



AGENDA

Regulatory Hearings Panel meeting Wednesday, 12 July 2023

I hereby give notice that a Regulatory Hearings Panel meeting will be held on:

Date: Wednesday, 12 July 2023

Time: 9am

Location: Bay of Plenty Regional Council Chambers
Regional House
1 Elizabeth Street
Tauranga

Please note that this meeting will be livestreamed and the recording will be publicly available on Tauranga City Council's website: www.tauranga.govt.nz.

Marty Grenfell
Chief Executive

Terms of reference – Regulatory Hearings Panel

Membership

Chairperson	Mary Dillon
Members	Puhirake Ihaka Terry Molloy Alan Tate
Quorum	At least two members
Meeting frequency	As required

Role

- To conduct hearings and make decisions of a quasi-judicial nature on regulatory matters through specific hearings and decision making.

Scope

Regulatory matters

- To conduct hearings and make decisions of a quasi-judicial nature on behalf of the Council on any regulatory matter that the Council is legally:
 - empowered or obligated to hear and determine;
 - permitted to delegate to a subordinate decision-making body of Council under the Local Government Act 2002, or any other Act.
- To exercise this function in accordance with:
 - the applicable legislation;
 - the Council's corporate strategies, policies, plans and bylaws; and
 - the principles of administrative law and natural justice.
- Regulatory matters include (but are not limited to):
 - dog control matters;
 - matters arising from the exercise of Council's enforcement functions; and
 - regulatory matters that require a hearing under Council's policies (including, without limitation, Council's Gambling Venues Policy) and bylaws.

Matters excluded from scope

- The following are excluded from the scope of the Regulatory Hearings Panel:
 - matters relating to the sale and supply of alcohol;
 - matters under the Resource Management Act 1991; and
 - matters the Council is precluded from delegating to a subordinate decision-making body by the Local Government Act 2002, or any other Act.

Power to Act

Regulatory matters

- All powers, duties and discretions necessary to conduct hearings and make decisions of a quasi-judicial nature on behalf of the Council on any regulatory matter that the Council is legally empowered or obligated to hear and determine, including (but not limited to):
 - All powers, duties and discretions necessary to hear and make decisions on behalf of the Council in respect of any matter that the Council is empowered or obligated to hear and determine under the Dog Control Act 1996, the Local Government Act 2002, the Local Government Act 1974 and any regulatory matters that require a hearing under Council's policies and bylaws.
- For the avoidance of doubt, the above delegation includes authority to hear and make decisions on appeals under Council's Gambling Venues Policy, including to decline an application to appeal.
- The power to establish and amend hearings protocols relating to the general conduct of hearings and hearings related matters in accordance with the applicable legislation and the principles of administrative law and natural justice.
- The power to co-opt expert advice on an as required basis.

Matters excluded from power to act

- For the avoidance of doubt, the Regulatory Hearings Panel does not have the power to hear:
 - matters relating to the sale and supply of alcohol;
 - matters under the Resource Management Act 1991; or
 - matters that the Council is precluded from delegating to a subordinate decision-making body by the Local Government Act 2002, or any other Act.

Power to Recommend

- The Regulatory Hearings Panel is unlikely to need to make recommendations to the Council as it has the power to conduct hearings and make decisions of a quasi-judicial nature on behalf of Council as per its powers to act. However, the Panel may make recommendations to the Council if, in the circumstances of a matter, it considers it appropriate to do so.

Note: The Regulatory Hearings Panel is established as a subordinate decision-making body of Council and delegated the powers specified in its Terms of Reference under clauses 30 and 32 of Schedule 7 Local Government Act 2002 respectively. It is not a committee or subcommittee of Council.

Regulatory Hearings Panel

Summary of hearings procedure



Who is involved in a hearing?

- Regulatory Hearings Panel – these are independent persons who make the decision
- Tauranga City Council staff – staff who write the report and attend the hearing
- Applicant/objector or their representative – those who will present their evidence
- Witnesses/experts – called by staff or applicant/objector



What happens before the hearing?

- The applicant/objector will be given at least seven days' notice of the date, time and place of the hearing.
- An agenda with the staff report and any documents will be sent to the panel members and the applicant/objector before the hearing.
- The applicant/objector can organise evidence and call witnesses in support of their application/objection.
- If the applicant/objector can't be present at the hearing they can organise a representative to attend on their behalf.

What happens at the hearing?

- The hearings will be conducted without a lot of formality and will make sure that all parties and witnesses receive a fair hearing.
- Staff will present Council's case (including evidence and any witnesses) in support of its decision that is the subject of the application/objection.
- The applicant/objector presents their case (including any evidence and any witnesses).
- Council staff have a right of reply but can't submit any new evidence or call any further witnesses.
- The chairperson and panel members may ask questions from any party or witness.
- Other persons may ask the chairperson to put a question to any party or witness on their behalf but that is at the discretion of the chairperson as to whether the question is put.

- No cross examination is permitted.
- The chairperson's rulings on any matter is final.
- The hearing is generally open to the public unless there is good reason to have the hearing with the public excluded.

What happens after the hearing?

- The panel will usually deliberate in private immediately after the hearing and make their decision.
- The panel may, but is not required to, deliver its decision in the open section of a meeting. A notice of decision will be given (or sent) in writing to the applicant/objector as soon as practicable after the panel has made its decision.
- The chairperson will then close the hearing.
- If the chairperson has allowed further information to be provided before the hearing is closed, then the hearing will be adjourned, and the panel will reserve its decision until it has considered the further information.
- Where the applicant/objector has a right to appeal the panel's decision, that will be advised in writing.
- No discussions or communication of any kind will happen outside of the hearing between the panel, the parties or witnesses until a decision is issued, including during any site visits, adjournment or break.
- Minutes of the meeting will be kept as evidence of the hearing.

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- 1 OPENING KARAKIA**
- 2 APOLOGIES**
- 3 DECLARATION OF CONFLICTS OF INTEREST**

4 CONFIRMATION OF MINUTES

4.1 Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023

File Number: A14839012

Author: Anahera Dinsdale, Governance Advisor

Authoriser: Anahera Dinsdale, Governance Advisor

RECOMMENDATIONS

That the Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023 be confirmed as a true and correct record.

ATTACHMENTS

1. Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023



MINUTES

**Regulatory Hearings Panel meeting
Thursday, 4 May 2023**

Order of Business

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3	Confirmation of minutes	3
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7	Closing karakia	6

**MINUTES OF TAURANGA CITY COUNCIL
REGULATORY HEARINGS PANEL MEETING
HELD AT THE GROUND FLOOR MEETING ROOM 1, 306 CAMERON ROAD, TAURANGA
ON THURSDAY, 4 MAY 2023 AT 9.30AM**

PRESENT: Mrs Mary Dillon, Mr Terry Molloy, Mr Alan Tate

IN ATTENDANCE: Brent Lincoln (Team Leader: Animal Services), Kiran Erasmus (Animal Services Officer), Sarah Drummond (Governance Advisor)

1 OPENING KARAKIA

Mrs Mary Dillon opened the meeting with a karakia.

2 APOLOGIES

APOLOGY

COMMITTEE RESOLUTION RHP3/23/1

Moved: Mrs Mary Dillon

Seconded: Mr Alan Tate

That the apology for absence received from Mr Puhirake Ihaka, be accepted.

CARRIED

Mr Terry Malloy had advised the Chairperson that he was enroute to the meeting but would arrive after the commencement time.

The meeting was adjourned at 9.35am.

The meeting reconvened at 9.43am.

3 CONFIRMATION OF MINUTES

3.1 Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023

COMMITTEE RESOLUTION RHP3/23/2

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the minutes of the Regulatory Hearings Panel meeting held on 30 March 2023 be confirmed as a true and correct record.

CARRIED

4 DECLARATION OF CONFLICTS OF INTEREST

Nil

5 BUSINESS

5.1 Objection to Disqualification as Dog Owner - Tina Bowrind

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

Key points

- The hearing of the matter had been left to lie on the table twice, at the request of Ms Bowrind to reschedule the hearing to enable Ms Bowrind to be present. The Panel had advised Ms Bowrind on the last request that should she not attend the third hearing, the matter would be dealt with on the papers before them.
- The Committee Advisor, Ms Drummond, confirmed for the Panel that Ms Bowrind had been advised of the Panel's decision on her second request to reschedule the hearing, through text message and had responded in acknowledgement of the decision that should she not attend, the matter would be heard on the papers. Ms Drummond further confirmed that there had not been receipt of any other written material from Ms Bowrind.
- Staff provided the Panel a summary of their report.
- Noted that Ms Bowrind had been considered a recidivist offender who had continued to offend after the receipt of infringement notices.
- Ms Bowrind considered it acceptable for both dogs (Jasper and Rosebud) to roam at will despite her ability to keep them contained on her property. There were recorded offences of rushing aggressively and attacks on domestic animals.
- Noted Ms Bowrind had actively misled staff on a number of occasions including attempting to recover the impounded dogs using a false identity.
- Referred the Panel to paragraph 26 of the report that noted these infringements and that Ms Bowrind considered that staff had harassed her and her family over the issue of the dogs roaming and behaviour, infringement notices and impounding of the dogs.
- Noted that Ms Bowrind had not attempted to work with staff on the matter and when served notice in person of the disqualification, she had walked away and refused to engage further with staff. Ms Bowrind was advised of her appeal rights to the notice at the time the notice was served.

In response to questions

- The dogs subject to complaint had both been impounded and had subsequently been euthanised.
- Other persons resident at the property could be the legal owners of the dogs, however if Ms Bowrind was the only person present at the property under the Dog Control Act she was considered to be in charge of the animals, which would result in further infringement notices being served. However that could be a hard charge for staff to prove.
- There had been puppies present at the property (sired by Jasper and a third dog), those puppies had been rehomed and under other ownership and had been well cared for and controlled.
- Reports had been received that there were now other dogs present at the property. Those dogs had been observed roaming and uncontrolled. Proof of ownership of those dogs could not be confirmed and could be a matter of further investigation by staff.
- Under the Dog Control Act the maximum disqualification of ownership of a dog was five years. Staff found that a three year disqualification period had proven to be an effective deterrent and had therefore deemed that an appropriate period imposed in this matter.
- Confirmed that the Panel does not have the power to extend a period of disqualification from the date that the disqualification notice had been served. The current period of that disqualification period was three years.
- Confirmed that Ms Bowrind had served one year of this three year period (effective from service of the disqualification notice in June 2022.)

Attendance:

Brent Lincoln, Team Leader: Animal Services, and Kiran Erasmus, Animal Services Officer left the meeting at 9.50am.

The Panel deliberated in public excluded and released the decision in the public part of the meeting. Refer to the decision below.

6 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

COMMITTEE RESOLUTION RHP3/23/3

Moved: Mrs Mary Dillon

Seconded: Mr Alan Tate

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 - Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023	s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
6.2 Deliberations on Objection to Disqualification as Dog Owner - Tina Bowrind	To enable the Committee to deliberate on the objection to disqualification as a dog owner.	S48(1) (d) That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council/Committee to deliberate in private on its decision or recommendation in any proceedings where the local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.

CARRIED

The meeting resumed in the public arena.

5 BUSINESS (continued)

5.1 Objection to Disqualification as Dog Owner - Tina Bowrind (continued)

COMMITTEE RESOLUTION RHP3/23/4

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tina Bowrind".
- (b) Uphold the disqualification of Ms Tina Bowrind as a dog owner.

Reasons for decision:

1. The Regulatory Hearings Panel (the Panel) did not hear from the applicant who did not appear at the hearing. The Panel was satisfied that the Council had provided sufficient time and opportunity for Ms Bowrind to be heard by the Panel who had previously agreed to the request from Ms Bowrind to reschedule the hearing from 30 March 2023 and had advised Mrs Bowrind that if she was unable to attend the next hearing the matter would be decided by the Panel on the papers already before them.
2. The Panel gave weight to the evidence presented by the staff and their recommendation that the disqualification of Ms Bowrind as a dog owner be upheld.
3. The Panel took into account the recidivist nature of the offending by Ms Bowrind. complaints and offending of the dogs owned by Ms Bowrind.
4. The Panel agreed that a disqualification for three years was appropriate for the repeat infringement offences and noted that Ms Bowrind has served one year of the three year period (effective from service of the disqualification notice in June 2022.)

CARRIED

7 CLOSING KARAKIA

Mrs Mary Dillon closed the meeting with a karakia.

The meeting closed at 9.59am.

The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on _____ 2023.

.....
CHAIRPERSON

5 BUSINESS

5.1 Objection to Disqualification as dog owner - Dylan Anderson

File Number: A14809342

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Dylan Anderson opposing his disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as dog owner - Dylan Anderson.
- (b) It is recommended that the panel uphold the disqualification, however the Panel may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.

EXECUTIVE SUMMARY

2. The objector is Dylan Anderson, he is the owner of Chico, a Male Labrador Retriever Doberman Cross dog aged 2 years and 10 months.
3. Council has received six complaints over a period of 21 months, mostly about Chico either roaming with aggression or rushing at people. (*Attachment 1 – Schedule of offences*)
4. Section 25 of the Dog Control Act 1996 ("the Act") requires Council to disqualify a person from owning a dog if they receive three or more infringements within a two-year period and the infringements have either been paid or filed with the Court.
5. For the period 4 November 2021 to 28 April 2023, Mr Anderson received eight infringements, for five offence dates and all but one infringement has been filed with the Court. (*Attachment 2 – Schedule of Infringements and Impounds*)
6. As a result, a notice disqualifying him from owning a dog for a period of three years until 23 August 2025 was issued on 22 December 2022 (*Attachment 3 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Mr Anderson submitted an objection to the disqualification on 15 May 2023. (*Attachment 4 – Objection to disqualification and email trail*)

BACKGROUND

8. The "Act" provides that when a person receives three infringements within a two-year period and the infringements have been issued for separate incidents or occasions or have been paid or filed with the Court, then Council must disqualify that person from owning a dog for a period of up to 5 years.
9. Council doesn't have to disqualify the person if they are satisfied the circumstances of the offence are such that:

- (a) The disqualification is not warranted; or
 - (b) Council will classify the owner as probationary.
10. Mr Anderson has received the equivalent of 4 qualifying infringements and there is one further infringement which has been issued which hasn't yet been paid nor defended.
11. After considering the nature of the offending, the associated aggression of the dog Chico and the repeat nature of offences, staff are satisfied that the disqualification is warranted. Council doesn't operate a probationary owner scheme.
12. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
13. In considering any objection under this section, the territorial authority shall have regard to:
- (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.
14. It is not the purpose of this panel to rule on the legality of each infringement, that is a matter for the Court should the dog owner chose to defend each infringement. Once the infringement has been paid or filed with the Court, the offence is deemed to have been proved. This panel must consider the objection in the terms of paragraph 14 above, as provided by section 26(3) of the "Act".
15. When an infringement is issued the recipient can either:
- Pay the infringement; or
 - Defend the infringement in Court; or
 - Do nothing.
16. If the person does nothing, a reminder will be sent in 28 days and then after a further 28 days the infringement will be filed with the District Court.
17. Only infringements which have either:
- Been paid; or
 - A conviction entered (if they defended the infringement); or
 - Filed with the Court
- can be counted when disqualifying a person.
18. While not required by law, we have adopted a process whereby an advisory letter is sent to a dog owner when they have received two infringements. A letter was sent on 8 February 2022. (*Attachment 5 – Notification of second infringement*)
19. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 14 November 2022 and no response was received. (*Attachment 6 – Notice of impending disqualification*)
20. Mr Anderson has said he never received some correspondence because he had changed address. A dog owner is required to notify Council within 14 days of moving of their new address, we were not notified when Mr Anderson changed address. The "Act" provides that any letters or notices are deemed to be served when posted to the last known address shown on the dog register, which we did on each occasion.







