



HEARINGS COMMITTEE (DOG HEARING) Open Minutes

Meeting Date: Thursday 9 November 2017

Time: 1.00pm – 1.50pm

Venue Breakout Room 2
Napier Conference Centre
Marine Parade
Napier

Present: Councillor Jeffery (In the Chair) Councillors White and Wise

In Attendance: Director City Strategy, Manager Regulatory Solutions
Mr Matthew Lawson (Lawyer)

Administration: Governance Team

Apologies

Nil

Conflicts of interest

Nil

Public forum

Nil

Announcements by the Chairperson

Nil

Announcements by the management

Nil

AGENDA ITEMS

1. OBJECTION TO DISQUALIFICATION FROM DOG OWNERSHIP UNDER S26 OF THE DOG CONTROL ACT 1966

<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	401535
<i>Reporting Officer/s & Unit:</i>	Richard Munneke, Director City Strategy

1.1 Purpose of Report

The Hearings Committee has been delegated, by Council, the power to hear, consider and decide objections made under section 26 of the Dog Control Act 1996 ('the Act').

An objection has been made in response to disqualification from dog ownership under s26 of the Act, by Isabell Povey and Jamie Kenward, thus requiring a hearing.

At the Meeting

The Chair introduced the attendees of the Hearing and provided an outline of the structure of the proceedings. The Manager Regulatory Solutions was then invited to present Council's case.

Council Officer's Report – Ms Hayleigh Brereton

Ms Brereton spoke to the Officer's report, providing a history of the incidents involving the dogs "Roman" and "Zeus", and in particular the incident of 17 January 2017 at which time an Animal Control Officer was bitten. The bite was severe enough that the Officer was off work for two days.

It was noted that the dogs were classified as menacing in July 2016 due to their breed.

Multiple issues with the dogs have been recorded. Three infringement notices have been levied against the owners.

The owners were convicted under s57(2) of the Dog Control Act following the dog attack incident in January 2017. The Act states that disqualification from ownership is mandatory in this instance, unless good reason can be shown that this should not be the case or that a probationary period is more appropriate.

It was clarified that disqualification is active from the date of the relevant incident and not from the date of ruling.

Appellants – Mr Jamie Kenward and Ms Isabell Povey

At the invitation of the Chair, the Appellants made the following points:

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- At the time of the incident in January 2017, a sign was on the wire gate at the front of their property advising that visitors should enter through the back door due to the presence of the dogs. The sign was produced for the Panel to view. In response to a question from the Chair, it was confirmed that the paper sign was not weather-proofed.
 - It was alleged that Mr Alex Pollock, the Animal Control Officer who was bitten in the January incident, had made previous undeclared visits to the property and shaken the dog enclosure. A neighbour had advised the appellants that Mr Pollock had accessed their property via her neighbouring one. No calling card was left as would be standard practice and as had been received at several visits previously. It was for this reason, as well as concerns over a neighbour who held the dogs responsible for the mauling of his sheep, that the dogs were inside the house on the day of the incident.
 - Based on the behaviour of Mr Pollock and negative press coverage about the Napier City Pound at the time, the appellants were not comfortable to release the dogs to Mr Pollock when he attended the property on 20 January 2017 to seize them.
 - The non-compliance with the dangerous classification in relation to a lack of appropriate enclosure was due to a delay in shipping of the enclosure.

In response to questions from the Panel, it was clarified that:

- Ms Povey does not acknowledge the breed is dangerous. A form was signed stating that she agreed that this was the case following impoundment of the dog Roman as this was a requirement for the dog to be released. Ms Povey advised that she had felt this to be a “stand over” tactic used by Mr Pollock. She stated that she did not say that the dog was dangerous but rather that the situation they were in was dangerous.
- The Appellants moved to Napier without jobs and there was a period where ensuring their dog ownership responsibilities were met (including registration) took second place to ensuring they had income. The dogs were registered as soon as they could following the Court Hearing.
- The classification of the dogs as dangerous was never formalised due to paperwork having been incomplete.
- The dogs are able to be contained in the front section of the house and are unable to make their own way out the back door.
- The appellants believe the January incident would not have occurred if the Animal Control Officer had followed the directions of their sign. They agreed it was unusual that a trained Officer would ignore such a sign.
- The appellants believe the dogs are now fully contained, and should they did get out of their enclosure that they would not pose a threat to other wildlife or people.

The Appellants asked that the Panel consider a probationary ownership period to allow them to demonstrate their commitment to responsible dog ownership.

Council Officer’s Review

The Chair requested the Manager Regulatory Solutions to advise whether the statement of the Appellants had led to a re-consideration of council’s recommendation that the

disqualification be upheld.

Ms Brereton advised that the matter under consideration was a serious attack on a person, the impact of which may have been worse again if the victim was not a trained Animal Control Officer.

Ms Brereton stated that there was no new evidence presented today on actions taken by the appellants following the attack that would suggest the recommendation should be altered.

In response to a question from the Panel, it was noted that the attack review matrix, undertaken by an independent party Mr Stuart Hylton, was extremely high scoring.

Appellants' Right of Reply

Mr Kenward verbally presented communication had with Mr Hylton, the independent assessor, regarding the review of the January incident, within which a number of matters were raised regarding Mr Pollock, and information requested in relation to visits to the appellants property.

The Chair advised that the questions raised within the communication should have better been addressed to council officers rather than an independent party who was not in a position to respond.

He further noted that opportunity had been provided to supply disclosures prior to the Hearing and it was now inappropriate for the Panel to consider papers that they have not had full opportunity to review.

Following confirmation from the Appellants that they had no further statements, the Chair closed the open section of the Hearing.

The Hearing moved into Deliberations at 1.36pm

Hearing Panel's resolution

Councillors White / Jeffery

THAT the disqualification from ownership under s25 of the Dog Control Act be upheld for Mr Jamie Kenward and Ms Isabell Povey, there being no reasons to challenge the mandatory nature of this disqualification following a conviction under s57(2) of the Act; and

THAT the dogs "Roman" and "Zeus" be seized under s28(7) should they not be disposed of as outlined under s28 within 14 days of notice of this decision.

Carried

Deliberation Notes

In making its decision, the Panel gave consideration to the following:

- The dogs in question have an extensive history of incidents
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- Three infringements notices have been levied and multiple instances of breach of the Act noted
 - Multiple instances of roaming have been recorded
 - The attack review matrix for the January 2017 incident, undertaken by an independent party, is one of the highest scoring incidents on record.

Right of Appeal

In accordance with section 27 of the Dog Control Act, the Appellants, having now lodged an objection under section 26, may appeal to the District Court against the decision of the Panel should they be dissatisfied with that decision. Any appeal must take place within 14 days of being notified of the Panel’s decision.

The District Court, in hearing the appeal, shall consider the matters specified in section 26(3) of the Dog Control Act, and any submission by the territorial authority in support of its decision, and may uphold the determination, bring forward the date of termination, or immediately terminate the disqualification.

The Hearing closed at 1.50pm

Approved and adopted as a true and accurate record of the meeting.

Chairperson

Date of approval