

Dangerous Dog Review Tribunal 2020 Annual Report

Date: March 11, 2021

To: Economic and Community Development Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

In accordance with its governance structure, the Dangerous Dog Review Tribunal must submit an annual report on its work to the appropriate standing committee. Attached to this report is the Tribunal Chair's 2020 Annual Report.

As recommended by the Tribunal Chair, this report recommends that the City offer a reduced Dangerous Dog Review Tribunal appeal fee for low income households. This report also responds to recommendations in the Chair's report to update Toronto Municipal Code Chapter 349, Animals, to define the word "severe" and allow the Tribunal to reassess a confirmed Order at a later date and rescind the designation. Staff do not recommend amendments to Chapter 349, Animals, to define "severe" or to revise the scope of the Tribunal to reassess confirmed Orders; however, staff have made operational improvements and updates to public-facing information to better inform potential applicants about the grounds for appeal, as recommended by the Chair.

The Dangerous Dog Review Tribunal provides an independent review of Dangerous Dog Orders issued by Municipal Licensing and Standards (MLS) under Section 349-15.1 of Toronto Municipal Code Chapter 349, Animals. The Tribunal has the authority to:

- a. confirm the determination of a Dangerous Dog Order; or
- b. rescind the determination of a Dangerous Dog Order and exempt the owner from all requirements of the Dangerous Dog Order.

The Tribunal is an adjudicative board and local board of the City of Toronto under the authority of the *City of Toronto Act, 2006*. Tribunal hearings are conducted in accordance with the *Statutory Powers Procedure Act, 1990* and the Tribunal's rules of procedure.

In 2020, MLS responded to 1,911 service requests related to dangerous acts by a dog and issued 96 Dangerous Dog Orders. The Dangerous Dog Review Tribunal considered seven appeals and three reviews in 2020, as detailed in Attachment 1. Of

the seven appeals, the Tribunal confirmed six Orders and deferred one appeal.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. The Economic and Community Development Committee receive the 2020 Annual Report from the Chair, Dangerous Dog Review Tribunal, in Attachment 1 for information.
2. City Council delegate authority to the Executive Director, Municipal Licensing and Standards, to waive 50 percent of the Dangerous Dog Review Tribunal appeal fee for low income households, provided that the applicant meets the below criteria, and amend the Reduction in Fees Policy for Toronto Animal Services accordingly:
 - a. Is a resident of the City of Toronto;
 - b. Is at least 18 years of age;
 - c. Is the owner of the dog;
 - d. Has a licence for the dog issued by the City of Toronto in accordance with Toronto Municipal Code Chapter 349, Animals;
 - e. Has a household income of less than \$50,000; and
 - f. Has demonstrated financial need with appropriate documentation.

FINANCIAL IMPACT

The number of appeals made to the Dangerous Dog Review Tribunal each year is low, with seven reviews having been considered in 2020. The current fee of \$351.52, including tax, is charged for each appeal and this fee is subject to an annual increase each year in accordance with the City's User Fee Policy. As a result of potentially reducing the current fee by 50 percent for low income appellants, the resultant fee of \$175.76 would represent a cost recovery of approximately 26.5 percent.

If a reduced fee for low income households is approved by City Council, the number of applications may increase. Given the small number of applications received each year, it is not possible for staff to accurately estimate the financial impact of this change, including whether or not the reduced fee would result in an overall net increase or decrease to revenue. However, any changes are expected to have a minimal impact on Municipal Licensing and Standards' operating budget. If approved by City Council, staff will monitor any financial impacts arising from this change and report through the budget process, as appropriate.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT

The Dangerous Dog Review Tribunal provides an independent review of Dangerous Dog Orders issued by the City under section 15.1 of the Toronto Municipal Code Chapter 349, Animals. This provides a mechanism for members of the public who own a dog and have been issued a Dangerous Dog Order the opportunity to appeal the Order if they believe that the City has erred in its issuance.

The existing application fee of \$351.52, including tax, may pose a barrier for individuals with low income seeking an independent review. In circumstances where the Order would be rescinded by the Dangerous Dog Review Tribunal, the fee may be a barrier that prevents an individual with low income from accessing this independent review.

DECISION HISTORY

On March 10, 2020, Economic and Community Development Committee adopted, with amendments, Item EC12.9, Dangerous Dog Review Tribunal 2019 Annual Report. Staff were directed to report on the feasibility of a reduced appeal fee for low income households and the feasibility of allowing an Order to be reassessed at a later date. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EC12.9>

On July 23, 2018, City Council adopted Item LS27.1, Improved Dangerous Dog Review Tribunal, establishing the Dangerous Dog Review Tribunal and Governance Structure. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS27.1>

COMMENTS

Dangerous Dog Review Tribunal Overview

The Dangerous Dog Review Tribunal is an adjudicative board and local board of the City of Toronto under the authority of the *City of Toronto Act, 2006*. It is comprised of five citizens chosen by Toronto City Council for a four-year term. The Tribunal conducts itself in accordance with the *Statutory Powers Procedure Act, 1990* and its rules of procedure. Its members are bound by the *Municipal Conflict of Interest Act, 1990*.