SIGNIFICANCE

21. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
22. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

ENGAGEMENT

24. Taking into consideration the above assessment, that the issue is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Dylan Anderson - Attachment 1 - Schedule of Offences - A14837314** [↓](#) 
2. **Dylan Anderson - Attachment 2 - Schedule of Infringements and Impounds - A14837315** [↓](#) 
3. **Dylan Anderson - Attachment 3 - Notice of Disqualification - A14837316** [↓](#) 
4. **Dylan Anderson - Attachment 4 - Objection to Disqualification and Email Trail - A14837317** [↓](#) 
5. **Dylan Anderson - Attachment 5 -Notification of Second infringement - A14837318** [↓](#) 
6. **Dylan Anderson - Attachment 6 - Notice of Impending Disqualification - A14837319** [↓](#) 

COMPLAINTS			
Complaint Date	Complaint	Outcome	Offence
1058508 28 Apr 2023 07:46am	Person Rushed at	Infringement 26908	Rushing at person who was trying to leave her property and barking aggressively
1010828 29 Aug 2022 03:03pm	Roaming	Dog Impounded, Infringement 26292	Dog was stalking and barking at people in a reserve
1009977 24 Aug 2022 03:48pm	Person Rushed at	Infringements 26293 and 26294	6 year old rushed at while riding her bike and Unregistered
981016 09 Mar 2022 03:50pm	Roaming	Dog Impounded	Acting aggressively in complainants front garden.
954622 04 Nov 2021 11:07am	Unregistered	Infringements 25868, 25869, 25870 and 25871	Officers visited Mr Anderson at his home and advised him they were there to impound his two dogs "CHICO" and "DRE" neither dog is currently registered. Also Council had received complaints about his dogs roaming in the street the previous day at 4pm. The officer had also seen his dogs roaming in Cupples street and chased them back to his address. ANDERSON stated he would call the Police and asked for the paperwork. He then went back inside the address. The officer filled out 2 x seizure notices. They realised that ANDERSON had left the property with the two dogs by jumping over the back fence of the property. He returned a short tiime later without the dogs.Fail to provide information about dog, Obstruction of Dog Control Officer, Fail to control public place and Unregistered dog.
932866 12 Jul 2021 12:29pm	Domestic Animal Attack	Dog Classified menacing	Dogs jumped out of property and attacked complainants dog.

INFRINGEMENTS				
Infringement Number	Offence Date	Status	Dog Name	Offence
25868	4/11/21	FILED WITH COURT	CHICO	Unregistered
25869	3/11/21	FILED WITH COURT	CHICO	Fail to control public place
25870	4/11/21	FILED WITH COURT		Obstruction Dog Control Officer
25871	4/11/21	FILED WITH COURT		Fail to provide information about dog
26292	29/08/22	FILED WITH COURT	CHICO	Fail to control public place
26293	24/08/22	FILED WITH COURT	CHICO	Unregistered
26294	24/08/22	FILED WITH COURT	CHICO	Fail to control public place
26908	28/04/23	ENTERED	CHICO	Fail to control public place

IMPOUNDS			
Impound No	Date Impounded	Date Released	Dog
23091	24/03/22	24/03/22	CHICO
23468	29/08/22	2/09/22	CHICO

22 December 2022



DYLAN ANDERSON



Dear Dylan,

Notice of disqualification from dog ownership
Section 25, Dog Control Act 1996

This is to inform you that you have been disqualified under section 25(1)(a) of the Dog Control Act 1996 from owning any dog.

This follows:

- three or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 24 August 2022 and will expire on 23 August 2025

A summary of the effect of the disqualification and your right to object is provided below.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services: Team Leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Email 1

Email from Dylan to Brent Lincoln

From: [REDACTED]
Sent: Monday, 15 May 2023 7:30:02 am
To: info@tauranga.govt.nz
Subject: Attention Brent Lincoln | Animal Services: Team Leader
Morena Brent,

I would like to refer to your letter dated 22 December 2022.

Apologies as I am sure you have been made aware already I was no longer residing at the Cupples Street address at the time the letter is dated, therefore I did not actually receive it until Thursday 11 May 2023.

Purpose of my email today is to exercise my Right of objection to disqualification (*Section 26, Dog Control Act 1996*)

As advised above I relocated to a property on [REDACTED] roughly in September of 2022. I relocated because the owner nor the council would come to aid for higher fences for the backyard of the [REDACTED] address and after already having previous discussions with yourself and other Animal Control staff, it was clear I had to relocate somewhere more suitable where he could no longer jump the fence and therefore remain contained in my backyard.

To remedy Chico from further escaping I made the move and he has only gotten out once at fault of a guest who left the gate open. We have since then padlocked the fence and set up a motion detector should he get past a certain point where we would be able to get him before he comes into public contact. I invite you to come and see what measures I have put in place to ensure these occurrences no longer continue.

I am also enquiring with SPCA and Vets to have him neutered to try to calm down his hormones etc.

Chico, really is a beautiful nature boy he just gets scared or more often than not - too excited - of the unfamiliar. If it is too exciting then he can come across as aggressive if you don't know him so I do understand the victims points of view as well as councils. But if you could please re-evaluate the disqualification based on the steps I have made to ensure your previous requests have been met.

Please if you require anything else that can assist my claim then do not hesitate to give me a call..

Appreciate your time in reviewing this and I look forward to your response.

Nga Mihi,

Dylan Anderson
[REDACTED]

Email 2

From Brent Lincoln to Dylan

Request to Revoke Disqualification as a Dog owner - Dylan Anderson

Dated 16 May 2023 at 3:40pm

Hi Dylan

Thank you for your email requesting Council revokes your disqualification as a dog owner.

I have reviewed your file and because of the continued disregard for the provisions of the dog control act have declined your request.

1. Failing to neuter a menacing dog.
2. Failing to dispose of a dog within 14 days after disqualification.
3. The nature of the infringements issued to you including obstruction and failing to comply with an officer.
4. Failing to register your dog.

As I have declined your request I have referred your objection to the Council Hearing Panel. This is an independent panel who are appointed to review such matters. You will be advised when the panel will reconvene and you may present your case to them for consideration.

A disqualification notice was posted to you in December 2022 to your Cupples Street address, in that notice you were advised that you had 14 days to dispose of your dog to another home. It was your legal obligation to notify Council when you changed addresses, as you failed to notify Council, the notice issued was legally served on you. Even though you have lodged this objection now, you must still rehome your dog while you wait for the objection process to be completed. Failure to do so would be a continued breach of your disqualification which stands until the Hearing Panel hears the matter.

The table below is a record of infringements and offences as recorded by Council.

COMPLAINTS			
Complaint Date	Complaint	Outcome	Offence
1058508 28 Apr 2023 07:46am	PERSON RUSHED AT	Infringement 26908	Fail to control public p
1010828 29 Aug 2022 03:03pm	ROAMING DOG	Dog Impounded, Infringement 26292	Fail to control public p
1009977 24 Aug 2022 03:48pm	PERSON RUSHED AT	Infringements 26293 and 26294	Fail to control public p Unregistered
981016 09 Mar 2022 03:50pm	ROAMING DOG	Dog Impounded	

954622 04 Nov 2021 11:07am	UNREGISTERED DOGS	Infringements 25868, 25869, 25870 and 25871	Fail to provide inform: Obstruction of Dog C to control public place dog.
932866 12 Jul 2021 12:29pm	DOMESTIC ANIMAL ATTACK	Dog Classified menacing	

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

Email 3

From [REDACTED]
Sent: Wednesday, 17 May 2023 12:17:09 am
To: "Info" <info@tauranga.govt.nz>
Subject: Re: Request to Revoke Disqualification as a Dog owner - Dylan Anderson

CAUTION:External Email.

Hi Brent,
 Sorry was in a rush for work earlier.

A couple of things I'd like you to please clarify.

I stated in the email what provisions I put in place.
 I'd also like reference to you or your staff advising me of your key points stated in your email.

Failing to neuter a menacing dog.
 When your people advised me of my dog being flagged as menacing not once did they advise me it was a requirement to neuter my dog. Referring to T&Cs of this is not valid as he was unregistered at the time of him being flagged

Failing to dispose of a dog within 14 days after disqualification.
 I refer to the procedures of a bailiff when it comes to this issue. As stated I was not residing at the premise of cupples street, therefore the serving of the letter in question is invalid. There was no

intention to defy council wishes, i only didn't dispose of my dog because up until just over a week ago I was unaware of the disqualification not to try and disregard the dog act. I'd also like to add my moving premise was planned yes but not for the time that I actually moved, which is why I did not advise council of me moving but again not one of your staff or yourself advised of this requirement.

The nature of the infringements issued to you including obstruction and failing to comply with an officer.

Now like all court cases the complainant being yourself or the alleged people my dog "rushed" are required to gather and provide factual evidence. I trust the victims and yourself have video evidence of my dog doing this to people, as the statements I have from regular people with my dog and some people who haven't met him before have all written in their statements that he is very cowardly and they can't imagine him being aggressive or even wanting to get close to anyone to want to attack someone. Your officer I did not comply with was because of the way he stepped foot in my home and intimidated my sister and frightened my 2 year old niece (my sister will be writing an impact statement regarding this and has also provided me with the video footage captured from the CCTV at cupples street)

Failing to register your dog.

Now this just makes no sense. If you refer to the dates you have you'll see that every time it was discussed my dog was registered straight away. And to this day is still registered!

Now with the summary I have above and email I sent advising the of the provisions I have put in place as well as the fact it's been in excess of 6months and council have only received one complaint which again I advised in my previous email, was because a guest to our home left the gate open which isn't his fault obviously.

I respect your decision to decline but I do not agree with it.

Looking forward to your response

Email 4

Subject: Re: Request to Revoke Disqualification as a Dog owner - Dylan Anderson

-----Original Message-----

From: [REDACTED]

Sent: Wednesday, 17 May 2023 3:38:39 am

To: "Info" <info@tauranga.govt.nz>

Subject: Re: Request to Revoke Disqualification as a Dog owner - Dylan Anderson

CAUTION: External Email.

Another thing I'd like to make clear that was made clear to me by your staff, is that as soon as the objection is put in place the disqualification is rendered null and void until a resolution has been sought. It also states this on the disqualification notice.

I'd suggest making yourself familiar with the guidelines set out in your T&Cs that YOU issue.

Please note that all communication since my first email is without prejudice and may be used against you and TCC is any and all formal hearings regarding this matter.

My lawyer is calling me this afternoon where I will discuss all paper work issued to myself from TCC and as well as this current email thread.

Please also be aware that I have BCCd her into all correspondence also and that replies are instructed and read over by her prior to me pushing send.

Sent from my iPhone

On 16/05/2023, at 6:35 PM, Dylan Anderson <[REDACTED]> wrote:

Hi Brent,

I've passed this onto my lawyer and wish to escalate this straight to the District Court please

Sent from my iPhone

Email 5

From Brent Lincoln to Dylan

17 May at 9:06am

Hi Dylan

Thank you for your emails with regard to your disqualification.

You have raised a range of matters and have also indicated that you will be seeking legal advice in relation to the disqualification and the issues raised.

Your concerns are noted, I will not proceed with a request to the Hearings Panel until I hear further once you have had the opportunity to discuss the matter with your lawyer.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

8 February 2022



DYLAN ANDERSON



Dear

Notification of second infringement: dog owner reference 514609

Our records show you have, within a 24-month period, committed a second infringement offence against the Dog Control Act 1996.

This letter is to advise you that section 25 of the Dog Control Act 1996 states if you commit a third or subsequent infringement offence you must be disqualified from owning a dog for a period not exceeding five years. We have the discretion not to invoke this clause if we are satisfied that the circumstances of the offences are such that the disqualification is not warranted.

The letter is to inform you of the possible outcome of further offending and urge you to look at how you manage your dog to avoid further infringements.

If you need help or advice call us on 07 577 7000.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services team
Tauranga City Council

07 577 7000

info@tauranga.govt.nz

14 November 2022



DYLAN ANDERSON



Dear Dylan

Disqualification on third or subsequent infringement
Dog owner reference number: 514609

Our records show you have committed three or more infringement offences against the Dog Control Act 1996.

These offences were committed:

- within a continuous 24-month period
- each incident was on a separate occasion
- each was for a separate incident.

Section 25 of the Dog Control Act 1996 states you must be disqualified from owning a dog for a period not exceeding five years unless Tauranga City Council is satisfied that the circumstances of the offences are such that the disqualification is not warranted.

If there is any information you would like to be taken into consideration regarding your possible disqualification, please submit this in writing by **Tuesday 29 November 2022**. If a submission is not received by this date, a decision will be made based on the facts before council at the time.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000

info@tauranga.govt.nz

5.2 Objection to Disqualification as Dog owner - Britney Eagle

File Number: A14797500

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Britney Eagle opposing her disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Britney Eagle".
- (b) It is recommended that the panel uphold the disqualification, however the panel may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.

