

# EC12.9 Attachment 1

## **Dangerous Dog Review Tribunal Chair's Annual Report for the Economic and Community Development Committee - 2019**

**Historically**, up until 2019, appeals of Dangerous Dog Orders were heard by a committee of City staff. For 2019 and onward, City Council decided to establish a Dangerous Dog Review Tribunal consisting of citizen appointees selected by the Civic Appointments Committee and confirmed by Council. The first meeting of the newly appointed Tribunal was held on May 14. It was a training session including presentations from Legal Services, Animal Services and the Ombudsman.

The Tribunal's first set of hearings was on June 11. Additional sessions took place each month from July to October inclusive. There was no meeting in November as there were no Appeals pending. In addition, there was a business meeting in July to review experiences on the first set of Appeals and a business meeting in December to discuss input to this report.

**Statistically** the Tribunal heard 17 Appeals broken down as follows:

- 12 upheld
- 2 rescinded
- 2 deferred - one deferral was requested by the City and the other by an applicant. Since time was taken to hear arguments for the requests for deferral both are included in the total of 17. Subsequently both of these were upheld and are included in the 12 upheld number
- 1 withdrawn - withdrawn because the payment was not made within the specified time line

In addition, the Tribunal considered 3 requests for Review broken down as follows:

1 refused – due to failure to meet the time line of 30 days

1 heard – the original decision was overturned and the order rescinded

1 scheduled for February 2020

After operating for approximately a half a year the Tribunal had **three issues** they wanted to bring to the attention of the Committee.

**First**, there were unanimous concerns that if an applicant could not pay the Appeal fee, it could have an impact on access to justice. Putting it another way, no human or dog should be put at risk due to financial trouble. The discussion looked at other areas of justice where fees are scaled to ability to pay such as in some divorce proceedings. Even within the City there are examples of the availability of reduced fees such as in some Parks and Recreation programs.

Any reduced fee structure could be based on defined criteria in a program that must be met to receive the reduction or it could be based on a sliding scale geared to income. A third option would be a reduced fee evaluated on a case by case basis. The later two would require much more administration.

One factor to consider includes the impact of the potential revenue decrease for Animal Services given the fees today do not even fully cover hearing preparation and operational costs. It is less than full cost recovery now. Another is how and by whom would such a reduced fee program be administered.

**The Tribunal would like the Committee to look into this access to justice issue** and request City staff to bring forward a proposal. This analysis could include looking at the impact on Appeal numbers when there was no fee prior to 2019 and numbers since the fee became applicable in 2019. For example, prior to 2019, the City averaged 45 to 50 Appeals per year while in approximately 6 months with a fee in place there were only 17 appeals. Compounding this is the fact the dangerous dog designation criteria have changed. Regardless of what staff recommend, City Council would be the final decision maker.

**Second**, the majority of Tribunal members had concerns over the black and white binary nature of the decision process i.e. either uphold or rescind a Dangerous Dog Order. A discussion ensued on the possibility of attaching conditions to the order. Animal Services was asked about how other jurisdictions addressed this issue. They indicated there was a jurisdiction comparable to Toronto that allowed their Tribunal to waive one or more of the conditions of the Dangerous Dog order. In the discussion that followed no panel member could think of a case where they would want to waive one of the conditions of the order. Rather the discussion moved to the lifetime nature of the order and if there was a way to allow the order to be revisited after a specified amount of time. The issue was how could you tell if the dog had been rehabilitated. How would one know if it was safe for the public

and other dogs if the order was lifted, given the dog had been muzzled from the time of the order? Clearly there are liability issues.

**The Tribunal would like the Committee to look into the lifetime nature of the order** and request City staff to bring forward a proposal in conjunction with Animal Services, to address ways of addressing the lifetime nature of the ban, including a methodology for “proving” the dog no longer presents a risk to the public and other dogs.

**Third**, the majority of the Tribunal wanted to discuss accepting extenuating circumstances around the period of 30 days to request a Review of a decision. Such a change would require a change to the by-law. The issue of the need to extend the deadline was aired thoroughly. All members of the Tribunal felt 30 days was adequate given that Animal Services had updated the Dangerous Dog Order documentation to highlight the time period of 30 days to request a Review. **No action on the part of the Committee** is being requested.

The Tribunal would like to express their appreciation to Jennifer Forkes, Manager, Committees and Boards, City Clerk's Office, Dela Ting, Dangerous Dog Review Tribunal Secretary and Sandra Ryan Cuyugan of the DDRT for their invaluable help and guidance.

Respectfully submitted this 31<sup>st</sup> day of December, 2019

Rick Ross

Chair, Dangerous Dog Review Tribunal