The Tribunal has the authority to:

- a. confirm the determination of a Dangerous Dog Order; or,
- b. rescind the determination of a Dangerous Dog Order and exempt the owner from compliance with Section 349-15.1 of Toronto Municipal Code Chapter 349, Animals.

The Tribunal receives administrative support from the City Clerk's Office. Meeting dates and agendas are posted on the Tribunal's webpage online at www.toronto.ca/council

and the meetings are open to the public. The Tribunal issues written Reasons for Decision for each appeal which are posted on the Tribunal's webpage.

Where the Tribunal has made a decision on an appeal, a party can request that the Tribunal review that decision and hold a review hearing on the matter. The Chair may consider whether to grant such a request under the Tribunal's rules of procedure.

The Dangerous Dog Review Tribunal Chair's 2020 Annual Report is contained in Attachment 1.

Dangerous Dog Orders

Toronto Animal Services is a part of Municipal Licensing and Standards and is responsible for promoting responsible pet ownership, compliance with animal-related laws, and pet adoption and pet licensing. Toronto Animal Services also responds to domestic animal and wildlife issues, investigates dog bite complaints, and provides shelter and veterinarian care.

In 2020, Toronto Animal Services responded to 1,911 service requests related to dangerous acts by a dog, as detailed in Table 1. This resulted in the issuance of 96 Dangerous Dog Orders.

Table 1: Dangerous act service requests (2020)

DANGEROUS ACT TYPE	SERVICE REQUESTS
Animal to Animal (Bite)	307
Animal to Human (Bite)	802
Animal to Animal (Attack)	153
Animal to Human (Attack)	195
Menacing Behaviour	454
TOTAL	1,911

If a Dangerous Dog Order is issued, the owner must adhere to conditions including:

- Muzzle, leash, and maintain control of the dog at all times when off the premises of the owner;
- Ensure the dog is wearing a dangerous dog tag at all times;
- Prohibit the dog from entering into a designated leash-free area of a City park;
- Post a warning sign on the owner's property; and
- Obtain training for the dog.

Dog owners who receive a Dangerous Dog Order, and do not agree, can have their appeal considered by the Dangerous Dog Review Tribunal by submitting their written request and the applicable appeal fee (currently \$351.52, including tax) to Toronto

Animal Services. The conditions of the Dangerous Dog Order remain in place while the appeal is under consideration.

Determining the severity of a dangerous act

The Chair's 2020 report recommends defining the word "severe" in Toronto Municipal Code Chapter 349, Animals, stating that members of the Tribunal view severity of a specific dangerous act differently.

Staff do not recommend amending Chapter 349, Animals, to include a definition of severe. The definition of "severe physical injury" referenced in the Chair's 2020 report and defined as "a physical injury to a person that results in muscle tears or disfiguring lacerations or that requires multiple sutures or corrective or cosmetic surgery" refers to a description of an injury and not to a description of an action. As such, the definition referenced may not include many serious puncture wounds and would be challenging to apply to animal-to-animal dangerous acts.

It is important to note that every dangerous act is unique. Determining the severity of a dog's action is complex and requires Toronto Animal Services to complete a comprehensive investigation; these investigations often include witness interviews, reports from doctors and veterinarians, and reviewing any previous enforcement history. It would be challenging to establish a definition of severe that could be interpreted objectively for each case. The complex nature of these investigations underscores the importance of the Dangerous Dog Review Tribunal in providing an independent review of Dangerous Dog Orders issued by the City.

To ensure that all parties have access to the same information related to severity and guidance scales the City may reference, Toronto Animal Services has undertaken the following action:

- **Public criteria:** the [Dogs in the City webpage](#) was updated to include dangerous act scales that Toronto Animal Services may use to help determine the severity of a bite (ranging from Level 0 to Level 5) in certain circumstances, along with detailed descriptions of each scale.
- **Management attendance at Tribunal:** to improve consistency in how information is provided to the Tribunal, at least one member of Toronto Animal Services' management team is present at each Tribunal hearing.

These changes were made in response to recommendations in a recent Ombudsman Toronto report: [An Enquiry into how Toronto Animal Services Handled a Dangerous Dog Investigation and Appeal](#). A component of the report considered the matter of determining whether or not a dog's dangerous act is severe. The report found that although Toronto Animal Services had criteria to help Officers determine severity, this information was not available to the public. Further, the report found that this criteria was not communicated to the Tribunal such that the Tribunal had difficulty appreciating what a scale level or other information meant if referenced by staff.

Improving knowledge of grounds for appeal

The Chair's 2020 report includes a recommendation to update the existing information package provided to potential applicants to ensure that the City is providing clear information about the relevant grounds for appeal. The Chair states that there is misunderstanding among appellants, and that appellants should appreciate that the grounds of appeal are limited and that the dog's behaviour after the act is not considered during the appeal process.