EXECUTIVE SUMMARY

2. The objector, Britney Eagle, was the owner of two dogs, Polo and Sadee. Polo 52922 is a Neapolitan Mastiff aged 2 years and 3 months and Sadee 52473 was a female American Pit Bull Terrier Cross dog which would be aged 2 years and 10 months.
3. In the short time Ms Eagle has owned these dogs, they have been subject to twelve complaints about the dogs roaming or rushing people while roaming. Sadee has been impounded twice and was not claimed when last impounded on the 18 October 2022 and was euthanised as unsuitable for adoption. (*Attachment 1 – Schedule of Complaints and Actions*)
4. Section 25 of the Dog Control Act 1996 ("the Act") requires Council to disqualify a person from owning a dog if they receive three or more infringements within a two-year period and the infringements have either been paid or filed with the Court.
5. For the period 19 November 2021 to 18 October 2022, Ms Eagle received six infringements, all of which have been filed with the Court. (*Attachment 2 – Schedule of Infringements and Impounds*)
6. As a result, on 9 February 2023, she was issued with a notice disqualifying her from owning a dog for a period of three years from the offence date of the third infringement, namely until 17 October 2025. (*Attachment 3 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Ms Eagle submitted an objection to the disqualification on 22 May 2023. (*Attachment 4 – Objection to disqualification*)
8. On 10 May 2023 staff exercised a search warrant at the residence of Ms Eagle and seized the dog Polo as she had failed to dispose of the dog in breach of the disqualification. The dog was released from the pound to a new owner nominated by Ms Eagles on 26 May 2023.

BACKGROUND

9. Ms Eagle first came to our attention on 6 July 2022 when Council received a complaint about Sadee roaming on the street and acting aggressively to a pedestrian. At this time, Ms Eagle lived in Paeroa and was visiting her mother in Tauranga. Also present was the dog Polo, neither dog was registered, and a written warning was issued for the roaming with aggression and both dogs were required to be registered.
10. On 16 August 2021 staff visited the address after being advised, dogs from the address were roaming. Ms Eagle was present and said she now lived at the address. She was given until 25 August to register Sadee and 1 September to register Polo as she had a young baby and financial limitations. She also received another warning in relation to allowing the dogs to roam.
11. Sadee was registered on 16 September 2021 and Sadee was classified as a menacing dog on 29 September 2021 because she is an American Pit Bull Terrier and was required to be muzzled in public. Polo was registered on 13 October 2021. (*Attachment 5 – Menacing Classification*)
12. During October three more complainants were received about the dogs Sadee and Polo roaming. Staff spoke to Ms Eagle reiterating her responsibility as a dog owner and provided suggestions about how to contain the dogs.
13. Further complaints were made following the visit in October 2021 and as a result the dogs were either impounded or infringements were issued as the owner failed to control her dogs as required.
14. The “Act” provides that when a person receives three infringements within a two-year period and the infringement has either been paid or filed with the Court, then Council must disqualify that person from owning a dog for a period of up to 5 years.
15. Council doesn’t have to disqualify the person if they are satisfied the circumstances of the offence are such that:
 - (a) The disqualification is not warranted; or
 - (b) Council will classify the owner as probationary.
16. After considering the extensive negative history associated with this dog owner, we believed the disqualification was appropriate. Council doesn’t operate a probationary owner scheme.
17. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
18. In considering any objection under this section, the territorial authority shall have regard to:
 - (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.
19. It is not the purpose of this panel to rule on the legality of each infringement, that is a matter for the Court should the dog owner chose to defend each infringement. Once the infringement has been paid or filed with the Court, the offence is deemed to have been proved. This panel must consider the objection in the terms of paragraph 14 above, as provided by section 26(3) of the “Act”.
20. When an infringement is issued the recipient can either:
 - Pay the infringement; or
 - Defend the infringement in Court; or
 - Do nothing.

21. If the person does nothing, a reminder will be sent in 28 days and then after a further 28 days the infringement will be filed with the District Court.
22. Only infringements which have either:
 - Been paid; or
 - A conviction entered (if they defended the infringement); or
 - Filed with the Courtcan be counted when disqualifying a person.
23. While not required by law, we have adopted a process whereby we normally send an advisory letter to a dog owner when they have received two infringements. On this occasion this was not done.
24. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 23 January 2023 and no response was received. (*Attachment 6 – Notice of impending disqualification*)







SIGNIFICANCE

25. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
26. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
27. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

ENGAGEMENT

28. Taking into consideration the above assessment, that the issue is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Britney Eagle - Attachment 1 - Schedule of Complaints - A14837323**  [↓](#)
2. **Britney Eagle - Attachment 2 - Schedule of Infringements and Impounds - A14837325**  [↓](#)
3. **Britney Eagle - Attachment 3 - Notice of Disqualification - A14837326**  [↓](#)
4. **Britney Eagle - Attachment 4 - Objection to Disqualification - A14837328**  [↓](#)
5. **Britney Eagle - Attachment 5 - Menacing Classification - A14837329**  [↓](#)
6. **Britney Eagle - Attachment 6 - Notice of Impending Disqualification - A14837330**  [↓](#)

Schedule of Complaints - Britney Eagle		
Complaint and Date	Complaint Type	Outcome
1041527 08 Feb 2023 12:05pm	Disqualified owner possessed Dog	Dog Polo impounded. Fail to comply disqualification.
1040451 02 Feb 2023 09:13am	Roaming Dog	Owner Disqualified
1039913 30 Jan 2023 07:05pm	Roaming Dog	
1039743 29 Jan 2023 03:41pm	Roaming Dog	
1038828 24 Jan 2023 06:11pm	Person Rushed At	
1022612 18 Oct 2022 01:15pm	Unregistered Dog	Infringements 26470 and 26472 issued and Saddee impounded.
1020343 17 Oct 2022 11:10am	Person Rushed At	Infringement 26430 issued
998999 13 Jun 2022 02:37pm	Roaming Dog	Infringements 26183 and 26184 issued
969647 18 Jan 2022 01:03am	Roaming Dog	Written warning
967712 07 Jan 2022 03:44pm	Dog Pick Up	Dog Impounded
958154 19 Nov 2021 10:50am	Roaming Dog	Infringement 25896 issued
950621 13 Oct 2021 04:10pm	Roaming Dog	14 Oct 2021 - Owner spoken to and warned re control of dogs
950239 11 Oct 2021 07:54pm	Roaming Dog	
949220 06 Oct 2021 12:12pm	Roaming Dog	
938429 07 Aug 2021 09:18am	Unregistered Dog	Owner and dogs now living at address, advised need to register dogs
931245 06 Jul 2021 09:39am	Rushed At	Owner visiting from Paeroa - Written warning re control of dogs

Schedule of Infractions - Britney Eagle				
Infringement	Date	Status	Dog	Offence
25896	19 November 2021	FILED WITH COURT	SADEE	Failure to control Public Place
26183	13 June 2022	FILED WITH COURT	SADEE	Failure to control Public Place
26184	13 June 2022	FILED WITH COURT	POLO	Failure to control Public Place
26430	15 October 2022	FILED WITH COURT	SADEE	Failure to muzzle menacing dog
26470	18 October 2022	FILED WITH COURT	POLO	Unregistered
26472	18 October 2022	FILED WITH COURT	SADEE	Unregistered

Schedule of Impounds - Britney Eagle			
Impound	Date	Impound Date	Release Date
22939	7/01/2022 1:00	10/01/2022 1:00	RELEASED
23583	18/10/2022 1:00	27/10/2022 1:00	DESTROYED

8 February 2023



BRITNEY EAGLE



Dear Britney,

Notice of disqualification from dog ownership
Section 25, Dog Control Act 1996

This is to inform you that you have been disqualified under section 25(1) (a) of the Dog Control Act 1996 from owning any dog.

This follows:

- three or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 18 October 2022 and will expire 17 October 2025.

A summary of the effect of the disqualification and your right to object is provided below.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Brent Lincoln".

Brent Lincoln
Animal Services: Team Leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Effect of disqualification**Section 28, Dog Control Act 1996**

You are required to dispose of every dog owned by you within 14 days of the date of this notice. However, you may not dispose of a dog:

- to a person who resides at the same address as you
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only for the purpose of:

- preventing it from causing injury, damage, or distress
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you:

- fail to dispose of every dog owned by you within 14 days of this notice
- at any time while disqualified, become the owner of any dog
- dispose of a dog owned by you:
 - to a person who resides at the same address as you
 - in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended. You will also commit an offence and be liable on conviction to a fine not exceeding \$3000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

Right of objection to disqualification**Section 26, Dog Control Act 1996**

You may object to the disqualification by lodging a written objection with Tauranga City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard.

No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until Tauranga City Council has determined the objection.

There is a further right of appeal to a District Court if you are dissatisfied with the decision of Tauranga City Council on your objection.

Note: In the event of a Council hearing, the council report and minutes of the hearing will be posted on the council's website. Other documentation and correspondence may also be made available to the public upon request and after considering any legal obligations.

Brent Lincoln

From: Brent Lincoln
Sent: Monday, 22 May 2023 11:51 am
To: britney eagle
Subject: RE: Appeal for Polo Disqualification of dog ownership.

Hi Britney

Thank you for your email, lodging an objection against your disqualification as a dog owner.

I can confirm your objection has been registered with Council.

Council has a "Hearings Panel", they are an independent group appointed by Council to hear matters such as your objection.

I will complete a report which you will get a copy of and will submit that to them with a copy of your objection. The Panel will convene a meeting to which you will be invited and you can make further submissions if you wish.

I'm not sure when they will meet next but they will advise you of the place and time for the hearing.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

From: britney eagle <[REDACTED]>
Sent: Monday, 22 May 2023 11:23 am
To: Brent Lincoln <[REDACTED]>
Subject: Appeal for Polo Disqualification of dog ownership.

CAUTION: External Email.

Good morning Brent Lincoln,

This is an formal email stating and issuing to have an official appeal to the Disqualification of Dog ownership of Polo!

Im working with legal aid and citizen advice bureau on this matter as I do feel there has been unfair treatment.

I'm writing this email to outline the reasons I feel I have been unfairly disqualified.

Reason 1: Firstly we'll start with the reason I have had the infringements in the past, I originally had only 1 dog SAYDEE who was an extremely intelligent dog, SAYDEE would break chain, runs, collars, fences you name it and on the very odd occasion break off as someone is always present on the property this could not happen often! We used to live directly across the road from someone who worked at Tauranga City Council who hated dogs, did not own any animals of her own, and she started to grow some kind of hatred towards me and my dog. She eventually got her husband into getting a Trap that she would load daily with raw meat to try get my dog over pass the driveway mark so she was classified as "ROAMING" AS [REDACTED] ALSO STATED ROAMING AT THE TOP OF THE DRIVEWAY.. HERE I WAS TRYING TO MAINTAIN A VERY INTELLIGENT DOG WHO WAS COSTING me over \$1500 just in chains, collars, fence materials anything Pat would request to help contain her more then she already was. What I'm

trying to state in reason 1 is that these INFRINGEMENT WERE SAYDEES and YOU GUYS DISPOSED OF HER FOR THIS WHOLE MATTER WITHOUT MY CONSENT AND KNOWLEDGE!

My poor SAYDEE served her dues and infringements the day you guys disposed of her!

Reason 2: Polo is not legally my dog! I was full ownership of Saydee, [REDACTED] has always knew that Polo was not in fact my dog but my partners Judes dog who has spoken with and regarded with on many occasions about polo as that is his dog and not mine.

Some how months after Saydee is disposed of polo appears to be now under my ownership?

Reason 3: You are using infringements against POLO that were legally SAYDEES and the day you disposed of her all this should of been cleared.

Reason 4: Polo is not as clever as SAYDEE WAS and polo has been raised here at home since 24 hours old he is never leaves the property because this is his home and since saydees Random disappearance POLO HAS BEEN LOCKED UP IN A 4X4 FULLY FENCED COMMERCIAL KENNEL ON A CHAIN FOR OVER 6 MONTHS SO THERE IS ZERO CHANCE OF HIM BEING THE ONE OUT has not been physically proven to be out of the property there are SEVERAL DOGS SAME COLOURED THAT ROAM OFTEN ON THIS STREET AND AREA.

Reason 5: I have suited and spent countless amounts of money to suit my property to be the absolute most best dog owner possible.

Reason 6: The whole infringement fees is a hugely money orientated and because of you guys not getting your dog rego on time you can label a good dog owner incapable of being a dog owner.

Reason 7: Polo is a family dog as well as helps with Anxiety for me and my children. We have had polo since 24 hours old he is not a dog he is a family member and we love and cherish him oh so deeply. Polo is used as a guard dog to keep my large property safe!

Reason 8: I've been nothing but good with working with Tauranga City Council I am truly not a bad owner I give just as love and affection to my dogs as I do to my children and this whole last 2 years has taken a absolutely huge toll on me mentally and emotionally.

Reason 9: I will never give up as long as there's still fight left in me I will continue to fight for my boy every single day, I will not give up and having him returned to his home his kennel/bedroom has even got carpet and the full works he lives like a king.

Reason 10: My children miss him emencly and cry him almost every night after them not knowing where saydee went for months on end this has really truly upsetted them even more they do not trust TCC as a upcoming new generation and it's sad.

Reason 11: Polo is not a roamer and is chained up in his kennel until he can be well suprisved off! and I want hard proof physical evidence as you guys or the complaintent is lying.

Reason 12: Emotional distress over this whole matter

I will continue to appeal over and over til I can get Polo back I am a amazing dog owner I feed my dog every morning rain hail shine out in his kennel on his chain just like you guys enforced me too.

Please spend sometime to look into the generosity of your heart to give me and Polo a chance Since you guys have killed SAYDEE off I haven't had a single complaint or infringement it's all to do with His REGO WHICH IM HAPPY TO MAKE SURE HE IS AND ALWAYS STAYS REGO'D COMING FORWARD.

I could list all the reasons why I think I deserve to be have my disqualification uplifted and I feel as though I've missed a few all I'm asking is that you truly look into this case to help me regain access back to polo please.

I promise if I'm given a second chance at this I promise I will not let you guys down he will not be impounded, deregistered or a issue to the Tauranga city council again.

Kindest regards,
Britney Eagle

If a email could be sent to let me know you have received my appeal request that would be appreciated. Also a email outline the next steps we take in this.

