

Dangerous Dog Review Tribunal 2023 Annual Report

Date: May 14, 2024

To: Economic and Community Development Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

The Chair of the Dangerous Dog Review Tribunal (Tribunal) must submit an annual report on its activities to the appropriate standing committee in accordance with its governance structure. Attached to this report is the Tribunal Chair's 2023 Annual Report.

The Tribunal is an adjudicative board and city and local board of the City of Toronto and is established under the authority of the *City of Toronto Act, 2006*. Tribunal hearings are conducted in accordance with the *Statutory Powers Procedure Act* and the Tribunal's rules of procedure. The Tribunal provides an independent review of appeals to Dangerous Dog Orders that are issued by Municipal Licensing and Standards (MLS) under the authority of Section 349-15 of Toronto Municipal Code Chapter 349, Animals. The Tribunal has the authority to either confirm the dangerous dog designation or rescind the dangerous dog designation and exempt the owner from compliance with the requirements of a Dangerous Dog Order.

In 2023, MLS responded to 2,726 service requests related to a potentially dangerous act by a dog and issued 137 Dangerous Dog Orders, with 11 Dangerous Dog Orders appealed to the Tribunal.

In 2023 the Tribunal heard 31 cases (the majority of these were carried over from 2022) and four cases were deferred to 2024. Of the matters heard, 25 Dangerous Dog Orders were upheld, four were rescinded, and two appeals were withdrawn. The Tribunal also approved one request for reconsideration of its earlier decisions, which has yet to be scheduled.

This report also responds to six issues for consideration in the Chair's 2023 Annual Report. MLS is already working to address many of the identified issues, including proactive enforcement and public education of Dangerous Dog Orders and off-leash dogs. Staff are not recommending bylaw amendments as part of this report.

MLS will report back to the Economic and Community Development Committee by October 2024 in response to Council directives as part of Item [2024.EC10.2](#). The report will also address some of the identified issues in the Chair's 2023 Annual Report.

This report was developed in consultation with Legal Services.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. The Economic and Community Development Committee receive this report for information.

FINANCIAL IMPACT

There is no financial impact arising from the recommendation contained in this report.

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

DECISION HISTORY

At its meeting on March 20, 2024, City Council adopted Item EC10.2 Response to EC6.9 – Incident and Operational Review of Serious Dog Attacks, where it approved program improvements, including a public registry of dangerous dogs, a standard dangerous dog warning sign, access to discounted dog trainings for those with dangerous dogs who cannot afford training and a request to the Province of Ontario to amend the Dog Owners' Liability Act to strengthen processes.
<https://secure.toronto.ca/council/agenda-item.do?item=2024.EC10.2>

At its meeting on September 21, 2023, the Economic and Community Development Committee adopted Item 2023.EC6.9 Incident and Operational Review of Serious Dog Attacks, requesting staff to review procedures and processes for the compliance and enforcement of Dangerous Dog Orders and to report back in the first quarter of 2024.
<https://secure.toronto.ca/council/agenda-item.do?item=2023.EC6.9>

At its meeting on April 25, 2023, the Economic and Community Development Committee adopted Item EC3.3 Dangerous Dog Review Tribunal 2022 Annual Report, which transmitted the Dangerous Dog Review Tribunal Chair's Annual Report and outlined how staff updated documents to provide additional clarity on the appeals process for dog owners, as requested by the Tribunal Chair.
<https://secure.toronto.ca/council/agenda-item.do?item=2023.EC3.3>

At its meeting on July 19, 2022, City Council adopted EC31.5 Updates to Chapter 349, Animals, where it amended section 349-15B to read "Where the Executive Director has

reason to believe that a dog has engaged in a dangerous act against a person or domestic animal, an officer may” to allow officer discretion in dangerous dog investigations.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.EC31.5>

At its meeting on April 6, 2022 City Council adopted EC28.11 Dangerous Dog Review Tribunal 2021 Annual Report, where it amended Toronto Municipal Code Chapter 349, Animals to add Subsections 349-15C(3) and (4) which clarified that a dog previously found to be acting in self-defence would not be counted against the dog if a subsequent dangerous act occurred.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.EC28.11>

