

Appeal No.: 001 2021 3429  
Hearing Date: April 20, 2021

RED DEER APPEAL AND REVIEW BOARD DECISION

CHAIR: M. Kartusch  
PANEL MEMBER: K. Howley  
PANEL MEMBER: G. Paradis

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BETWEEN:

Michelle O’Riordan

Appellant

and

CITY OF RED DEER  
Represented by Erin Stuart, Inspections & Licensing

City Authority

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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 Policy).

The Appeal was heard on the 20<sup>th</sup> day of April, 2021 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 March 15, 2021, 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 (referred to as 'Boomer') 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 3429/2009, 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.

Level	Description
1	Dog growls, lunges, and/or snarls. Chases a person in a menacing fashion. No teeth touch skin. Mostly threatening behaviour toward a person.
2	Teeth touch skin but no puncture of the skin. May have red mark/minor bruising. A minor injury to a person.
3	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.
4	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.
5	Multiple bites at Level 4 or above. A concerted, repeated attack. A severe injury.
6	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 February 22, 2021, The City of Red Deer contracted service Alberta Animal Services received a report of a dog attack from Ryan and Kim Rome resulting in severe injury of a dog and adult male on Anders on the Lake that happened on February 20, 2021.
12. On March 5, 2021, following an investigation by Alberta Animal Services in relation to the incident on February 20, 2021, an Aggressive Dog Designation Report was received by The City of Red Deer with a recommendation to designate the Dog “Boomer” as Aggressive.
13. On March 15, 2021, the City of Red Deer Inspections and Licensing Manager issued the Aggressive Dog designation for Boomer.
14. The designation was served to the Appellant on March 18, 2021 by Animal Control Officer Toutant.
15. On March 26, 2021, the Appellant filed a Notice of Appeal. On March 31, 2021, a Notice of Hearing was sent to the Parties.
16. The Board entered into evidence all items listed in Appendix “A”.

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

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

17. Erin Stuart, Manager, Inspections and Licencing for the City of Red Deer, appeared at the hearing on behalf of the City Authority. Sergeant Duane Thomas, Director of Enforcement with Alberta Animal Services, and Officer Brody Toutant, also appeared on behalf of the City Authority.
18. On February 20, 2021 there was an incident involving Boomer and the victim dog that resulted in injury to the victim dog and to an adult male, Gordon Pike.
19. On the same day, several witness statements were taken relating to the incident from Witness #1, Kim Rome, Witness #2 Gordon Pike, Witness #3, Greg Heimsoth, and Witness #4 Lynda Heimsoth.

20. On February 22, 2021, Alberta Animal Services' Officer Toutant received a report of an incident involving 2 dogs, resulting in injury to the victim dog and injury to an adult male that had occurred on February 20, 2021.
21. Officer Toutant is authorized to enforce the Dog Bylaw.
22. On February 22, 2021, Officer Toutant received formal witness statements from the victim dog's owner, Kim Rome Witness #1; and from Gordon Pike, Witness #2.
23. Witness #1 was walking her dog at Anders on the Lake and witnessed Boomer being walked by the Appellant's son, Hayden. When the dogs came close to each other, there was a swift altercation and ultimately Boomer grabbed the victim dog by the neck.
24. Witness #2 saw the victim dog in Boomer's mouth. Witness #2 attempted to intervene and, with assistance from others, was able to release the victim dog from Boomer's grasp. Witness #2 sustained injuries to his hand in this process.
25. Witness #3 and Witness #4 observed injuries to the victim dog's neck and to Witness #2's hand.
26. On February 22, 2021 at approximately 15:00 hrs, Officer Toutant contacted the Appellant. At that time she stated that she was aware of the incident and agreed to meet with Officer Toutant on February 25, 2021.
27. On February 23, 2021, Officer Toutant received the veterinarian documents from Animal Emergency Hospital and the referral to CAV in Calgary, from Kim Rome, which indicated injuries including:
  - Unstable fracture of the C5-6 vertebrae
  - Severe extensive soft tissue swelling
  - Hemorrhage and emphysema in several areas
  - Multiple bite wounds in the left thorax
  - Right forelimb and right axilla
28. On February 25, 2021, Officer Toutant met with the Appellant and was provided the written statement from her son Hayden. The Appellant acknowledged the actions of her dog Boomer stating that this was out of character and has never happened before.
29. Officer Toutant determined the incident that resulted in the injury of a person was considered a Level 3 Dog Bite Classification and the injury of another domestic animal considered a Level 4 Dog Bite Classification, as per the Council Policy.
30. On March 3, 2021, Officer Toutant issued a violation ticket to the Appellant for the offence of "Dog causing severe injury to another domestic animal" (Dog Bylaw, s 14(1)(a)) and a second violation ticket for the offence of "Dog bites, attacks or causes Minor injury to a person." (Dog Bylaw, s13(1)b))