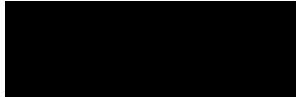
Once again Kindest regards and would like to note I know I have my part in this as much as you guys, I'm sorry if you feel I'm coming in so hard I just truly need to see this dog and my best friend Polo back home.

Sent 22 May 2023 @ 11:23am
By Britney Mahina Eagle

29 September 2021



BRITNEY EAGLE



Dear Britney

Dog named: SADEE
Reference: 52473

**Notice of classification of dog as menacing dog by breed
Section 33C, Dog Control Act 1996**

This letter is to inform you that this dog has been classified as a menacing dog under section 33C(1) of the Dog Control Act 1996.

This is because we have reasonable grounds to believe the dog belongs wholly or predominantly to a breed or type of dog listed in schedule 4 of the Dog Control Act 1996.

A summary of the effect of the classification and your right to object is provided below.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services Team Leader:
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

**Effect of classification as menacing dog
Sections 33E, 33F, and 36A, Dog Control Act 1996**

You—

- a) must not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- b) must produce to the Tauranga City Council, within 1 month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying—
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c) where a certificate under paragraph (b)(ii) is produced to the Tauranga City Council, produce to the Tauranga City Council, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c).

You are required, for the purpose of providing permanent identification, to arrange for the dog to be implanted with a functioning microchip transponder.

You are required to make the dog available within two months from the date of this letter, at the Dog Pound, 88 Hewletts Road, Mount Maunganui, between the hours of 2.30pm and 4.30pm on any working day Monday to Friday for verification that the dog has been microchipped

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you fail to comply with this requirement.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of the classification of a dog as menacing are provided in the Dog Control Act 1996.

23 January 2023



BRITNEY EAGLE



Dear Britney,

**Disqualification on third or subsequent infringement
Dog owner reference number: 592898**

Our records show you have committed three or more infringement offences against the Dog Control Act 1996.

These offences were committed:

- within a continuous 24-month period
- each incident was on a separate occasion
- each was for a separate incident.

Section 25 of the Dog Control Act 1996 states you must be disqualified from owning a dog for a period not exceeding five years unless Tauranga City Council is satisfied that the circumstances of the offences are such that the disqualification is not warranted.

If there is any information you would like to be taken into consideration regarding your possible disqualification please submit this in writing by Monday 6 February 2023. If a submission is not received by this date, a decision will be made based on the facts before council at the time.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Brent Lincoln".

Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000

info@tauranga.govt.nz

5.3 Objection to Disqualification as Dog Owner - Tumanako Farrell

File Number: A14825618

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Tumanako Farrell opposing his disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tumanako Farrell.
- (b) It is recommended that the panel uphold the disqualification, however the panel may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.

EXECUTIVE SUMMARY

2. The objector is Tumanako Farrell, he has been the owner of multiple dogs as a result of one of his dogs having a number of puppies. For the purpose of this report, the dogs involved are:
 - (a) Harley, a male, 9 year 7 month Staffordshire Bull Terrier.
 - (b) Frankie Girl, a female, 1 year 10 month Staffordshire Bull Terrier Cross dog.
 - (c) Kingi, a male, 10 month Staffordshire Bull Terrier Cross dog.
 - (d) Ataahua, a male, 10 month Staffordshire Bull Terrier Cross dog.
 - (e) Hukurere, a male, 10 month Staffordshire Bull Terrier Cross dog.
3. Mr Farrell has now reduced his dog ownership to Harley and Frankie Girl but that is subject to the outcome of this hearing.
4. Council received thirteen complaints since 30 May 2022 about all or some of these dogs roaming or requiring a pick up. A roaming complaint means, the complainant has seen the dogs out but couldn't catch them. A dog "pick up" complaint means the caller has captured at least one of the roaming dogs and wants the dog collected. The dogs have not been aggressive. (*Attachment 1 – Schedule of offences*).
5. As a result of the complaints, Council have impounded dogs on 9 occasions and issued three infringements.
6. Section 25 of the Dog Control Act 1996 ("the Act") requires Council to disqualify a person from owning a dog if they receive three or more infringements within a two-year period and the infringements have either been paid or filed with the Court.
7. For the period 28 June 2022 to 9 February 2023, Mr Farrell received 3 infringements, for 3 offence dates and all infringements have been filed with the Court. (*Attachment 2 – Schedule of infringements and Impounds*)

8. As a result, a notice disqualifying him from owning a dog for a period of three years from the offence date of the third infringement, namely until 8 February 2026 was issued on 1 June 2023 (*Attachment 3 – Notice of disqualification*)
9. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Mr Farrell submitted an objection to the disqualification on 21 June 2023. (*Attachment 4 – Objection to disqualification*)

BACKGROUND

10. The “Act” provides that when a person receives three infringements within a two-year period and the infringements have been issued for separate incidents or occasions or have been paid or filed with the Court, then Council must disqualify that person from owning a dog for a period of up to 5 years.
11. Council doesn’t have to disqualify the person if they are satisfied the circumstances of the offence are such that:
 - (a) The disqualification is not warranted; or
 - (b) Council will classify the owner as probationary.
12. Mr Farrell has received 3 qualifying infringements.
13. After considering the repeat nature of the offending, together with numerous impounds, staff are satisfied that the disqualification is warranted. Council doesn’t operate a probationary owner scheme.
14. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
15. In considering any objection under this section, the territorial authority shall have regard to:
 - (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.
16. In his objection Mr Farrell states he has now dog proofed his section with new fences, gates and window latches. It is noted that there has been no further complaints about his dogs since February of this year, however complaints about these dogs started in May 2022 and have caused significant disruption to the neighbourhood.
17. It is not the purpose of this panel to rule on the legality of each infringement, that is a matter for the Court should the dog owner chose to defend each infringement. Once the infringement has been paid or filed with the Court, the offence is deemed to have been proved. This panel must consider the objection in the terms of paragraph 15 above, as provided by section 26(3) of the “Act”.
18. When an infringement is issued the recipient can either:
 - Pay the infringement; or
 - Defend the infringement in Court; or
 - Do nothing.
19. If the person does nothing, a reminder will be sent in 28 days and then after a further 28 days the infringement will be filed with the District Court.
20. Only infringements which have either:
 - Been paid; or

- A conviction entered (if they defended the infringement); or
- Filed with the Court

can be counted when disqualifying a person.

21. While not required by law, we have adopted a process whereby an advisory letter is sent to a dog owner when they have received two infringements. A letter was sent on 21 February 2023. (*Attachment 5 – Notification of second infringement*)
22. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 1 May 2023 and no response was received. (*Attachment 6 – Notice of impending disqualification*)







SIGNIFICANCE

23. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
24. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
25. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

ENGAGEMENT

26. Taking into consideration the above assessment, that the issue is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. Tumanako Farrell - Attachment 1 - Schedule of Offences - A14837336 [↓](#) 
2. Tumanako Farrell - Attachment 2 - Schedule of Infringements and Impounds - A14837337 [↓](#) 
3. Tumanako Farrell - Attachment 3 - Notice of Disqualification - A14837338 [↓](#) 
4. Tumanako Farrell - Attachment 4 - Objection to Disqualification - A14837339 [↓](#) 
5. Tumanako Farrell - Attachment 5 - Notification of Second Infringement - A14837340 [↓](#) 
6. Tumanako Farrell - Attachment 6 - Notice of Impending Disqualification - A14837341 [↓](#) 

Date	Offence	Activity	Outcome
1044086 17 Feb 2023 08:20pm	Roaming Dog	Frankie Girl - Roaming in street.	Trap Delivered
1041479 07 Feb 2023 10:04pm	Roaming Dog	4 puppies running in traffic and in paddocks with Cows Schedule 3, hard to ID which dog is problem.	Frankie Girl Impounded and Infringement 26725 Issued
1041472 07 Feb 2023 08:46pm	Dog Pick Up		
1041471 07 Feb 2023 08:35pm	Roaming Dog		
1041470 07 Feb 2023 08:33pm	Roaming Dog		
1038226 22 Jan 2023 01:48am	Roaming Dog	4 dogs roaming In traffic	Notice to Reduce to two dogs
1035427 06 Jan 2023 12:25pm	Roaming Dog	Roaming in public. Dog handed to SPCA	Harley Impounded
1035291 05 Jan 2023 07:59pm	Dog Pick Up	4 Dogs roaming on street	Frankie Girl, Kingi, Ataahu, Hukurere Impounded
1020122 15 Oct 2022 11:20am	Roaming Dog	Frankie roaming on private property	Infringement 26423 issued
1002916 18 Jul 2022 05:20pm	Roaming Dog	Owner out calling for dog Frankie	No action taken as Frankie not actually seen.
1841 28 Jun 2022 05:08pm	Roaming Dog	Harley roaming in traffic	Infringement 26201 issued
1838 28 Jun 2022 04:54pm	Roaming Dog	Frankie roaming on street	Owner said has new fence coming. Given verbal warning

996650 30 May 2022 04:36pm	Roaming Dog	Frankie roaming on street	Written warning issued
890938 22 Dec 2020 12:12pm	Dog Pick Up		
878152 21 Oct 2020 09:26am	Unregistered Dog		
831291 25 Jan 2020 07:06am	Roaming Dog		
802984 19 Aug 2019 03:56pm	Dog Pick Up		

Tumanako Farrell - Infrafrgements and Impounds

Infrafrgement	Offence Date	Status	Dog	Offence
26201	28 June 2022	FILED WITH COURT	HARLEY	Fail to Control Public Place
26423	15 October 2022	FILED WITH COURT	FRANKIE GIRL	Fail to Control Public Place
26725	9 February 2023	FILED WITH COURT	FRANKIE GIRL	Fail to Control Public Place

Impound No.	Impound Date	Impound Release Date	Dog
20688	19 August 2019	22 August 2019	HARLEY
21191	25 January 2020	28 January 2020	HARLEY
21985	22 December 2020	22 December 2020	HARLEY
23818	5 January 2023	6 January 2023	KINGI
23819	5 January 2023	6 January 2023	FRANKIE GIRL
23820	5 January 2023	6 January 2023	ATAAHUA (BEAUTIFUL)
23823	5 January 2023	6 January 2023	HUKARERE (JON SNOW)
23825	6 January 2023	6 January 2023	HARLEY
23909	7 February 2023	9 February 2023	FRANKIE GIRL

1 June 2023



TUMANAKO FARRELL



Notice of disqualification from dog ownership
Section 25, Dog Control Act 1996

This is to inform you that you have been disqualified under section 25(1)(a) of the Dog Control Act 1996 from owning any dog.

This follows:

- three or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 9 February 2023 and will expire 8 February 2026

A summary of the effect of the disqualification and your right to object is provided below.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Brent Lincoln", enclosed within a light blue oval.

Brent Lincoln
Animal Services: Team Leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Effect of disqualification**Section 28, Dog Control Act 1996**

You are required to dispose of every dog owned by you within 14 days of the date of this notice. However, you may not dispose of a dog:

- to a person who resides at the same address as you
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only for the purpose of:

- preventing it from causing injury, damage, or distress
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you:

- fail to dispose of every dog owned by you within 14 days of this notice
- at any time while disqualified, become the owner of any dog
- dispose of a dog owned by you:
 - to a person who resides at the same address as you
 - in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended. You will also commit an offence and be liable on conviction to a fine not exceeding \$3000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

Right of objection to disqualification**Section 26, Dog Control Act 1996**

You may object to the disqualification by lodging a written objection with Tauranga City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard.

No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until Tauranga City Council has determined the objection.

There is a further right of appeal to a District Court if you are dissatisfied with the decision of Tauranga City Council on your objection.

Note: In the event of a Council hearing, the council report and minutes of the hearing will be posted on the council's website. Other documentation and correspondence may also be made available to the public upon request and after considering any legal obligations.

Brent Lincoln

From: info@tauranga.govt.nz
Sent: Wednesday, 21 June 2023 4:54 am
To: Brent Lincoln
Subject: Origen Contact Centre # 1068265 [REFER] CONFIDENTIAL
Attachments: 1068265.doc

Origen Contact Centre

Transaction: 1068265 [View Transaction >> [Click here to view your CC Transaction](#)]
Created: 21 Jun 2023 @ 04:49am by Shondelle Vettters [
Type/Subtype: Animal Services / Customer Message
Priority: ROUTINE
Action: REFER
Your Position: 2AS200

Message:

You have received a new request for which you are the referral.

Notes:

Details:

Email received via info queue 21.6.23

Senders email: tvfarrell@gmail.com

Email also forwarded on to Brent Lincoln

Email reads:

Dog disqualification

Tena rawa atu hoki ki a koutou, Tauanga City Council. Greetings to you City Council.

Tena koe Brent

E mihi kau ana ki a tatou i tenei wahanga MATARIKI! Firstly let me wish you all a happy and joyous Matariki, a time for food harvest, but which I think will become most important in years to come, a time for family!

I must apologize if you have been trying to contact me. I have literally been so incredibly sick with this seasons influenza, I have not been able to do anything. I've been bed ridden for 2 and a half weeks. Not even able to force myself from my bed to get to work. That means I've had to readjust budget over that entire period. Being a contractor, I do not get holiday or sick pay for the type of work I do. So yes regular tasks got behind, not purposefully by any means. Apologies again

So here we go, and please note this is written in exactly the same respect I have grown up with, being from a religious family - a Reverend Minister for a dad and the choir master of the church as my mum. Good bones for living a life with respect and utter credibility

I have given this a lot of good thought. And I've decided to appeal for the sake of my babies (my beautiful dogs) or as worded on your document, the right of objection to disqualify. However what I am trying NOT to do here is come across as disrespectful to the council rules? I just want to save my family. Yes I called them family. If you are not a single gay man who grew up an only child like myself, you may not get the concept that these beautiful darlings I consider my children, as I am never going to have real children like a regular person. This is it. This is all I get. To raise. And to love. And call my children. And to call my family.

I understand I've been issued with a disqualification notice. The law abiding citizen in me would normally just do as I'm told with no questions asked. But something in my heart is nudging me to appeal - humbly and sincerely. I want to show you Brent, that I'm actually a really doting doggy daddy that Council would actually see, fitted the Council requirements needed. I'm mature and I am a proudly responsible type person. I want to show you the type of work I do out in the community Brent. The purpose being to give you an insight into what my make up is. "Could this person be considered someone we feel has proved they DO have what it takes and they do come up to our expectations as far as being a responsible pet owner?" And man! I have been blessed to be able to do some really wonderful stuff out there in the community that I would like you to bear witness to through this process. I really want you to see that these beautiful souls that I have raised are actually my life, my every thought, they ARE my family. Have no doubt. I'm so very proud of them. And I'm really proud of me too for having raised such loving loyal friendly family dogs. My family. They have filled such a void for me. And I've actually learnt more about myself by having to raise them from day dot.

