

IN THE MATTER of the Dog Control Act 1996

AND

IN THE MATTER of an objection by Roxanne Wrigley to a Notice of Classification of Dog as Menacing Dog pursuant to s33A(2) of the Act

BEFORE THE WAIKATO DISTRICT COUNCIL REGULATORY SUBCOMMITTEE

Chairperson: Cr Dynes Fulton

Member: Cr Janet Gibb

HEARING at NGARUAWAHIA on 21 November 2018.

APPEARANCES

Ms Roxanne Wrigley (Objector)

Mr Gavin Bowden (Support person / father)

Mr M Te Anga – Waikato District Council (Animal Control Team Leader)

Ms C Pidduck – Waikato District Council (Legal Counsel)

ALSO PRESENT

Peter Derbyshire (Complainant)

Patricia Derbyshire (Wife of Complainant)

RESERVED DECISION OF THE SUBCOMMITTEE

Having considered the information presented in writing, and in person at the hearing, the subcommittee uphold the Menacing Dog Classification imposed under the Dog Control Act 1996.

The consequence of the decision is that the Notice of Classification of the dog 'Ripley', a brown female Rottweiler cross, as a Menacing Dog remains in place.

Introduction

- [1] This decision relates to a history of Ripley exiting the registered home property at 68 Waerenga Road, Te Kauwhata on five occasions and behaving aggressively, including barking and straying.

- [2] The last occasion on 1 September 2018 being the worst. On this date at approximately 1:15pm Waikato District Council received a complaint that a large brown dog had exited the property and had attempted to attack the informant's dogs. The informant intervened and with the assistance of two bystanders, returned Ripley to the property.
- [3] The informant provided a statement to the Council. The dog 'Ripley' was then seized and impounded by Animal Control Officer 16, Joseph Waugh, who left a seizure notice at the property.
- [4] Based on the reported behaviour of the dog, the Council considered that Ripley posed a threat to the public and other domestic animals and issued a notice under s33A(2) of Dog Control Act 1996 ("the Act") classifying the dog 'Ripley' as a Menacing Dog.
- [5] Ms Wrigley, upon receipt of the Notice of Classification, lodged an objection to the classification and the matter was set down for a hearing.

Preliminary Matters

- [6] At the commencement of the hearing the Chair noted that the objector had not received the hearing reports and provided her with a copy. The Chair adjourned the hearing for 30 minutes for the objector to read and absorb the material in the report.
- [7] After establishing with the objector that she had received sufficient time to read and absorb the material, the hearing recommenced.

Ms Wrigley – Objector

- [8] Ms Wrigley told the Committee that in her opinion 'Ripley' was not a menacing dog and in fact loved attention. She has two children who adore the dog and also had a second dog – a female Labrador cross called 'Kushla', who live and play together with few issues. She said Ripley has never bitten anyone and is good around dogs and children. Ms Wrigley is not happy about imposing a muzzle on Ripley as she said it is not fair on the dog.
- [9] She went on to comment that since she had received the Notice of Classification, she had reduced her hours of work to enable her to spend more time with Ripley and her two children. She stated Ripley was an attention junkie and that she loved playing with other dogs when they went to the dog park and visited her father's dogs at his property. Her support person agreed with these sentiments.
- [10] When asked what her usual routine is, she explained that the dogs are out in the fenced yard during the night and during the day they are shut in a converted sunroom which has air flow and water and food is provided. The door is a screen door. Ms Wrigley is usually home from work in time to collect the children from school and take

Ripley for a walk and to the dog park, where she runs around and socialises with other dogs.

