

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

### **City of Toronto Dangerous Dog Review Tribunal 2023 Annual Chair's Report (for the Economic and Community Development Committee)**

**Overview.** In 2023, the Dangerous Dog Review Tribunal positioned itself for what would become one of its most active years on record.

**New Tribunal and Chair.** On May 15, 2023, the City appointed new members and a new Chair for a four-year term, beginning May 15, 2023 and ending November 14, 2026. Other members were appointed on November 21, 2023 and December 13, 2023. Despite these changes in leadership and membership, the Tribunal remained committed to engaging in efficient, fair and equitable decision-making.

Efforts have been made to ensure that all scheduled Tribunal hearings maintain quorum and Request for Reviews are promptly attended to. Building on the framework established by the former Chair and Tribunal, the designated non-sitting Member is tasked with overseeing any Request for Review that arise during meetings in which they are not actively participating. In addition, there is always a non-sitting member that is obligated to be available to ensure that the Tribunal always maintains quorum in the event that a scheduled member is unable to attend a hearing. This proactive approach not only facilitates timely adjudication but also mitigates the risk of hearings being cancelled due to failure to maintain quorum.

**Increase in number of appeals.** Alongside a documented rise in the number of dogs registered with the City of Toronto in 2023, there has been a corresponding increase in off-leash dog incidents. Consequently, this upward trend has led to a corresponding rise in the issuance of Dangerous Dog Orders. The statistics from 2022 and 2023 reveal a significant increase in appeals and confirmed Dangerous Dog Orders.

In 2022, there were a total of **16 hearings and 2 requests for review**:

- 4 matters were *deferred* to a new date:
  - 1 matter was adjudicated in 2022 (1 confirmed)
  - 3 matters were adjudicated in 2023 (2 withdrawn, 1 confirmed)
- 12 *confirmed* Dangerous Dog Orders
- 0 matters withdrawn
- 0 rescinded Dangerous Dog Orders
- 2 requests for review:
  - **1 Denied:** 1 request for review by the Appellant (rehearing denied)
  - **1 Granted:** 1 request for review by the Appellant (rehearing granted, which occurred on April 4, 2023)

In 2023, there were a total of **35 hearings and 1 request for review**:

- 9 matters were *deferred* to a new date:
  - 5 matters adjudicated in 2023 (5 matters confirmed: Wong, Chiang, Vafaeian, Spence, Orlovsky)
  - 3 matters deferred to 2024 (3 matters confirmed: Milligan, Whitlock, Chilton)
  - 1 matter deferred to 2024 (not yet heard: Davidson (deferred twice))
- 20 confirmed Dangerous Dog Orders
- 2 matters withdrawn
- 4 rescinded Dangerous Dog Orders
- 1 request for review:
  - **1 Granted:** 1 request for review by the Appellant (rehearing granted, which has yet to be scheduled)

**Request for review/Request for reconsideration.** Pursuant to section 21 of the *Dangerous Dog Review Tribunal Rules* (“the Rules”), a party can make a request for review (or, request for reconsideration) of a decision if such a request is done in accordance with the *Rules*, within 30 days of the Tribunal’s written decision. Subject to the *Rules*, a non-sitting member (i.e. a Tribunal member who did not participate in the original appeal hearing) has the authority to consider a request for review. Should the request for review raise a convincing and compelling case, the non-sitting member may order a rehearing of the proceeding, in whole or in part.

**Items for Consideration.** This report includes 6 issues for consideration by the Economic and Community Development Committee.