So many times during this process I wanted to throw the towel in. Especially when I chose to raise all 11 puppies instead of have them all aborted (because of my spirituality and religion reasons again). But I preserved. I successfully rehomed all but 3 of the puppies, free of charge, I just needed them to find loving and caring forever homes. I didn't give up on the process. And now, I couldn't think of life without my 3 puppies, not being able to learn solution finding with their next exceptionally clever "antics".

I spoke earlier about family. Family means everything...

And I do not need to fabricate this..

These dogs are my heart and family. I have proudly adjusted my WHOLE ENTIRE LIFE just to make them live in a beautiful house that they can feel safe with. Having grown up an only child, my days are so fulfilled now. They are my shoulder to cry on. They are my therapy.

I want to show you Brent that I have been proud to adjust to every single thing the wonderful ranger Chardon, who takes care of our area in [REDACTED] asked me to do, to adjust, fix, repair, build, remove, etc etc etc.

The puppies most certainly did get off the property within rapid succession, something I just wish didn't happen. Of course not. But with all the strong recommendations from Chardon as to building a safe and loving pet friendly house that would keep them secure while I was out at work, instead of galavanting around in the neighbouring fields which they did, I've built a Houdini proof dwelling. It was stress relief and tension relief watching just how much adjustments they have been able to find and make.

The new fences, gates, window latches etc etc, you name it... Well the dogs just can't get off from this property any longer. Haven't been able to for ages. Having put on locks on every entry and gate and door at my where, it's purpose being to stop any human error by a visitor possibly letting the puppies out and off my property, you can 100% class this place as what you would consider secure with no possible ways for them getting out now.

Can you please elude me to what my next step is please Brent.

We all know there are people out there looking after animals that really shouldn't be. I want you to observe and come to the judgement yourself, that I am not one of those "shouldn't be" characters. That is indeed my hope.

So I'll again outline what I'm appealing for.

- Not to get on the news.
- Not for Facebook likes.
- But because I want everyone to witness perseverance, resilience, honour and respect. And fighting for my familys right to continue their life journey with me, their father.

Your ranger who has looked after our area for a good couple of years, Chardon.... Might be a possible interview idea for yourselves? Just by allowing her to articulate whether I have indeed made the sweeping changes that she asked over a lengthy period. I know for a fact she has been so incredibly thorough when it has come to her observing the adjustments I've made. She may have even recorded and noted down then all in her files somewhere?

Brent, please feel free do some background on me. If we make it to the next part of the process, then that will be me showing to you what it is I do out there in the community which is uplifting, and what I do for the Council also, which is always exciting and a pleasure to do.

I thank you so much for allowing me this as I appeal to keep my family with me.

Take care out there. Gosh the weather has been rather full on lately.

Nga mihi nunui ki a koe
Tumanako Farrell

Parcel: [REDACTED]

Contact: TUMANAKO FARRELL

Phone: cel [REDACTED]

This message was automatically generated by the Origen Contact Centre

WF/25/0/0/0/AFTER/R/REFER/ORG/2AS200

21 February 2023



TUMANAKO VICTOR FARRELL



Dear Tamanako

Notification of second infringement: dog owner reference 568474

Our records show you have, within a 24-month period, committed a second infringement offence against the Dog Control Act 1996.

This letter is to advise you that section 25 of the Dog Control Act 1996 states if you commit a third or subsequent infringement offence you must be disqualified from owning a dog for a period not exceeding five years. We have the discretion not to invoke this clause if we are satisfied that the circumstances of the offences are such that the disqualification is not warranted.

The letter is to inform you of the possible outcome of further offending and urge you to look at how you manage your dog to avoid further infringements.

If you need help or advice call us on 07 577 7000.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services team
Tauranga City Council

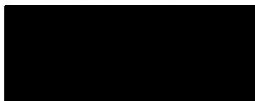
07 577 7000

info@tauranga.govt.nz

1 May 2023



TUMANAKO VICTOR FARRELL



Dear Tumanako,

**Disqualification on third or subsequent infringement
Dog owner reference number: 568474**

Our records show you have committed three or more infringement offences against the Dog Control Act 1996.

These offences were committed:

- within a continuous 24-month period
- each incident was on a separate occasion
- each was for a separate incident.

Section 25 of the Dog Control Act 1996 states you must be disqualified from owning a dog for a period not exceeding five years unless Tauranga City Council is satisfied that the circumstances of the offences are such that the disqualification is not warranted.

If there is any information you would like to be taken into consideration regarding your possible disqualification, please submit this in writing by 15 May 2023. If a submission is not received by this date, a decision will be made based on the facts before council at the time.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brent Lincoln".

Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

5.4 Objection to Menacing Classification - Gurmeet Johal

File Number: A14817636

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Gurmeet Johal opposing the Menacing Classification of her dog Tiger.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Menacing Classification - Gurmeet Johal.
- (b) It is recommended that the panel uphold the menacing classification, however the panel may either:
 - (i) Uphold the classification; or
 - (ii) Rescind the classification.

EXECUTIVE SUMMARY

2. Gurmeet Johal is the owner of Tiger, a two-year-old male Rottweiler.
3. On 24 January 2023 the complainant was walking his two dogs on leads in Wairakei Reserve, Papamoa. As he came around a corner, he saw two people with a Rottweiler. The Rottweiler (Tiger) charged straight toward the complainant and his dogs. It stopped about three metres away.
4. Tiger was on a longline lead and stood there with its hackles up. The owner came up and said the dog is friendly. Tiger then lunged forward, sniffed the dog Bob and then growled and grabbed Bob by the ear. The dogs were now tangled together with their leads.
5. As a result, Bob had a torn ear with a puncture wound and another puncture wound to his neck. The veterinary cost was \$428.26
6. Council initially classified Tigger as Dangerous and issued an infringement for failing to control the dog. The dog owner objected to the classification and after reviewing the matter, this was substituted with a Menacing classification. (*Attachment 1 – Objection to dangerous Classification*) (*Attachment 2 – Council Review and Notice of Menacing Classification*)
7. The infringement was not challenged and has been filed with the Court as unpaid. The charge is deemed to be proved as a result.
8. The owner has then objected to the menacing classification. (*Attachment 3 – Menacing Classification*) (*Attachment 4 – Objection to Menacing Classification*)

BACKGROUND

9. The dog Tiger was known to Council as prior to the incident on the 24 January 2023, we had received a complaint that on 26 November 2022 Tiger had rushed from its property growling aggressively at the complainant's dog however did not attack.
10. On this occasion Tiger was free to leave its property as the door was left open. The complainant said this is the fourth time this has happened however this was the first

complaint council has received. The owner was issued with a written warning but seemed in denial that Tiger was an issue.

11. In relation to the attack of 24 January 2023, Tiger was being walked with an extendable or longline type lead. It was estimated that the lead allowed Tiger to be up to 15 metres away from his owner. By definition, a lead must be no longer than 2 metres for the dog to be deemed to be under effective lead control.

12. When it comes to the actual attack there is a difference between explanations provided by the victim and the dog owner. The victim stated:

- (a) Tigger ran approximately 10 to 15 metres up to the victim dog which was on a short lead and was standing by the victim.
- (b) The dog owner said her dog was friendly, but the victim was concerned because the Rottweiler's hackles were up.
- (c) Tigger then growled and lunged at the victim dog causing injuries.

(Attachment 5 – Victim Interview)

13. The dog owner, Gurmeet Johal, said:

- (a) Tiger saw the victim dog and ran 15 to 20 metres toward it.
- (b) Gurmeet's husband had hold of the lead but slipped and the lead unwound.
- (c) Tigger sat about three metres from the victim, I ran up to Tigger and grabbed him by the collar.
- (d) The complainant asked me if Tigger was friendly and I said yes, he said his dog was friendly too.
- (e) The complainant asked if the dogs could meet, and I said yes and released Tiggers collar. The victim dog showed its teeth and went for Tiggers ear and neck and was growling.
- (f) Tigger tried to back away but the leads were tangled, he growled and nipped the other dogs ear. The dogs were separated and I could see some blood on the victims ear.
- (g) In explanation she believed Tigger was being protective and the whole incident was an unfortunate incident with no one to blame.

(Attachment 6 – Gurmeet Johal Interview)

14. At the conclusion of an investigation, staff complete an attack rating form. This form is used as a guide and aids when assessing what is the most appropriate action to take.

15. In this matter the attack rating totalled 35 points, this placed it in the threshold of classifying the dog as Dangerous, however, as discussed above, the classification was reduced to menacing on review. *(Attachment 7 – Attack rating)*.

16. When considering an objection against a menacing classification, the panel may uphold or rescind the classification, and in making its determination must have regard to:

- (a) the evidence which formed the basis for the classification; and
- (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
- (c) the matters relied on in support of the objection; and
- (d) any other relevant matters.

17. The Act requires every owner to take all reasonable steps to ensure their dog cannot cause nuisance or danger to any person or other animal.

- (a) The victim in this matter had his dogs on lead and standing beside him.

- (b) Gurmeet's dog was on a longline and therefore deemed not to be under control, it approached the victim from up to 15 metres away and then an attack happened.
 - (c) Tigger has a history of showing aggression to other dogs.
 - (d) The victim dog, a Labrador Retriever has no history of any sort.
 - (e) It is the assessment of Animal Services that the owner Gurmeet Johal, failed to control dog Tigger and that this was the cause of the attack. The infringement issued for failing to control Tigger was not defended and now is regarded as being proven.
 - (f) The classification of menacing is appropriate in the circumstances.
18. The Court has ruled past behaviour is the best predictor of future behaviour. In other words, once a dog has attacked once it will be assumed it will attack again unless there are compelling reasons justifying an alternative view based on whether the circumstances were sufficiently exceptional that the risk is remote.
19. There was nothing exceptional about this attack, it could have easily been prevented by the owner ensuring the dog was secure on a short lead and needed to take extra precautions, knowing that their dog had previously rushed at a dog. A muzzled dog is a safe dog.
20. I note in Ms Gurmeet's statement at question 10, when asked if she had any previous letters from Council, she replied "yes, a previous letter but I don't remember what it was about".








SIGNIFICANCE

21. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
22. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

ENGAGEMENT

24. Taking into consideration the above assessment, that the issue is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

- 1. **Gurmeet Johal - Attachment 1 - Objection to Dangerous Classification - A14837279**  [↓](#)
- 2. **Gurmeet Johal - Attachment 2 - Council Review and Notice of Menacing Classification - A14837280**  [↓](#)
- 3. **Gurmeet Johal - Attachment 3 - Menacing Classification - A14837282**  [↓](#)
- 4. **Gurmeet Johal - Attachment 4 - Objection to Menacing Classification - A14837284**  [↓](#)
- 5. **Gurmeet Johal - Attachment 5 - Victim Interview - A14837286**  [↓](#)
- 6. **Gurmeet Johal - Attachment 6 - Gurmeet Johal Interview - A14837288**  [↓](#)
- 7. **Gurmeet Johal - Attachment 7 - Attack Rating - A14837290**  [↓](#)

Brent Lincoln

From: Dog Registrations
Sent: Wednesday, 1 March 2023 7:23 am
To: Brent Lincoln
Subject: FW: Objection

Categories: Important

-----Original Message-----

From: Gurmeet Johal <[REDACTED]>
Sent: Tuesday, 28 February 2023 9:24 pm
To: Dog Registrations <animalservices.admin@tauranga.govt.nz>
Subject: Objection

CAUTION:External Email.

Tauranga City Council

CCM 1038884 -Tiger
Letter of objection to notice of classification

This is an objection to the above notice.

Reasons for objecting:

1. Our dog did not directly approach the other dog.
2. Both dogs were given permission to meet by other dog owner.
3. Other dog initiated the open mouth and had his mouth of our dogs neck. Other dog started to growl towards our dog. Other showed the aggressive behaviour.
4. Our dog like any other dog in the same situation, went into protective/defence mode.
5. If our dog was aggressive he would have attacked the other dog straight away. He wouldn't have sat 2 meters away and waited for next command.
6. Please note if our dog was aggressive and had done a full attack the damage to the other dog would have been much more significant and he would have repeatedly attacked. This was not the case at all in this incident.
7. At the time dogs were introduced the lead was at 2 meters.
8. There were two adults present for our dog.
9. Our dog is a family dog, we have friends and family around all the time. We even have had tradies to do renovations work and never had any issues (letter of support attached).
10. He is great with other dogs no issues. Has friends all breeds and sizes.
11. If our dog is been classified for protecting himself then the other dog should also be classified for showing aggressive behaviour, initiating the attack. Just because there's no damage doesn't mean he didn't attack.

This was a very unfortunate incident no one to blame it was not intentional. But as dog owners both should take equal responsibility for our actions and our dog actions.

Our request to the Council is please don't classify our dog as dangerous because he definitely is not. Please treat us fairly and objectively.

It's seem bit unfair that our dog is been classified as dangerous then you also impose a fine on top. Could you please reconsider your decision on both.

This incident has been a big learning experience.

Kind regards,

Gurmeet

Brent Lincoln

From: Info
Sent: Friday, 16 June 2023 4:02 pm
To: [REDACTED]
Subject: Re Dangerous Dog Classification - Tiger - Gurmeet Johal
Attachments: SC36803869 23061614500.pdf

Hi Gurmeet

Please accept my apologise for the delay in dealing with your application to have the Dangerous Dog classification for Tiger to be revoked.

I have reviewed the file in relation to this incident and also considered your application.

As a result of my review I have agreed to revoke the Dangerous dog classification but have replaced this classification with a Menacing Dog Classification.

This is the second incident in a short period of time where your dog has been involved in an aggressive incident. I also note that there have been no further incidents which is reassuring. Please continue to ensure that Tiger is controlled in such a manner that he cannot be involved in any further attacks.