At its meeting on May 5 and 6, 2021 City Council adopted EC21.13 Dangerous Dog Review Tribunal 2020 Annual Report, which transmitted the Dangerous Dog Review Tribunal Chair's Annual Report and provided the Executive Director, Municipal Licensing and Standards delegated authority to waive fifty percent of the Dangerous Dog Order appeal fee for low income households who meet the necessary criteria.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EC21.13>

At its meeting on July 23, 24, 25, 26, 27 and 30, 2018 City Council adopted, with amendment, LS27.1 Improved Dangerous Dog Review Tribunal, where it amended Toronto Municipal Code Chapter 349, Animals to establish the Dangerous Dog Review Tribunal as an Adjudicative Board.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS27.1>

COMMENTS

Dangerous Dog Orders

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

Under Section 15 of Chapter 349, Animals, TAS Animal Control Officers investigate all complaints of dangerous acts committed by dogs. A dangerous act is any bite, attack, act of menacing behaviour, or any combination thereof. If an officer has reason to believe that a dog engaged in a dangerous act against a person or another domestic animal, they may:

- issue a written warning if it is the first such act on record and the dangerous act is not severe; or
- issue a Dangerous Dog Order if the dangerous act:
 - is found to be severe; or
 - is the second or subsequent act on record with the City; or
 - occurred while the dog was subject to a previous order under a City by-law or provincial legislation.

In 2023, TAS officers responded to 2,726 service requests related to a potentially dangerous act by a dog, as shown in Table 1 below.

Table 1: Dangerous Act Service Requests in 2023

| Dangerous Act Type | Service Requests |
|---------------------------|-------------------------|
| Animal to Animal (Bite) | 352 |
| Animal to Human (Bite) | 1,327 |
| Animal to Animal (Attack) | 201 |
| Animal to Human (Attack) | 243 |
| Menacing Behaviour | 603 |
| Total | 2,726 |

These investigations resulted in 430 written warnings for non-severe dangerous acts and 137 Dangerous Dog Orders in 2023. This is less than the 522 written warnings and 139 Dangerous Dog Orders issued in 2022.

If a Dangerous Dog Order is issued, the owner of the dog must follow certain requirements for the duration of the dog's life, including the following:

- The dog must be muzzled at all times when off the owner's property;
- The dog is not permitted in any designated leash-free area of a City park;
- The dog must be microchipped and must wear a dangerous dog tag, issued by the City;
- A standard City issued warning sign must be posted on the owner's property, in a location determined by MLS; and
- The dog must receive training within 90 days of the Order.

Owners who receive a Dangerous Dog Order have a right to appeal the decision to the Tribunal by submitting a written request and paying the applicable fee within 30 days after the Order is served to the owner. When a Dangerous Dog Order is issued, the officer provides the owner with information and a brochure about the requirements of the Order and the appeal process.

Dangerous Dog Review Tribunal Overview

The Tribunal is an adjudicative board and city and local board of the City of Toronto that is established under the authority of the *City of Toronto Act, 2006*. It is comprised of five members of the public appointed by Toronto City Council for a four-year term. The current Tribunal Chair was appointed in May 2023 and current members were appointed in May 2023 and January 2024 respectively.

The Tribunal conducts itself in accordance with the *Statutory Powers Procedure Act* and established rules of procedure for governing the practices and procedures before it (pursuant to section 25.1 of the *Statutory Powers Procedure Act*). Its members are bound by the *Municipal Conflict of Interest Act*. The Tribunal is an adjudicative body that hears appeals to Dangerous Dog Orders issued by MLS under the authority of Section 349-15 of Toronto Municipal Code, Chapter 349, Animals.

The Tribunal has the authority to:

- confirm the determination of a Dangerous Dog Order; or,
- 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 (Dangerous Dog Order requirements).

The Tribunal receives administrative support from the City Clerk's Office. Meeting dates, agendas and written decisions are posted on the Tribunal's webpage online at www.toronto.ca/council. All Tribunal hearings are open to the public.