*The Appellant*

31. The Appellant noted that Boomer is a 3-year-old mixed breed rescue. Prior to the incident Boomer had not shown any signs of aggression towards humans or other animals.
32. On the day of the incident, Boomer was being walked by the Appellant's son, Hayden. Hayden had walked Boomer on many previous occasions. The Appellant was not present.
33. The Appellant does not deny that the incident occurred or that Boomer caused the injuries.
34. The Appellant did note that both dogs were being aggressive, but Boomer was much bigger than the victim dog. Boomer was restrained by three adults and had his eye poked by one of the adults to get him to release the victim dog.
35. The Appellant has paid for as much of the victim dog's expenses as possible and has had her insurance cover the victim dog's specialist care.
36. The Appellant's concern is that, with no prior indication of aggressive behaviour, Boomer should not be designated as an Aggressive dog because of this sole incident.

**FINDINGS AND REASONS**

37. The Board finds that the Appellant confirmed that Boomer was involved in the incident on February 20, 2021 and that Boomer was responsible for the injuries caused to the victim dog and to the adult male.
38. The Board finds that there is no dispute as to the nature of the injuries received by the victim dog and the victim male and that they were inflicted by Boomer.
39. The Board recognizes that the Appellant and her family love and trust Boomer and believe that his actions on that day were out of character.
40. Through questioning the Board confirmed that the Level 4 Dog Bite Classification is sufficient to warrant a designation of Aggressive Dog in accordance with the Dog Bylaw and Policy and the definition as defined for "Severe Injury".
41. The Board finds that based on the evidence presented as well as the verbal testimony of Officer Toutant and Sergeant Thomas with Alberta Animal Services, an alternative classification would not be appropriate. The Level 4 dog bite was substantiated from the injuries inflicted on the victim dog by Boomer.
42. The Board finds that based on the evidence presented, the wounds inflicted by Boomer on the day of the incident warrant an Aggressive Dog designation of Level 4 pursuant to Council Policy 6118-C.
43. The Board also finds the Inspections & Licensing Manager exercised appropriate discretion to make the determination of this designation.

**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 Boomer (Owned by the Appellant), as issued on March 15, 2021, by the Inspections & Licensing Department of The City of Red Deer .

Dated at the City of Red Deer, in the Province of Alberta, this 3<sup>rd</sup> day of May, 2021 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.



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Michael Kartusch, Chair  
Red Deer Appeal & Review Board

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD**

Exhibit A.1:	Hearing Materials	8 pages
Exhibit B.1:	City Authority Report – Aggressive Dog Appeal	7 pages
Exhibit B.2:	City Authority Report – Aggressive Dog Report Redacted	91 pages
Exhibit B.3:	City Authority Report – Aggressive Dog Designation (Redacted)	3 pages
Exhibit B.4:	City Authority Report – Aggressive Dog Designation Served (Redacted)	3 pages
Exhibit B.5:	City Authority Report – Appeal - Redacted	5 pages
Exhibit B.6:	City Authority Report – Violation Tickets (Redacted)	7 pages
Exhibit B.7:	City Authority Report – 6118 - C – Aggressive Dog Designation	3 pages
Exhibit C.1:	Appellant Submission	15 pages