
Appeal To: Parkland County Council

Prepared By: Geoff Heritage, Manager of Enforcement Services

Subject: Animal Control Bylaw No. 2015-09 – Section 7 Vicious Dog Declaration Issued July 28, 2017 to Appellant Michael Podolak by Parkland County Enforcement Services

AUTHORITY:

- Under the authority of the Municipal Government Act, R.S.A. 2000, c. M-26, the municipality of Parkland County was given authority to pass Bylaws, including Bylaw No. 2015-09,
 - *“for the purpose of regulating animals to promote responsible animal ownership”; and*
 - *for “respecting the safety, health and welfare of people and the protection of people and property ...and activities relating to them”; and*
 - *“it is desirable and in the best interest of the public to pass a bylaw to regulate and control household pets...”*
- Animal Control Bylaw No. 2015-09 does not require that a hearing be held prior to a declaration, but does allow for an Appeal process.

IN ACCORDANCE WITH BYLAW NO 2015-09

SECTION 1 - DEFINITIONS:

- (t) *“Trespasser” means one who intentionally and without consent or privilege enters another’s property*

SECTION 7 – VICIOUS DOGS:

7(1) *“The Manager of Community & Protective Services may declare a Dog to be a Vicious Dog.”*

7(2)(a) *states “A Dog shall not be declared Vicious if it attacks or bites a trespasser on the property of its Owner, or property controlled by him / her.”*

- Parkland County is satisfied that the Victim of the biting incident involving the Appellant’s dog was **not a Trespasser**.
 - The Victim’s elderly parents resided in a second domicile located on the Appellant’s property, the victim had attended the property on several occasions over the past several years.
 - Several sworn Statements confirm that the wife of the Appellant and the Victim were familiar with one another.

RATIONALE FOR DECLARATION:

The Appellant’s dog did bite the Victim

- The Appellant’s dog did engage in “playful” behaviour with the Victim in the past, as confirmed by sworn Statement
- In spite of a familiarity between the Victim and the dog, the dog chose to attack the Victim

- The Appellant has stated that there was an agreement between the Appellant and the Victims parents to provide advance notice to the Appellant of anyone attending the property.
 - A health care provider, who cared for the Victims parents residing on the Appellant's property, attended the property frequently over the course of several years without providing advance notice to the Appellant
 - Sworn statements obtained during the investigation show that the Appellant did not erect notices, gates or restrict access to the property prior to the attack, where the Appellant's dog was allowed to run at will
 - The Appellant's wife, according to a sworn Statement, indicated that she was vacuuming at the time of the attack and was not in care and control of the Appellant's dog
- Parkland County has an obligation to protect members of the public from an unnecessary attack or injury in the future
- The Appellant's dog, who is permitted to run at will on the Appellant's property, is also not restricted from leaving the property
- The Appellant chose to rent a second domicile on their property, while allowing the dog to run at will and without restriction