You will need to meet the requirements of the attached notice which includes proof of neutering and he will need to wear a muzzle in public. Please note your registration fee will also reduce to \$100 for the coming year, your current registration expires on 30 June 2023.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

NOTICE OF CLASSIFICATION



Tauranga City

Menacing dog classification – Section 33A, Dog Control Act 1996 (behaviour of the dog)

Date 16/6/2023 CCM 1038884

Name GURMEET JOHAL

Address [REDACTED]

DELIVERY CONFIRMATION

Recipient name *By Email*

Signature

Date *16/6/23* TimeServed by *B. Lincoln*Signature *[Signature]*

Dog details

Dog ID 53368

Primary breed ROTTWEILER

Microchip No 934*0000*9030*9480

Secondary breed

Name TIGER

Primary colour BLACK

Sex MALE

Secondary colour

Age 2 yrs

Address where the dog is kept [REDACTED]

Classification details

This is to notify you that this dog has been classified as a menacing dog under section 33A (1)(b)(i) of the Dog Control Act 1996 with effect from the date of this notice.

This is because Tauranga City Council considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife, because of observed or reported behaviour of the dog, namely: On Tuesday 24 January 2023 at 6:30pm, Tiger did attack another dog at the Waiarakei Reserve.

A summary of this classification and your right to object is provided on the reverse. Objections must be in writing and can be sent to the addresses provided or delivered to the Tauranga City Council Service Centre.

Classification requirements

Neutering: Your dog must now be neutered, and you must provide a veterinary certificate as proof thereof within one month of receipt of this notice.

Microchip: Your dog is already microchipped; you are compliant with this requirement.

Muzzle: Your dog must now be muzzled when it is at large or in any public place or private way, and it must be kept under control at all times.

The required documents can be sent by mail to: Animal Services, Tauranga City Council, Private Bag 12022, Tauranga 3143, New Zealand or by email to: dog.registration@tauranga.govt.nz

ADDITIONAL INFORMATION

Signature

Dated: 16/6/2023

Name Brent Lincoln

Position Animal Services Team Leader

EFFECT OF CLASSIFICATION AS A MENACING DOG**Sections 33E, 33F and 36A Dog Control Act 1996**

- a) You must not allow your dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction; and
- b) You must produce to Tauranga City Council within one month after receipt of this notice a certificate issued by a registered veterinary surgeon certifying:
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are certified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c) If your dog is not fit to be neutered before a specific date as mentioned above, then you must produce to Tauranga City Council within one month after that specified date, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with any of the matters in paragraphs (a) to (c) above. In addition, a dog control officer or dog ranger may seize and remove the dog from you and keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

If applicable, if not already microchipped, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Tauranga City Council in accordance with the reasonable instructions of Tauranga City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement within 2 months after this notice.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction.

You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of classification as a menacing dog are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO CLASSIFICATION UNDER SECTION 33A**Section 33B, Dog Control Act 1996**

You may object to the classification of your dog as menacing by lodging with Tauranga City Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of the objection and will be notified of the time and place at which your objection will be heard.

All objections must be in writing and can be sent via email to dog.registration@tauranga.govt.nz or by mail to: Animal Services, Private Bag 12022, Tauranga 3143, New Zealand.

Brent Lincoln

From: info@tauranga.govt.nz
Sent: Monday, 19 June 2023 12:42 pm
To: Brent Lincoln
Subject: Origen Contact Centre # 1067866 [REFER] CONFIDENTIAL
Attachments: 1067866.doc

Origen Contact Centre

Transaction: 1067866 [View Transaction >> [Click here to view your CC Transaction](#)]
Created: 19 Jun 2023 @ 12:38pm by Stephen Potter-Shanks [[REDACTED]]
Type/Subtype: Animal Services / Customer Message
Priority: ROUTINE
Action: REFER
Your Position: 2AS200

Message:

You have received a new request for which you are the referral.

Notes:

Details:
Email received via Info on 19/06
Email forwarded to brent.lincoln
Email as below:

?Hi Brent

We are disappointed with your response, a response which has taken substantial amount of time. As stated in my objection email the affidavit provided by the other party, the facts in the documents were inconsistent and can be easily challenged.

Our dog was protecting himself. As mentioned in our objection if that was an aggressive attack it would have been much much worse and the attack would have been repetitive.

We are proposing you drop all classification and drop the fine in this case. Following steps taken to void this happening again:

- desexed on 22 May 2023
- further training for him

We can assure you we will not put Tiger in that situation again and there will be no other matters relating to Tiger coming cross your desk.

We request you accept our proposal and close the matter here and take no further actions in this matter.

The whole matter has caused us substantial amount of stress and financially. We are a young family that adore our baby Tiger and we will ensure he stays well behaved.

I look forward to hearing from you.

Kind regards,

Gurmeet

On 16/06/2023, at 4:02 PM, Info wrote:

?

Hi Gurmeet

Please accept my apologise for the delay in dealing with your application to have the Dangerous Dog classification for Tiger to be revoked.

I have reviewed the file in relation to this incident and also considered your application.

As a result of my review I have agreed to revoke the Dangerous dog classification but have replaced this classification with a Menacing Dog Classification.

This is the second incident in a short period of time where your dog has been involved in an aggressive incident. I also note that there have been no further incidents which is reassuring. Please continue to ensure that Tiger is controlled in such a manner that he cannot be involved in any further attacks.

You will need to meet the requirements of the attached notice which includes proof of neutering and he will need to wear a muzzle in public. Please note your registration fee will also reduce to \$100 for the coming year, your current registration expires on 30 June 2023.

Kind Regards

Brent Lincoln| Team Leader: Animal Services

Parcel: [REDACTED]

Contact: GURMEET JOHAL

Phone: cel [REDACTED]

a/h [REDACTED]

This message was automatically generated by the Origen Contact Centre

WF/25/0/0/0/AFTER/R/REFER/ORG/2AS200

DOG CONTROL – COMPLAINANT/WITNESS INTERVIEW FORMDate: 26 / 01 / 23Time: 1006hrs.CCM Number: 1038884Incident: Domestic AttackPlace statement taken: ASO Details: Tina Carew

1. Confirm details on CCM as being correct: YES NO

TCC CID 4891192. Full Name: D.O.B. 3. Address: 4. Phone: 5. Email: 6. Gender: MALE FEMALE

7. Caregivers details if a person is under 18 years old:

Full Name: _____

Address: _____

Phone: _____

Email: _____

Relationship: _____

My name is 

and I am speaking to

Tina Carew

about an incident which occurred

on 24 / 01 / 23 at about 6:30 AM / PM at(location) (Indicated on Map).

1. Description of the dog (ie. colour/s, breed, sex, size, distinguishing marks, age etc.)

Blk n Tan Rotti - Large size - Didn't look very old.2. Was the offending dog on a lead? YES / NO / HARNESSED long line. 

3. How familiar are you with the offending dog?

I've seen it a couple of times at the same place.

4. How was the offending dog behaving when you saw it/ it approached you?

From 50-60 mts the dog locked focus on us - gave a bit of a growl and charged towards us.

5. Where were you when the incident happened and what were you doing?

I was taking our dogs for a walk along the reserve. Both dogs were on lead. I came around a bend and saw 1 x F and 1 x M with the dog. I looked like they were trying to do some training with the dog. The dog locked focus on us and began to charge towards us. The dog stopped around 3 mts away from us. I suspect it was because this was the end of their long line. 1 x F stated the dog was friendly - I replied that the dogs hackles were up and it didn't look friendly. I said they need to get the dog under control. The dog then lunged forward and had a snit at my dog 'Bob' who was standing at my side on leash. The Roti then growled and grabbed 'Bob' by the ear. The leads got tangled up so I dropped mine. I told the dog owner (M) to drop his but he kept tugging. The female got in between the dogs and then stepped back. The dogs leads untangled, 'Bob' came back to me and the male managed to pull the Roti back. They moved away towards the bush - I called the female over (10-15 mts) + ask for details. She gave her ph # (no correcting) and told me my dog was dangerous. I said he was friendly, ok. Will get it sorted.

6. Where precisely was the dog when you first saw it?

On the reserve

7. Did anyone (appearing to be in charge of the dog) say anything to you? NA

Female said my dog 'Bob' was dangerous and her dog was friendly.

8. How did the incident end?

██████████ - No names given
They walked off and I followed the path towards
██████████ - I saw a friend - ██████████ who heard
the incident. ██████████ said he thinks the dog
comes from the College area.

9. Describe the nature of any injuries to you or to your dog. N/A

Bob has a torn right ear and 1 x puncture
wound. He also has a puncture wound to
his neck on the top.

10. Did you seek any medical/Vet treatment? YES / NO / NOT YET

(Copy of medical records) Medical records - photo taken of injury

11. Did you hear a person call the dog by a name?

'Lion'

12. How close did the dog actually come to you or your dog? At my leg

13. Did the dog chase you? NO / YES Approx. distance _____

14. Was your dog on a lead? Yes / No (why not?) _____

15. Have you had a problem with this dog before? YES / NO

Was it reported? _____

16. Did you see anyone else in the area that saw what happened? (I.D information needed)

There were a few people walking dogs but they all split when the dog started to growl.

17. What actions did you take towards the attacking dog or owner? (ie. Hit, Kick, Yell?)

No

18. Do you know the address of where the dog resides? NO / YES / or can you

Describe the property that the dog came from/returned to? (house colour, brick, wood, Fence, number on the letterbox etc.). _____

19. Can you tell me anything else that will convince me we have the right dog? (Photos, owner details etc) N/A

Indian couple - he was wearing blue turban - her english was very good

20. How do you feel about the incident?

I was pissed off that it happened. Glad that
my family weren't with me.

21. What action do you believe the Council should be taken?

The owners need educating - they don't have
any control over the dog - it should wear a muzzle.

22. Are you prepared to go to court as a witness should this matter go that far?

N/A / YES / NO

This statement is true and correct, I have nothing further to add at this time.

Name: _____

Signed: _____

Dated: 26/1/23

STATEMENT OF INCIDENT

Time 1201 hrs Date 07/02/23 CCM 1039723

Place of Interview Papamoa Plaza Food court

I would like to ask you some questions about an incident involving your dog/ or a dog in your care that occurred on Tuesday 24/01/23 at 5:30 am/pm.

Client

Surname Johal

First Names Gurmeet

DOB

Address

Email

Phone Numbers: Home Work Mobile

Dog Details

Name Tiger

Age 19 mth. Length of Possession 17 mth Why Family Pet

Breed Rottweiler Colour Black + Tan Sex M

This is an opportunity for you to provide me with your version of what happened.

You are not obliged to answer any of these questions.

You have the right to consult and instruct a lawyer in private, now or at any time during this interview.

Do you understand these rights? (Record

answer) Yes

Do you want to talk to a lawyer? (Record answer) No

Name

Gurmeet Johal

Signature



Date

7/2/23

STATEMENT

Q1. Are you the owner or were you caring for the dog at the time of the incident?

A1. *I am the owner, along with my husband Amirik*

Q2. Who would have been responsible for the dog at the time of the incident?

A2. *We were responsible for 'Tiger' at the time of incident*

Q3. Where were you when the alleged incident happened?

A3. *Walking Tiger along the reserve.*

Q4. Did you see the incident? (if yes, please describe what happened)

A4. *Yes I saw the incident. We were walking 'Tiger' through the reserve. Tiger was exploring the creek line back side of [REDACTED]. Tiger saw the dog from approx. 15-20mts away. Tiger ran towards the dog's dog owner. At that stage my husband still had hold of the lead (15mt long line) which was shortened to approx. 3/4 mts. My husband slipped on his jandals and the lead accidentally unwound. Tiger made his way towards the dog and sat ^{on the right hand side} approx 3 mts away from the dogs. I followed ~~to~~ (running) to grab Tiger by his collar. My husband still had hold of the long line. The dog owner asked me if Tiger was friendly 'I said yes over friendly' the dog owner said "Mine is too".*

Continued on new sheet

[Signature]

COM 1039723

STATEMENT

The dog owner asked if the ~~the~~ dogs could meet. "Yes" was my reply. ^{I let go of Tiger's collar so} the dogs sniffed (Ix and Tiger) at each other and then they got their leads tangled.

My husband was still coming with the rest of the lead.

^{for tiger ear neck} I saw the other dog with an open mouth, teeth showing, gone. The other dog was growling at Tiger. Tiger growled back. Tiger then tried to back out and was caught

up in the leads. Because he was caught he had his open mouth and nipped the other dogs ear. I tried to grab Tiger's collar again because the leads were tangled. Once I had a hold of Tiger's collar,

I moved Tiger away from the situation. The man and his dogs moved away along the path. My husband and I returned to walking Tiger along the grass area until we reached the stream edge. That is when the man called out to tell us his dog to come over

and give him our contact details. ~~He showed me the injury I saw blood~~ ^{not dripping or pouring there was blood coming from the inside of the} dog ear. The dog owner asked if I would like to come closer.

^I ~~saw the wounds~~ I declined saying Tiger was behind me (15-20m) and I was wanting to get back to Tiger.

^{on Tiger} I gave the man my details. Pk# only. Then I left to check with my husband and Tiger and walked home.

J.J.

STATEMENT

Q5. What is the purpose of your dog? (guard, companion, hunting etc)

A5. *Family Pet*

Q6. Is the dog classified menacing?

A6. *No*

Q7. If this dog is classified menacing, why wasn't the dog wearing a muzzle?

A7. *N/A*

Q8. Was the dog restrained or on a leash at the time of the alleged incident? (if no, please explain why not)

A8. *Yes a long lead 15m+ long*

Q9. Were you aware that the dog was leaving the property?

A9. *N/A*

Q10. Have you had previous letters from the council regarding this dog?

A10. *Yes* (if yes, sight and read letters). *- A previous letter but I don't know/remember what it was about.*

Q11. Are you aware of any other dogs in the immediate neighbourhood that could have been mistaken for your dog?

A11. *N/A* (if yes, where)



STATEMENT

Q12. Would you like me to photograph your dog to show the complainant, to confirm identification.

A12. *N/A*

Q13. Do you think your dog/the dog acted dangerously?

A13. *No* (if no, why not?)... *I believe ~~that~~ Tiger was being protective. I think Tiger was protecting himself. He felt danger.*

Q14. How could this incident have been prevented?

A14. *We will say "Tiger is not friendly" when people ask to introduce their dogs.*

Q15. What will you do to prevent this from happening again?

A15. *We will not and do not let Tiger get close to other dogs except his mates.*

Q16. When will this action be taken and who will be responsible for this action?

