky belongs to Keegan Strickland (son of the Appellant). The Appellant confirmed that she had care and control of the Husky at the time of the alleged incidents. The Appellant's son had built a fence to contain the Husky, using two sections of four foot chicken wire to create an eight foot fence, with reinforcement wires connecting the sections about every foot. The fence was not sufficient, and the dog escaped several times. The Appellant tried to further secure the fence by adding additional wires to secure the two sections at about every six inches.

20. On September 21, 2014, the Appellant stated the Husky had escaped when she met the Respondent's Witness #1, who had the Husky in her car and returned the dog to the Appellant.

21. The Appellant stated that there are other dogs in the area, including one dog with similar appearance to the Husky that had been seen in a nearby park a few months prior to the incidents that are subject to this appeal.

22. The Appellant stated that in addition to other dogs in the surrounding area, there are some wild animals that could be capable of killing chickens.

23. The Appellant indicated that on the occasions when the Husky had escaped and been retrieved, it did not have feathers or any other evidence of being around chickens or a chicken coop.

24. The Appellant stated that at the time of the incidents the Husky escaped from the Appellant's yard. Since the incident the Husky has been kept in a kennel while she is at work and was taken on walks at lunch time and after work.

25. On September 28, 2014, the Appellant confirmed the Husky had broken its leash and escaped. The Appellant stated that the dog had snapped a metal ring on its leash and the Appellant was not able to repair it.
26. Keegan Strickland stated that he had owned the animal since it was ten weeks old. He advised that the dog was licensed and had a dog tag from the Town of Sylvan Lake. He confirmed that the Husky had escaped a few times but was usually found right away. He also stated that the Husky sometimes growls at other dogs when out for a walk (with a leash), but does not exhibit any aggressive behavior at the dog park.
27. Keegan Strickland stated that another dog of similar type and with similar markings had been mistaken for the Husky a few months prior to the incidents that are subject to this Appeal.
28. Keegan Strickland stated that the Husky had previously attacked a free range chicken on a farm in an incident that was unrelated to the incidents subject to this Appeal. He noted that other than that unrelated incident, the Husky had never bitten or killed any animals.
29. Further, Keegan Strickland described a cell phone video that depicted the accused dog sitting together with a cat, where the Husky did not exhibit any aggressive behavior. An attempt was made for the Board to view the video, but it due to technical reasons it was not shown at the hearing. In response to the Board Chair's inquiry, the Appellant indicated that she was fine with not having an opportunity to show the video, and she would close her presentation without showing it.
30. To support her submission, the Appellant called on the following witnesses who provided verbal testimony:
  - a. Appellant Witness #1: Heather McKinnon
    - i. This Witness stated that she has lived in the Parkvale area for twelve years, and that she lives across the street from the Husky.
    - ii. She generally does not like dogs, but finds the Husky to be friendly and not aggressive. She has patted the Husky and has witnessed other people doing the same on several occasions.
    - iii. She has never noticed the Husky to exhibit any ill behavior, although she has seen it out of its yard a number of times.
    - iv. She confirmed there are some other dogs in the area but could not confirm that she had seen any similar Husky dogs.
  - b. Appellant Witness #2: Sarah Vandegaag
    - i. This Witness stated that she is a friend of the Keegan Strickland and has known the Husky since it was twelve weeks old.
    - ii. She stated that she has a two year old child who has played with the dog since infancy and there has never been an incident or injury involving the Husky.
    - iii. The Witness also stated she has observed the dog playing with a cat and the dog did not exhibit any aggressive behavior.
31. The Appellant provided a copy of a statement (Exhibit C) in response to the Alberta Animal Services investigation report summarizing incidents alleged to pertain to the Husky. In this statement, the Appellant raised a number of items considered to be errors in the report.

32. The Appellant in her written submission (Exhibit C) stated that the designation is being appealed because the “dog is a very sweet and gentle dog who killed some chickens because that is a dog’s instinct and not an aggressive nature.”

### **BOARD FINDINGS**

33. The Board finds that the Respondent’s Witness #1 provided credible evidence identifying both the Husky and the Appellant, and could confidently state that the Husky was found with a severely injured domestic chicken in its mouth near the time of the incidents subject to this Appeal. The Appellant did not dispute this evidence.

34. The Board further finds, based on the evidence of the Appellant, that inadequate fencing allowed the Husky to escape on several occasions, including at the time of the described incidents.

35. The Board heard conflicting oral evidence as to whether or not the accused dog has an aggressive nature. The Board did not find it necessary to make a determination as to the Husky’s nature outside of the incidents that are subject to this Appeal.

36. The Board finds that the Husky inflicted physical injury to a domestic animal that qualifies as a “severe injury” as defined in the *Dog Bylaw*.

### **DECISION**

37. The Board finds, based on the evidence before it, that the *Dog Bylaw* and the *Aggressive Dog Designation Policy* were appropriately applied. Specifically, the Board finds the Level 4 description of an aggressive dog applies in this case.

38. The Board confirms that the *Aggressive Dog* designation based on the evidence presented.

MOVED by B. Farr, and seconded by R. Kerber, that the aggressive dog designation is CONFIRMED.

CARRIED UNANIMOUSLY

Dated at the City of Red Deer, in the Province of Alberta this 4<sup>th</sup> day of December, 2014 and signed by the Chair on behalf of all five panel members who agree with this decision.



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B. Farr, Chair  
**Red Deer Appeal & Review Board**

## **APPENDIX "A"**

### **EVIDENCE PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD**

- Exhibit "A"     Agenda
- Exhibit "B"     Photographs of Respondent Witness #2 incident
- Exhibit "C"     Appellants' Additional Submission