Under the Tribunal's rules of procedure, a party can request that the Tribunal review a decision. The Tribunal may grant a request for review where they find that the Tribunal:

- acted outside its jurisdiction;
- violated the rules of natural justice or procedural fairness, including those against bias;
- made an error of law or fact such that the Tribunal would likely have reached a different decision but not for that error;
- heard false or misleading evidence from a party or witness which was discovered after the hearing and may have affected the result; or
- should consider new evidence which was not available at the time of hearing, but that is credible and may have affected the result of the appeal.

In 2023, 11 Dangerous Dog Orders were appealed to the Tribunal. This is less than the 32 Orders appealed in 2022.

In 2023, 31 appeals were heard by the Tribunal (the majority of these were cases carried over from 2022) and four were deferred to 2024. Of the matters heard, 25 Dangerous Dog Orders were upheld, four were rescinded, and two appeals were withdrawn. The Tribunal also received one request for review of its earlier decisions, which was approved for a rehearing that has yet to be scheduled.

One of the Chair's duties is to prepare and submit an annual report about the Tribunal's activities to the appropriate standing committee. The 2023 Tribunal Chair's Annual Report is appended to this report as Attachment 1.

In April 2023, as a result of the Chair's recommendation in the 2022 Tribunal Chair's Annual Report, MLS updated City documents, including Dangerous Dog Order forms and a two-page brochure on the Tribunal's process, to provide additional clarity on the appeals process to dog owners.

As part of the 2022 Annual Report, the Chair expressed concern with appellants not understanding what constitutes an acceptable defense during hearings. While MLS took steps to clarify the process by which an appeal can be made, it is up to each party to a proceeding to determine what appropriate arguments they should make before the Tribunal. MLS suggested that the Tribunal consider emulating other City tribunals by adding information on the Tribunal's own website to provide appropriate guidance to appellants to address the concerns expressed in the annual report. MLS is not aware that this guidance has been added to the Tribunal's webpage and continues to support this suggestion.

Items for Consideration from the Tribunal Chair

In the 2023 Annual Report, the Chair included six issues for consideration about Dangerous Dog Orders. Staff have reviewed and provide responses to each in the sections below.

1. Input from Dog Owners During Initial Investigation

The Tribunal Chair recommends that Chapter 349 be amended to state that the Executive Director of MLS or any person acting under his or her authority, will make all reasonable efforts to investigate alleged dangerous acts, including reasonable efforts to obtain firsthand information from the defendant dog owner and any witness to the incident, and communicate with the defendant dog owner prior to issuing a Dangerous Dog Order.

Staff have reviewed this recommendation and do not believe that a By-law change is required as TAS already makes all reasonable efforts to investigate reported dangerous acts; this is inherent to the enforcement of the By-law.

TAS thoroughly investigates all reported dangerous acts committed by a dog. As part of the investigation, an Animal Control Officer (Officer) will make all reasonable efforts to interview the victim/complainant, dog owner, and any witnesses. The Officer will advise the victim and dog owner of next steps in the investigation procedures, including that a written warning or Dangerous Dog Order may be served. In response to findings from the Ombudsman's 2019 Report on how TAS handled a dangerous investigation and appeal, TAS reviewed its investigation methods and provided additional training for Officers on how to conduct interviews of witnesses.

An additional consideration is that it is not common practice to include investigation methods within City bylaws, and the interpretation of subjective language like "reasonable" would be challenging.

TAS provides an overview of dangerous dog act investigations to Tribunal members during a new term or for new members. A presentation was provided to Tribunal members recently on January 16, 2024 ([2024.DG15.2](#)).

2. Definition of “Severe”

Currently there is no definition for a severe dangerous act in Chapter 349. The Tribunal Chair recommends that the term "severe" be defined to provide clarity and consistency in interpreting what qualifies and meets the threshold of a dangerous act.

Staff have reviewed this recommendation and do not recommend adding a definition of severe to Chapter 349. It is important that TAS has discretion and flexibility in determining if a dangerous dog attack is severe or not based on all the available evidence and unique circumstances of the incident, and that TAS not be held to a specific definition that may not include all scenarios.