- [11] When asked to describe the property and fencing, Ms Wrigley explained the height of fences and gates as well as talking the Committee through the electronic containment system and that she has increased the strength of the signal. Since this has been done Ripley has not exited the property. Ms Wrigley provided a hand drawn site map for the Committee.
- [12] The Committee asked Ms Wrigley whether the school or the caretaker of the school (which is next door to the property on Waerenga Road, Te Kauwhata) had ever spoken to her about the dog Ripley's behaviour, in light of the comments read in the Hearing reports. Her response was NO.
- [13] The Committee asked Ms Wrigley if she had noticed any increase in Ripley's behaviour – territorial aggression versus other aggression due to the allegation that it has become worse. She said NO and that Ripley is still a young dog and has a lot of energy and likes attention.

Mr M Te Anga – Animal Control Team Leader

- [14] Mr Te Anga directed the committee to his report in the hearing agenda. He explained that the body language of the dog Ripley was aggressive and in his opinion was a threat to public safety. He offered that the Committee view a short video taken by the Animal Control Officer, of Ripley.
- [15] The Committee viewed the video showing Ripley coming to the call of the Animal Control Officer, stopping at the electronic barrier and barking and standing in the explained aggressive stance – front legs stiff and tail high and although wagging being stiff.
- [16] The property showed good fencing and explanations were provided by Ms Wrigley and her father of the property layout shown in the video clip.
- [17] The Committee asked Mr Te Anga to explain the meaning in practical terms of s33E Effect of classification as menacing dog. It was noted at this point that the dog Ripley has been de-sexed at 1 year of age, contrary to Council records. It was also explained by Mr Te Anga and Council's Legal Counsel that a muzzle is not required when a dog is on any private property. It applies when in any public place or in any public shared right of way, where it must be muzzled and on a lead or caged.
- [18] It was also explained that the confinement on private property needed to be in a way that allowed any person to gain access safely to the front door of the house.

Ms Wrigley – Right of Reply

[19] The Committee asked Ms Wrigley if she wished to add anymore to her comments. Ms Wrigley appealed to the Committee to not restrict Ripley’s ability to play and have fun with her family. She stressed she has made further changes to her situation to improve the safety conditions. Also to reduce excess energy that Ripley has, by increasing her exercise and going on doggy play dates to further socialise her.

[20] At the conclusion of the hearing the Chair asked if there were any final comments or anything further that the Complainant wished to add to his statement. There was nothing further.

[21] The Committee asked Legal Counsel to outline clearly what the options are for the Committee. She stated the Committee has only two options in considering the objection to the menacing classification:

- Uphold the menacing classification
- Rescind the classification

[22] The Committee asked Legal Counsel to outline what the options are for the Objector. Legal Counsel advised that the objector had appeal rights to the District Court from the decision of the Committee, however she subsequently advised on review of the legislation there are in fact no statutory rights of appeal from the decision of the Committee. The decision of the Committee regarding the imposition of the menacing classification is therefore final.

Statutory Considerations

[23] In making its determination on this objection, the Committee must have regard to the following matters, as outlined in section 33B(2) of the Dog Control Act 1996:

- 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.

[24] The Committee has reviewed the evidence received and is satisfied that there is a clear, undisputed understanding of the incidents that led to the menacing classification being made.

[25] The Committee heard from Ms Wrigley, Ms Wrigley’s support person and Mr Te Anga and asked questions.

[26] There were no other matters that the Committee considered relevant to this matter when making a determination on it.

Reasons for the Decision

[27] The Committee notes that the objector, Ms Wrigley, did not dispute the facts and accepted that her dog Ripley exited the property and approached other dogs and their owner. Ms Wrigley, however, does dispute that the behaviour exhibited by Ripley is aggressive, or that Ripley intends harm to people and other dogs.

[28] The Committee notes that Ms Wrigley has taken further steps to contain Ripley in the property. This does not address the aggressive behaviour that has been recorded by the animal control officer and supported in a video shown at the hearing.

[29] The Committee determines that when in public Ripley would show the same behaviour she has demonstrated to date and the public can only be protected by the muzzling of Ripley.

SIGNED ON BEHALF OF THE REGULATORY SUBCOMMITTEE:



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Cr Dynes Fulton (Chairperson)

4th Dec. 2018.

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Date