A16. *This action started the day after the incident.*

Q. 17. How do you feel about the incident and what action do you believe should be taken?

I feel it was an unfortunate incident, there was no one to blame. I am disappointed that it has got this far. Be objective and be fair. We offered to pay half of the medical bill.

This statement is true and is made with the knowledge that it may be used for Court proceedings.

Name *Gurmeet Johal*

Signature

Gurmeet Johal

Date

7/2/23

ATTACK RATING REPORT		
CCM No	CCM1038884 associated CCM1039723	
NAME:	Gurmeet JOHAL	
	5 to 35	10
<i>(This section relates to the physical seriousness of the attack).</i>		
Level 5	Rushing person.	
Level 7	Attack person - no visible injury.	
Level 8	Animal injured	
Level 10	Stock Worried	
Level 12	Animal killed - Non Dog	
Level 13	Attack person Causing Injury	
Level 17	Dog Killed	
Level 21	Serious but not hospitalised	
Level 22+	Admitted to Hospital and/or suffers long term effects	
Level 35	Death of a person.	
PUBLIC INTEREST	0 to 3	3
<i>Public expectation of how the incident should be managed based on seriousness of incident</i>		
LEGISLATIVE INTENT		2
<i>(Legislative intent has been factored into the report and remains constant @ 2 points).</i>		
CLASSIFIED (unleashed or unmuzzled)	0 or 3	0
Classified menacing by Breed (Classifications by deed are captured by other aspects of the assessment.)		
VICTIM IMPACT	0 to 5	3
<i>(This section does not relate to the level of retaliation sought by the victim, rather the effects on the victim as a result of the attack.</i>		
Level 0	The victim is not concerned about the outcome.	
Level 5	The victim is likely to continuously suffer as a result of the attack	
DOG SURRENDERED/DESTROYED	0 to 1	0
<i>The fact the dog has been surrendered for destruction has some influence on decision however would be inevitable outcome if prosecution pursued.</i>		
Level 0	The dog has been surrendered for destruction or destroyed.	
Level 1	The dog has not been surrendered for destruction.	
OBSERVED AGGRESSION	0 to 2	0
<i>(Based on the Officers observation only. It should be noted that a dog may act aggressively under certain stimuli and show absolutely no signs of aggression in the absence of that stimuli).</i>		
Level 0	No signs of aggression	
Level 2	Very aggressive	
NEGLIGENCE	0 to 6	4
<i>(Evaluate the degree of negligence).</i>		
Level 0	Not the result of negligence of the owner.	
Level 2	A lack of understanding of the true nature of dogs	
Level 4	The incident is the direct result of carelessness.	
Level 6	The incident is a result of connivance	
CO-OPERATION	0 to 2	0
Level 0	Co-operative and forthcoming with information	
Level 2	Unco-operative to the point that Police assistance was required	

PREVIOUS HISTORY		0 to 5	4
Level 0	No history		
Level 1	History without aggression		
Level 3	History with aggression (Over one year old)		
Level 4	History with aggression (under one year old)		
Level 5	Classified as dangerous.		
DOG REGISTERED AT THE TIME OF THE INCIDENT		0 to 2	0
Level 0	The dog is currently registered		
Level 2	The dog is not currently registered		
RESTRAINT		0 to 4	1
Level 0	The dog was under adequate restraint ie caged or fenced in.		
	The dog was under inadequate restraint ie could have been accidentally approached or could have easily escaped		
Level 1			
Level 2	The dog was at large (unknown).		
Level 4	The dog was at large (known).		
KNOWN BY OWNER TO BE DANGEROUS		0 to 4	2
Level 0	Not known by the owner to have shown previous aggression.		
Level 4	Known by the owner to have previously attacked.		
RECURRENCE LIKELIHOOD		0 to 3	3
Level 0	The circumstances relating to this incident are such that a reoccurrence is highly unlikely		
	The circumstances relating to this incident are such that a reoccurrence is highly likely		
Level 3			
TRAINED TO BE AGGRESSIVE		0 to 2	0
Level 0	Not trained at all to be aggressive.		
Level 1	Encouraged to be a guard dog.		
Level 2	Professionally trained guard dog.		
DAMAGES		0 to 1	1
Level 0	No damages or damages paid voluntarily.		
Level 1	Did not voluntarily offer to pay/Damages unpaid.		
BREED CHARACTERISTICS		0 to 4	2
<i>This section is evaluated mainly based on our experience. In the case of a mixed breed, evaluate the most predominant identified breed. Example – Pit Bull type dogs are renowned for their propensity to attack.</i>			
Level 0	Not known for its aggression.		
Level 1	Known as a guard dog breed.		
Level 4	Notorious for attacking.		
TOTAL			35
09 – 29 = WARNING NOTICE, MENACING CLASS & OR INFRINGEMENT			
30 – 36 = DANGEROUS DOG CLASSIFICATION & OR INFRINGEMENT			
Over 37 = PROSECUTION			
General Comments and Recommendation:			

JOHAL received a less than DG15 on 06/12/22 for a rushed at outside her property - CCM 1028480. JOHAL has refused ASO attendance at her property to take statements on both occasions. JOHAL's dog was walking on a long line (approx. 15mts) when it did charge towards the victim and his 2 x dogs from 15-20mts away. Victim states the offending dog owner lost control of the dog and its lead; the offender states her dog's lead was never dropped. JOHAL had to restrain her dog by holding its collar during the entire event. JOHAL stated she would pay for half of the medical bills as she felt it was an unfortunate accident. JOHAL refused to look at the injuries when asked to do so by the victim. JOHAL states her dog nipped the other dog. Photos indicate the offending dog did bite the victim's dog and caused \$428.26 worth of medical treatment. JOHAL's dog did not sustain any injuries. Several verbal statements from neighbours state the offending dog owner does not have any control over the dog. Recommendations: Classify the dog as dangerous and include an infringement for not keeping the dog under control. TC. Agree with dangerous classification with sworn statement from victim plus infringement.BL 8 Feb 2023

[illegible]

5.5 Objection to Menacing Classification - Dayna Osborne

File Number: A14815229

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Dayna Osborne opposing the Menacing Classification of her dog Spud.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Menacing Classification - Dayna Osborne.
- (b) It is recommended that the panel uphold the menacing classification, however the panel may either:
 - (i) Uphold the classification; or
 - (ii) Rescind the classification.

EXECUTIVE SUMMARY

2. Dayna Osborne is the owner of Spud, a 6-year-old male American Bull Dog Cross. Apart from barking complaints Spud had not had any adverse history with Council until he bit a person on 27 March 2023.
3. Records show Dayna obtained Spud when he was 6 months old while in Christchurch, she moved to Wellington in 2018 and then to Tauranga in 2022.
4. As a result of the investigation, Council classified the dog as menacing, which means the owner must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. (*Attachment 1 – Notice of Menacing Classification*)
5. The owner of a dog may object to that classification within 14 days of receiving the notice. The notice was issued on 23 May 2023, an objection to the classification was received on 29 May 2023. (*Attachment 2 – Initial Objection to Menacing Classification*).
6. On 19 June 2023 I responded to Dayna's objection, concluding that Council felt the menacing classification was appropriate and offering to forward her objection to this panel. (*Attachment 3 – Council Response to Objection*).
7. Dayna responded on the 19 June 2023 requesting that her objection be forwarded to this panel. (*Attachment 4 – Confirmation of Objection from Dayna Osborne*).

BACKGROUND

8. On 27 March 2023 a person visited the residence of the dog owner as they were collecting an item they had purchased on Facebook.
9. When she arrived, she was walking up to the house when Spud came shooting out of the house through an open door and onto the deck barking. Spud jumped off the deck and attacked her, biting her hand causing punctures to her hand, bruising and swelling. She had

- to take a week off work. She said she was just standing there when the attack happened. (*Attachment 5 – Victim Interview*).
10. The dog was subsequently secured by a male person called Max and taken inside.
 11. When Dayna was spoken to by staff, she said:
 - (a) She was inside the house with a person called Max. Max was waiting for a person to arrive to collect an item he had sold on Facebook.
 - (b) The dog was also inside but the door was open onto the deck.
 - (c) The dog has had a lot of trauma in his past life with people trying to pat him through the fence and being attacked by dogs.
 - (d) He is fearful and we have been trying to train him and get him better. He doesn't like strangers.
 - (e) When the victim arrived, Spud ran outside to smell her, she tried to pat Spud and he bit her hand. (*Attachment 6 – Dayna Osborne Interview*).
 12. At the conclusion of an investigation, staff complete an attack rating form. This form is used as a guide and aids when assessing what is the most appropriate action to take.
 13. In this matter the attack rating totalled 30 points, this placed it in the threshold of classifying the dog as Dangerous, however, as the dog had no documented history of aggression, staff classified the dog as menacing by deed. (*Attachment 7 – Attack rating*).
 14. When considering an objection against a menacing classification, the panel may uphold or rescind the classification, and in making its determination must have regard to:
 - (a) the evidence which formed the basis for the classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) the matters relied on in support of the objection; and
 - (d) any other relevant matters.
 13. The essence of the attack is agreed to by both parties in that, the dog was unsecured in the house and ran outside when the visitor arrived and bit her on the hand. There is disagreement over whether the victim tried to pat the dog or not, however, that has no relevance in law.
 14. The owner knew the dog was fearful and not good with strangers but didn't secure the dog before the visitor arrived.
 15. The only matter provided in Spud's defence is included in the objection email dated 29 May 2023 "*Spud does not have anything against his name in regards to any other incidents involving bites in the 6 years I have had him*". I have checked with both Wellington and Christchurch Councils and the only previous complaints relate to barking.
 16. When a dog bites a person, and the owner knows the dog has bitten then section 62 of the Act also applies. Section 62 is an automatic provision and there is no right of objection. We prefer to also classify a dog as Dangerous or Menacing as this is clearer for the Court should there be further reoffending. Section 62 has the same requirements as a menacing classification but also requires the owner to control the dog by way of a leash when in public.
 17. The Court has ruled past behaviour is the best predictor of future behaviour. In other words, once a dog has attacked once it will be assumed it will attack again unless there are compelling reasons justifying an alternative view based on whether the circumstances were sufficiently exceptional that the risk is remote.
 18. There was nothing exceptional about this attack, it could have easily been prevented by the owner ensuring the dog was secure in the house. A muzzled dog is a safe dog.








SIGNIFICANCE

19. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
20. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
21. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

ENGAGEMENT

22. Taking into consideration the above assessment, that the issue is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Dayna Osborne - Attachment 1 - Notice of Menacing Classification - A14837255** [↓](#) 
2. **Dayna Osborne - Attachment 2 - Initial Objection to Menacing Classification - A14837256** [↓](#) 
3. **Dayna Osborne - Attachment 3 - Council Response to Objection - A14837257** [↓](#) 
4. **Dayna Osborne - Attachment 4 - Confirmation of Objection Dayna Osborne - A14837258** [↓](#) 
5. **Dayna Osborne - Attachment 5 - Victim Interview - A14837259** [↓](#) 
6. **Dayna Osborne - Attachment 6 - Dayna Osborne Interview - A14837261** [↓](#) 
7. **Dayna Osborne - Attachment 7 - Attack rating - A14837262** [↓](#) 

NOTICE OF CLASSIFICATION



Tauranga City

Menacing dog classification – Section 33A, Dog Control Act 1996 (behaviour of the dog)

Date 27/3/2023 CCM 1052881

Name DAYNA OSBORNE

Address

DELIVERY CONFIRMATION

Recipient name Dayna Osborne
 Signature [Signature]
 Date 23/5/23 Time 09:44 am
 Served by Gary Dixon
 Signature [Signature]

Dog details

Dog ID	54019	Primary breed	AMERICAN BULLDOG
Microchip No	934*0000*9014*6337	Secondary breed	CROSS
Name	SPUD	Primary colour	WHITE
Sex	MALE	Secondary colour	GOLD
Age	5 yrs 11 mths		
Address where the dog is kept	[Redacted]		

Classification details

This is to notify you that this dog has been classified as a menacing dog under section 33A of the Dog Control Act 1996 with effect from the date of this notice.

This is because Tauranga City Council considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife, because of observed or reported behaviour of the dog, namely: Spud did bite a person on the hand in a public place.

A summary of this classification and your right to object is provided on the reverse. Objections must be in writing and can be sent to the addresses provided or delivered to the Tauranga City Council Service Centre.

Classification requirements

Neutering: Your dog is already Neutered; you are compliant with this requirement.

Microchip: Your dog is already microchipped; you are compliant with this requirement.

Muzzle: Your dog must now be muzzled when it is at large or in any public place or private way, and it must be kept under control at all times.

The required documents can be sent by mail to: Animal Services, Tauranga City Council, Private Bag 12022, Tauranga 3143, New Zealand or by email to: dog.registration@tauranga.govt.nz

ADDITIONAL INFORMATION

Signature

Dated: 5 April 2023

Name Brent Lincoln

Position Animal Services Team Leader

EFFECT OF CLASSIFICATION AS A MENACING DOG***Sections 33E, 33F and 36A Dog Control Act 1996***

- a) You must not allow your dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction; and
- b) You must produce to Tauranga City Council within one month after receipt of this notice a certificate issued by a registered veterinary surgeon certifying:
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are certified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c) If your dog is not fit to be neutered before a specific date as mentioned above, then you must produce to Tauranga City Council within one month after that specified date, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with any of the matters in paragraphs (a) to (c) above. In addition, a dog control officer or dog ranger may seize and remove the dog from you and keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

If applicable, if not already microchipped, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Tauranga City Council in accordance with the reasonable instructions of Tauranga City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement within 2 months after this notice.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction.

You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of classification as a menacing dog are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO CLASSIFICATION UNDER SECTION 33A***Section 33B, Dog Control Act 1996***

You may object to the classification of your dog as menacing by lodging with Tauranga City Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of the objection and will be notified of the time and place at which your objection will be heard.

All objections must be in writing and can be sent via email to dog.registration@tauranga.govt.nz or by mail to: Animal Services, Private Bag 12022, Tauranga 3143, New Zealand.

Brent Lincoln

From: Animal.Admin
Sent: Monday, 29 May 2023 10:16 am
To: Brent Lincoln
Subject: FW: Appeal of classification

From: dayna osborne <[REDACTED]>
Sent: Monday, 29 May 2023 10:14 am
To: Animal.Admin <Animal.Admin@tauranga.govt.nz>
Subject: Appeal of classification

CAUTION: External Email.