When a confirmed dangerous act is the first on record for a dog, an Animal Control Officer will examine all circumstances when determining if the dangerous act is severe. The Officer may consider factors such as the extent of the:

- bite (i.e., single wound vs multiple wounds)
- attack injury (i.e., bruising vs fracture)
- act of menacing behavior

An Officer may give different weight to each of these factors depending on the specific case and may consider other factors as relevant.

There may be cases where the injuries sustained in a dog attack are not severe, but the behavior of the dog was severe. In these cases, having a definition of severe may limit TAS' ability to issue a Dangerous Dog Order and protect public health and safety. There is no evidence that not having a definition for severe has prevented staff from issuing a Dangerous Dog Order.

Additionally, Staff are not aware of any examples where not having a definition of severe has limited the Tribunal's decision making. Tribunal members must take into account all evidence that has been put forward, assign weight accordingly, and make a decision on the basis of that evidence as to whether a Dangerous Dog Order should be upheld or rescinded. The Tribunal's role is to determine the following:

- Did a dangerous act occur?
- Was the dangerous act committed by the dog in question?
- Was the order issued in accordance with the bylaw?

TAS provides guidance on factors that Officers consider in assessing if a dangerous act is severe on its public webpage (toronto.ca/dangerousdogs). Staff recently reviewed this content and added additional information to support clarity and transparency.

3. Off-leash in Public Areas

In response to instances of dogs involved in dangerous dog incidents being off leash in public areas not designated as off-leash areas within City parks, the Tribunal Chair encourages MLS to provide owner education and/or consider utilizing its authority in accordance with By-law 349-14 to seize and impound dogs where the owner fails (or refuses) to leash his or her dog in accordance with the applicable By-law.

MLS provided information about dog owner education campaigns, as well as MLS' authority to seize and impound dogs, as part of a March 2024 staff report ([2024.EC10.2](#)).

MLS Officers undertake weekly proactive enforcement patrols in priority parks where there are persistent and problematic bylaw compliance issues affecting community safety, including dogs off-leash. Most other parks are visited monthly by MLS staff, whereby all aspects of relevant bylaws are assessed for compliance.

Staff agree that most dog attacks can be prevented if dogs are kept on a leash. A communications strategy is being developed to remind residents that it is a bylaw requirement for all dog owners to keep their dogs on leashes when out in public (except when in designated dogs off-leash areas), and to communicate that the most effective action owners can undertake is prevention. The communication plan will include public education, a media strategy, and a paid advertising campaign.

Section 349-14 states that any dog found at large contrary to provisions of Chapter 349 may be seized and impounded by MLS' Executive Director. A dog owner has up to five days to retrieve their dog. A dog is at large when it is found on any property other than that of the owner and is not under control of the owner, except where the owner of the property permits the dog to be on their property.

TAS seizes and impounds reported at large dogs when no owner is present. When a dog is off-leash on private or public property (not including dedicated off-leash areas in City parks) and the owner is present, the dog is not at large so the seizure powers in section 349-14 of Chapter 349 would not be applicable. In those cases, MLS Officers continue to educate the owner about bylaw requirements and the importance of always keeping dogs on a leash and under control. Officers may also take enforcement action when appropriate, including laying charges.

Additionally, in 2023 TAS received 1,243 service requests for at large dogs and 651 service requests for off-leash dogs. MLS also received over a thousand service requests for off-leash dogs in City parks. It would not be feasible or an effective use of resources to seize and impound this volume of dogs.

4. Issuance of Subpoenas

The Tribunal Chair suggests that MLS consider utilizing its authority to seek to obtain a summons to witness pursuant to section 12 of Statutory Powers Procedure Act R.S.O. 1990, c. S.22. to ensure that witnesses attend a dangerous dog hearing and can be cross examined, rather than submitting a written witness statement.

The Chair acknowledges that an independent witness may be reluctant to attend a dangerous dog appeal hearing for a number of reasons, choosing rather to submit a written statement, and that witness statements are helpful and are significantly less invasive than oral testimony at a hearing.