1. **Input from Dog Owners During Initial Investigation.** Dangerous Dog Orders have a significant impact on families and should only be issued after a conscientious and comprehensive investigation. The role of the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto, or any person acting under his or her authority, should be to engage in a thorough investigation and make reasonable efforts to communicate with all parties, including any interested parties, prior to issuing the Dangerous Dog Order. The Tribunal Chair recommends that the By-Law be amended by City Council, in the interest of fairness, to ensure that the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto, or any person acting under his or her authority, **make all reasonable efforts** to investigate alleged dangerous acts and communicate with the defendant dog owners prior to issuing a Dangerous Dog Order. In this regard, it is beneficial and in the interest of procedural fairness to require that the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person acting under his or her authority to make all reasonable efforts to obtain firsthand information from the defendant dog owner and any witness to the incident prior to a Dangerous Dog Order being issued.
2. **Definition of “severe”.** Currently there is no definition for severe in the By-law. The Tribunal Chair recommends that the term "severe" be defined within By-Law

349-15. Providing a precise definition for this term would offer much-needed clarity and consistency in interpreting and applying what qualifies and meets the threshold of a dangerous act. Such clarity is paramount in ensuring fairness and accuracy in the determination of what is deemed a dangerous act. By defining "severe", the Tribunal Chair hopes that this will enhance transparency and uphold the integrity of the Dangerous Dog Order regulatory framework.

3. **Off-leash in public areas.** The Tribunal Chair notes that there have been several instances of dogs, both defendant dogs and victim dogs, being off leash in public areas that are not designated areas of a City park as permitted by Chapter 608. Being off leash can instigate uncontrolled – and perhaps aggressive – interaction between dogs. The Tribunal Chair strongly encourages the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person acting under his or her authority 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.
4. **Issuance of subpoenas.** A witness often can provide helpful and compelling testimony or evidence regarding facts pertinent to a dangerous dog matter. However, 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. The Tribunal Chair acknowledges that witness statements are helpful and are significantly less invasive than oral testimony at a hearing. However, the right to cross examine should be jealously protected, as it is a fundamental safeguard for ensuring procedural fairness and upholding the principle of due process. Accordingly, the Tribunal Chair strongly urges the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person acting under his or her authority to 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.
5. **Enforcement of Dangerous Dog Orders.** The effectiveness of Dangerous Dog Orders hinges on their enforcement. Accordingly, the Tribunal Chair is urgently calling for greater enforcement efforts and increased proactive measures by the Executive Director of the Municipal Licensing and Standards Division of the City of Toronto or any person acting under his or her authority to address this pressing issue. Public safety is of utmost concern. In addition to enhanced enforcement measures, the City must work to foster a culture of responsible pet ownership, safeguarding the security of our neighborhoods. So, while this recommendation may be ultra vires the jurisdiction of the Tribunal, the significance and value of enforcement of Dangerous Dog Orders is directly related to the ability and willingness of the City to enforce Dangerous Dog Orders.

6. **Recourse for Breach of Dangerous Dog Orders.** The issue of recidivism amongst dogs who are subject to a Dangerous Dog Order pose a significant public concern, particularly in light of recent dog attacks that have been highlighted in the media. The Tribunal Chair recommends that the By-law 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) should be considered where dogs subject to a Dangerous Dog Order are found in violation of an existing Dangerous Dog Orders (in addition to dogs who are found to be in violation of an existing Dangerous Dog Order while waiting for an appeal). Dogs that have already been subjected to a Dangerous Dog Order and subsequently engage in further dangerous acts as defined by the By-law must be addressed swiftly and effectively. It is crucial to implement appropriate measures to mitigate against the risk repeat offenders pose to public safety. Taking decisive action in such instances can help prevent potential harm while upholding the integrity of the Dangerous Dog Order regulatory system.

**Final Comments.** In closing, the Tribunal Chair and the Panel extend sincere appreciation to Bradley Bartlett, our dedicated Tribunal Secretary, and Amanda Wahl, our Council Administrator, along with Carlie Turpin, Manager, for their diligence and hard work. We are also grateful for the invaluable legal assistance provided by Scott Nowoselski.

Respectfully,  
March 28, 2024  
Tracey L. Hamilton,  
Chair, Dangerous Dog Review Tribunal