To whom it may concern,

I am writing this email as on the 23/05/2023 I received a hand delivered letter stating my dog Spud, is now classified as a menace due to an incident on the 27/03/2023.

I am wanting to appeal this as I was told by an officer that I would receive a warning letter or fine in the mail by the start of April. This was due to the fact Spud does not have anything against his name in regards to any other incidents involving bites in the 6 years I have had him.

The lovely officers who dropped the letter off to me have guided me in your direction for this appeal and explained that we could do a hearing to explain factors that can help me appeal this decision and get Spud off the classified list.

Look forward to hearing from you.

Kind Regards,

Dayna Osborne

Brent Lincoln

From: Info
Sent: Monday, 19 June 2023 1:43 pm
To: [REDACTED]
Subject: RE: Appeal of classification - Dayna Osborne

Hi Dayna

As requested, I have reviewed the Council decision to classify your dog as a menacing dog as a result of the bite it inflicted on a person at your property on 27 March 2023.

The circumstances of the attack are, you were home with your dog and were expecting a visitor. When that visitor arrived your dog Spud ran out to the visitor and bit them on the hand. As a result of the bite the visitor had to have antibiotics, a tetanus injection and were off work for a week. The visitor says that Spud ran out, growled at her and bit her without any warning or action by herself. You say, the visitor tried to pat Spud and that is when he bit her.

In your statement you have said that Spud was a rescue animal and you were aware he had anxiety problems from his previous life. It is your responsibility to ensure Spud cannot bite anyone at any time. In this matter, you knew someone was coming and knew Spud had anxiety yet did nothing to retrain him.

Council has a number of options when deciding what action we should take in relation to an attack such as this. Section 62 of the Dog Control Act provides that as a minimum standard, the owner of a dog that knows their dog has bitten a person must muzzle that dog in public and control it on a leash. Section 62 is automatic and not something Council imposes and cannot be appealed. In addition to section 62 Council may classify the dog as menacing or dangerous. On this occasion we classified Spud as menacing because we had no previous history but he does have some behavioural issues that have not been fully addressed.

At the conclusion of the review I have concluded that the menacing classification is appropriate for this incident and therefore I have not upheld your objection.

My decision can be reviewed by the Regulatory Hearings Panel, they are independent of Council. If you would like me to forward your request to them please confirm this by email.

As you are aware Spud is anxious and because he now has this history, please ensure he is well controlled around strangers so that we don't have a repeat incident. The requirements of section 62 and the classification must also be complied with.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

Subject: Appeal of classification

CAUTION: External Email.

To whom it may concern,

I am writing this email as on the 23/05/2023 I received a hand delivered letter stating my dog Spud, is now classified as a menace due to an incident on the 27/03/2023.

I am wanting to appeal this as I was told by an officer that I would receive a warning letter or fine in the mail by the start of April. This was due to the fact Spud does not have anything against his name in regards to any other incidents involving bites in the 6 years I have had him.

The lovely officers who dropped the letter off to me have guided me in your direction for this appeal and explained that we could do a hearing to explain factors that can help me appeal this decision and get Spud off the classified list.

Look forward to hearing from you.

Kind Regards,

Dayna Osborne

Email received via Info on 19/06

Email forwarded to brent.lincoln

Email as below:

Hi Brent,

I DID NOT know someone was coming to my house.

I would like this taken further please.

Spud has behaviour issue not due to me doing nothing but by others letting dogs attack/pursue him and trying to touch him behind my back.

There is always 2 sides to a story we are all aware of and in the 6 years I have had him we have not had an issue until now.

Thanks,

Dayna

DOG CONTROL - COMPLAINANT INTERVIEW FORM

Date: 29/3/23

Time: 10:00 am.

CCM Number: 1052881

Incident: Person Attacked

Place statement taken

Officer Details: Chardon Daley

1. Confirm details on CCM as being correct: YES NO

2. Full Name:

3. Address:

4. Phone:

5. Email:

6. Gender:

MALE FEMALE

DOB: 8/9/75.

7. Caregivers details if under 18 years old:

Full Name:

Address:

Phone:

Email:

Relationship:

I am speaking to (Vic/Compl)

about

an incident which occurred on 27/03/23 at about 1:25 AM PM at
(location) 115 Watling Street, Cote Rd

1. Where were you when the incident happened and what were you doing? I was at the property to collect and item I purchased off Facebook market place a air fryer.

2. Where precisely was the dog when you first saw it? It was on the deck.

13. Did you see anyone else in the area that saw what happened? Yes, my 16yr old son was in the car the dog owners boyfriend was on their deck.

14. How was the dog behaving? It just came shooting out barking, the door was open, it jumped the deck and bit my hand.

15. What did you do to the dog? (ie. did you try to pat or kick it?) No, I was just standing there waiting for the guy to come out. I thought it was gonna bite my face.

16. Describe the property that the dog came from/returned to? (house colour, brick, wood, Fences etc.). There is a deck white, down a long driveway, culdesac. has a brown deck. 2 story house.

17. What number was on the letter box of the property that the dog came from? N/A
115 Watling street, Gate Pa.

18. Can you tell me anything else that will convince me that we have the right dog? _____

19. How do you feel about the incident and what action do you believe should be taken?

I was pretty pissed off because I like dogs. it was so vicious. what if it was a kid. Fine them. They should pay my medical bill.

20. Would you be prepared to go to court as a witness should this matter go that far?

N/A

YES

NO

I called the police and they told me to contact council.

I spoke with dog owner, she told me her name was Dayna Esbrowne, she refused to give me her contact number. Her boyfriend's name is MAX.

This statement is true and correct, I have nothing further to add at this time.

Name:

Signed:

Date: 29 / 8 / 23

CCM 1052881

STATEMENT OF INCIDENT

Time 3/4/23 14:00Date 3/4/23Place of Interview.. [REDACTED]

I would like to ask you some questions about an incident involving your dog/ or a dog in your care that occurred on Monday 27/03/23 at 1:25 am/pm (pm).

Client

Surname

OsbourneUribe

CD 600334

First Names

Daya&Max

DOB.....

Address 115 Watling Street

Phone Numbers: Home.....

Work..... Mobile.....

Dog Details

Name SPUDAge 5 1/2m Length ofPossession 5 1/2 years Why Rescue dogBreed Am Bulldog Colour White/Cream Sex M

This is an opportunity for you to provide me with your version of what happened.

You are not obliged to answer any of these questions.

You have the right to consult and instruct a lawyer in private, now or at any time during this interview.

Do you understand these rights?(Record

answer) Yes

Do you want to talk to a lawyer? (Record answer)

Not at the time

Name Ms. Carin Wilson & Dayna Osborne
Signature [Signature] Date 3/13/2023

STATEMENT

Q1. Are you the owner or were you caring for the dog at the time of the incident?

A1. Dayna is the owner.

Q2. Who would have been responsible for the dog at the time of the incident?

A2. We were both responsible.

Q3. Where were you when the alleged incident happened?

A3. Max, on the couch in the lounge.
Dayna - in the kitchen cooking.

Q4. Did you see the incident? (If yes, please describe what happened)

A4. Max was working in the lounge waiting for a person to arrive at 1pm, she arrived at 1:30pm.
She parked out the front of the driveway. She jumped out the car and started walking. SPD saw her and tried to snuff her. She tried to put him on the right part of his face.
He bit her hand. I saw her head, there was a white dot. I did giggle at her reaction.
The door was open slightly. SPD went out the door onto the deck. Her probably gone round into the driveway.

STATEMENT

Q5. What is the purpose of your dog? (guard, companion, hunting etc)

A5. *He's a family dog.*

Q6. Is the dog classified menacing?

A6. *No.*

Q7. If this dog is classified menacing, why wasn't the dog wearing a muzzle?

A7. *N/A*

Q8. Was the dog restrained or on a leash at the time of the alleged incident? (If no, please explain why not)

A8. *No, he sleeps in the lounge, he was in his bed, he saw a strange person and he went outside straightaway.*

Q9. Were you aware that the dog was leaving the property?

A9. *The door was open slightly.*

Q10. Have you had previous letters from the council regarding this dog?

A10. *Yes.* (If yes, sight and read letters). *Barking*

Q11. Are you aware of any other dogs in the immediate neighbourhood that could have been mistaken for your dog?

A11. No. (if yes, where).....

STATEMENT

Q12. Would you like me to photograph your dog to show the complainant, to confirm it is the correct dog?

A12. NA - confirmed the identity of dog.

Q13. Do you think your dog/the dog acted dangerously?

A13. No. (if no, why not?) An animal that wanted to bite would have 2 kg naves. It's a natural reaction for a dog to warn someone when they don't want to be touched.

Q14. How could this incident have been prevented?

A14. Have the door closed and the deck up to code.

Q15. What will you do to prevent this from happening again?

A15. Arranged to meet with contractor to install a mechanism to close the sliding glass. Deck will be surrounded with railing. The landlord will be getting back the res. Keeping the door closed all the time.

Q16. When will this action be taken and who will be responsible for this action?

A16. In 3 weeks or so.

This statement is true and is made with the knowledge that it may be used for Court proceedings.

Name Dayna Osborne / Miss Ullrich
Signature [Signature] Date 5/04/23

STATEMENT

He's had a lot of trauma in the past from people trying to get him through the fence and attacked by dogs. He has fear in him and we have been trying to train him and get him better. He doesn't like strangers. He has had barking letters from council before.

This is the first time the dog has something like this, we are working with the landlord to get changes made to the property.

This is an unfortunate thing that happened. She was here to buy an air fryer off my friend.

We have cameras, automatic feeders, smart watch and custom collar to say do not pet.

will reimburse medical cost of \$35.

Dayra Osborne
~~close~~ 3/04/23

Max Laidy V
~~Max~~ 3/04/23.

Attack rating report			
CCM number:	1052881		
Name:	Dayna OSBOURNE		
Seriousness		5 to 35	13
(This section relates to the physical seriousness of the attack.)			
Level 5	Rushing person		
Level 7	Attacked person - no visible injury		
Level 8	Animal injured		
Level 10	Worried stock		
Level 12	Animal killed		
Level 13	Attacked person causing injury		
Level 21	Serious attack but no hospitalisation		
Level 22+	Admitted to hospital and/or suffers long term effects		
Level 35	Attack caused a person to die		
		right hand	
Public interest		0 to 3	2
(Public expectation of how the incident should be managed based on seriousness of incident.)			
Legislative intent			2
(Legislative intent has been factored into the report at a constant at two points.)			
Classified (unleashed or unmuzzled)		0 or 2	0
(Classified menacing by breed - classifications by deed are captured in other aspects of the assessment.)			
Victim impact		0 to 5	1
(This section does not relate to the level of punishment sought by the victim, but the effects on the victim as a result of the attack.)			
Level 0	The victim does not suffer lasting effects following the attack		
Level 5	The victim is likely to continuously suffer as a result of the attack		
Dog surrendered/destroyed		0 to 1	1
(If a dog is surrendered after an attack it will not significantly affect the outcome. Surrendering the dog could be a way of shirking responsibility. It could be an act of taking responsibility. Either way the action was taken too late to prevent the damage done.)			
Level 0	The dog has been surrendered for destruction		
Level 1	The dog has not been surrendered for destruction		
Observed aggression		0 to 2	1
(Based on the officer's observation only. It should be noted that a dog may act aggressively under certain stimuli and show absolutely no signs of aggression without that stimuli.)			
Level 0	No signs of aggression		
Level 2	Very aggressive		
Negligence		0 to 6	3
(Evaluate the degree of negligence.)			
Level 0	Not the result of negligence by the owner		
Level 2	A lack of understanding of the true nature of dogs		
Level 4	The incident is the direct result of carelessness		
Level 6	The incident is a result of planning and encouragement		
Cooperation		0 to 3	0
Level 0	Cooperative and forthcoming with information		
Level 3	Uncooperative to the point that police assistance was required		

Previous history		0 to 5	1
Level 0	No history		
Level 1	History without aggression		
Level 3	History with aggression (over one year old)		
Level 4	History with aggression (under one year old)		
Level 5	Classified as dangerous	Barking Only	
Dog registered at the time of the incident		0 to 2	0
Level 0	The dog is currently registered		
Level 2	The dog is not currently registered		
Restraint		0 to 4	1
Level 0	The dog was under adequate restraint e.g. caged or fenced in		
	The dog was under inadequate restraint e.g. could have been accidentally approached or could have easily escaped		
Level 1			
Level 2	The dog was at large (unknown)		
Level 4	The dog was at large (known)		
Known by owner to be dangerous		0 to 4	1
Level 0	Not known by the owner to have shown previous aggression		
Level 4	Known by the owner to have previously attacked		
Recurrence likelihood		0 to 3	2
Level 0	The circumstances relating to this incident are such that a reoccurrence is highly unlikely		
	The circumstances relating to this incident are such that a reoccurrence is highly likely		
Level 3			
Trained to be aggressive		0 to 2	1
Level 0	Not trained at all to be aggressive		
Level 1	Encouraged to be a guard dog		
Level 2	Professionally trained guard dog		
Damages		0 to 1	0
Level 0	No damages or damages paid voluntarily		
Level 1	Did not voluntarily offer to pay/damages unpaid		
Breed characteristics		0 to 4	1
(This section is evaluated mainly based on our experience, however a reference to the Macdonald Encyclopaedia of dogs, breed use, may be used. In the case of a mixed breed, evaluate the most predominant identified breed. For example Pit Bull type dogs are renowned for their propensity to attack.)			
Level 0	Not known for its aggression		
Level 1	Known as a guard dog breed		
Level 4	Notorious for attacking		
Total			30
09 – 29 = Warning notice, menacing class & or infringement			
30 – 36 = Dangerous dog classification & or infringement			
Over 37 = Prosecution			
General comments and recommendation:			
SPUD exited through an open door and bit the complainant on the hand. Owner admits the dog is fearful and not good with strangers. Property is not fenced. Dog displayed aggression towards ASO on arrival and was not able to interact with the dog. Complainant had to take a week off work. Dog owners agreed to reimburse medical cost of \$35. Dog owners are having adjustments made to property, the dog has ongoing training. Recommend Menacing by deed due to dogs behaviour as per BL.			

6 CLOSING KARAKIA