As a party to a Tribunal hearing, MLS has the authority to request the Tribunal issue a summons to require an individual appear as a witness and/or provide evidence. If the Tribunal grants the request, MLS must serve the summons order on the individual.

MLS independently determines what evidence to present to the Tribunal for each hearing to support its case, including how to present such evidence and when to seek to obtain a summons. MLS has not typically sought summons for a witness to appear at a hearing. When possible, the Officer who led the investigation of the dangerous act will attend the hearing, and other witnesses may voluntarily appear at the hearing without a summons. Staff also rely on written statements, photographs, and other relevant evidence.

Requesting and serving a summons can take some time, and if a summons is issued during a hearing, a decision on the hearing is delayed until the witness attends. Staff also note that where an individual is served a summons and appears at a hearing, the party that requested the summons is responsible for paying the individual the fees described in section 12(3.1) of the *Statutory Powers Procedure Act*. These are among the various factors MLS weighs in determining whether to seek a summons.

5. Enforcement of Dangerous Dog Orders

The Tribunal Chair supports increased enforcement and proactive measures to ensure compliance with Dangerous Dog Orders, as well as efforts by the City to foster a culture of responsible pet ownership, safeguarding the security of neighborhoods.

TAS undertakes regular compliance checks to ensure dog owners comply with requirements of a Dangerous Dog Order. TAS also investigates any 311 service requests related to non-compliance with Dangerous Dog Orders. If there is non-compliance with any part of the order, enforcement action may be taken, which can include the laying of charges.

In addition, beginning at the end of April 2024, Officers are proactively visiting all owners of dogs with Dangerous Dog Orders to deliver a new standardized dangerous dog warning sign, which must be visibly posted on their property. Staff will also remind owners of the requirements of their Dangerous Dog Order. If there is non-compliance with any part of the order, enforcement action will be taken.

As directed by City Council, to further support public safety the City has posted online a public registry of dangerous dogs that includes the first three digits of the postal code for the dog owner, ward number, the dog's name, breed and colour, bite severity, and the date of the dangerous act. Staff are working on integrating this data into map form.

As noted in [2024.EC10.2](#), the City is planning annual public education and communications strategies in 2024 and 2025 to support enforcement and compliance, and public safety, with the goal of reducing the occurrence of dog attacks. There is a need to change public behaviour and increase awareness of why dogs need to be leashed, how owners can prevent dangerous dog acts, and how people and children can safely interact with dogs.

6. Recourse for Breach of Dangerous Dog Orders

The Tribunal Chair recommends that Chapter 349 be amended to add stiffer penalties (such as a substantial fine and/or the seizure of the dog and potentially banning the owner from owning or keeping a dog for a specified period of time) where dogs subject to a Dangerous Dog Order are found in violation of an existing Dangerous Dog Orders.

MLS continues to take enforcement action, as appropriate, if there is non-compliance with any part of a Dangerous Dog Order or other violations of Chapter 349.

MLS routinely assesses its set fine orders to determine if the fine amounts on Part I tickets are appropriate. MLS is currently applying to the Province of Ontario for higher Part I set fine penalties under Municipal Code, Chapter 349, Animals, and Municipal Code, Chapter 608, Parks for offences related to not taking reasonable precautions to prevent a dangerous act, non-compliance with a Dangerous Dog Order, and allowing a dog to be off-leash in a non-designated area. Part I set fines cannot exceed \$1000.

MLS may also pursue charges through the courts for violations of Chapter 349. In these cases, the courts determine fine amounts upon conviction, which may be up to \$100,000.

Seizing a dog or banning an owner from keeping a dog are part of the provincial statutory regime and are outside the authority of the Animals Bylaw. MLS considers proceedings under the provincial Dog Owners' Liability Act when appropriate.

CONTACT

Dr. Esther Attard
Director, Toronto Animal Services
416-678-4751
Esther.Attard@toronto.ca

SIGNATURE

Carleton Grant
Executive Director, Municipal Licensing and Standards

ATTACHMENTS

Attachment 1 - 2023 Annual Chair's Report for the Dangerous Dog Review Tribunal