In response to this recommendation, Toronto Animal Services has reviewed the brochure provided to potential applicants to ensure plain-language about the grounds for appeal, made the contents of the brochure available on the City's [Dogs in the City webpage](#) so all members of the public can access it, and is updating the script and Standard Operating Procedure that officers use. Some applicants whose circumstances are not included in the grounds for appeal will still choose to move forward with the appeal even after being provided this additional information. In these cases, staff do not intervene or advise individuals on seeking an independent review of their Order.

Reassessing the Order at a later date

The Chair's 2019 and 2020 reports include a recommendation to review the possibility of allowing the Tribunal to reassess a Dangerous Dog Order at a later date and rescind the Dangerous Dog Order designation.

Staff do not recommend amending the scope of the Tribunal to allow for the reassessment of a Dangerous Dog Order. The Order is issued based on the nature of the dangerous act or incident, not on whether the dog has shown a behaviour change. There is no way to reasonably conclude that a dog had been rehabilitated and, therefore, no way to determine whether the dog would be safe to be un-muzzled in a public setting. There are also related liability concerns that need to be carefully considered. The Tribunal's authority is limited to confirming or rescinding the Dangerous Dog Order. Allowing for a decision to be reviewed at a later date would fundamentally change the purpose and scope of the Tribunal, and would require Toronto Municipal Code Chapter 349, Animals, to be reviewed and updated to reflect this change.

A Dangerous Dog Order lasts for the lifetime of the dog. Staff understand that the issuance of a Dangerous Dog Order has a significant effect on a household and Orders are only issued after Toronto Animal Services performs due diligence to ensure it is the right course of action. The appeal process has been substantially updated over the past three years, based on advice from the Ombudsman, to improve transparency and administrative fairness. All Animal Control Officers receive comprehensive training on the dangerous dog provisions of Chapter 349, Animals, and conduct a thorough investigation before issuing an Order, in consultation with management. Given the lifetime nature of the Order, the Tribunal is an important body to allow residents the opportunity to appeal the designation if they do not agree that the Order has been issued in accordance with Chapter 349, Animals.

Reduced fee for low income households

The Chair's 2019 and 2020 reports include a recommendation to assess the feasibility of offering a reduced fee for low income households seeking to apply for an appeal to a Dangerous Dog Order.

Staff recommend offering a reduced fee for households with an income of less than \$50,000. Other services provided by Toronto Animal Services, such as the Spay or Neuter Your Pet (SNYP) Mobile Clinic Program, offer reduced fees in accordance with the Reduction in Fees Policy for Toronto Animal Services. The applicant is typically asked to complete a form and provide staff with proof of household income, which is noted on file and kept confidential. In consultation with Social Development, Finance, and Administration, staff suggest a fee reduction of 50 percent and recommend that the administration mirror that of existing fee reduction processes in Toronto Animal Services.

The Tribunal provides a mechanism for a member of the public to request an independent review of a Dangerous Dog Order. This provides a public accountability process to ensure that Dangerous Dog Orders are issued in accordance with Toronto Municipal Code Chapter 349, Animals. Although only a small number of Orders are appealed to the Tribunal, and the majority of Dangerous Dog Orders appealed are upheld, the existing fee could be a barrier to some low income households who believe that the Order was issued incorrectly.

Under the existing structure, all applicants must pay the current application fee of \$351.52, including tax, to have their appeal considered by the Dangerous Dog Review Tribunal. As indicated in both the Chair's 2019 and 2020 reports, the current fee does not fully cover operational costs related to the Tribunal. As a result of potentially reducing the current fee by 50 percent for low income appellants, the resultant fee of \$175.76 would represent a cost recovery of 26.5 percent.

In cases where the applicant is seeking a reduced fee to appeal a Dangerous Dog Order, staff recommend establishing the following criteria for when an applicant is eligible for a reduced fee. To be eligible, the applicant must:

- be a resident of the City of Toronto;
- be at least 18 years of age;
- be the owner of the dog;
- Have a licence for the dog issued by the City of Toronto in accordance with Toronto Municipal Code Chapter 349, Animals;
- Have a household income of less than \$50,000; and
- Have demonstrated financial need with appropriate documentation.

Offering a reduced appeal fee will help address financial barriers that may be experienced by individuals from low income households seeking to access an independent review by the Dangerous Dog Review Tribunal.

This fee waiver is recommended to be permanent, but will be reassessed on a yearly basis unless circumstances warrant a more frequent review. Given the amount of staff

time needed to process applications and prepare for hearings, a substantial increase in the number of applications received would likely impact the amount of staff resources required to support Toronto Animal Services in responding to the appeal. Staff will monitor this impact and report through the budget process, as appropriate.

CONTACT

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SIGNATURE

Carleton Grant
Executive Director, Municipal Licensing and Standards

ATTACHMENTS

Attachment 1 - 2020 Annual Chair's Report for the Dangerous Dog Review Tribunal for the Economic and Community Development Committee