

**MINUTES OF THE
PROPERTY STANDARDS / ANIMAL SERVICES APPEAL COMMITTEE
MEETING HELD IN PERSON AT AJAX TOWN HALL
65 HARWOOD AVENUE SOUTH, AJAX
AT 7:02 p.m. ON THURSDAY APRIL 11th, 2024**

Present:	Members	- L. McNally, Chair - M. Kinsella - P. Went - J. Black
Absent		- A. Mendonca
Staff		- A. Garces, Committee Secretary - D. Hannan, Staff Resource - T. Fernandes, Officer

1. Call to Order

Chair McNally called the meeting to order at 7:02 p.m. and recited the Town of Ajax's Acknowledgement of Traditional Treaty Lands. She explained the procedures and format of the meeting to everyone in attendance.

2. Disclosure of Interest

None

3. Approval of Minutes

Member Black informed the committee that the minutes of the Property Standards / Animal Services Appeal Committee held on August 22nd, 2023, had an error on where it lists Member J. Black as the Acting-Chair.

Moved by – Member Went that the amended minutes of the Property Standards / Animal Services Appeal Committee held on August 22nd, 2023,

All in favour.

Carried.

4. Public Meeting Appeal

4.1 Animal Services Appeal Committee

4.1.1 Oliveira – 45 Tulloch Drive

Chair McNally asked if Mr. Oliveira (Appellant) was present. The Appellant acknowledged from the gallery.

Chair McNally asked Officer Fernandes to present her testimony.

On March 11, 2024, The Town received a complaint from Desirea Lewis (victim). The Town was advised about a dog bite incident that occurred on March 9, 2024 in the shared laundry room at 45 Tulloch Drive, Ajax.

The victim stated that she was exiting the shared laundry, when the lower tenant of 45 Tulloch Dr opened the front door and let out a dog described as a Beige and White and Jack Russel Terrier and Shih Tzu mix type dog. The dog barked and immediately entered the shared laundry room. Desirea (victim) backed into the laundry room, where the dog, Zeus, went behind Desirea, bit her on the leg and then continued to jump up on her. The owner of the dog was not able to gain control of the dog for a couple minutes. The victim then got past the dog and entered her unit. This concluded the officer's testimony. A statement and pictures were received from the victim.

She performed a search of Docupet Animal Licensing System. Records showed an expired licence for "ZEUS" a beige and white, a Jack Russel Terrier and Shih Tzu mix type dog, owned by Paulo Oliveira (Appellant) of 45 Tulloch Drive, Ajax.

The licence was renewed the last week of March 2024. She performed a search of the property, 45 Tulloch Drive, and discovered that a previous Order to Restrain was issued on April 11, 2022.

March 18, 2024, she attended 45 Tulloch Cres, and was unable to speak with Paulo (Appellant) in person, she stated that she left a voicemail directing him to call her back to speak about an incident that occurred at 45 Tulloch Drive on March 9, 2024.

Officer Fernandes stated that she spoke to the dog owner Paulo (Appellant) via telephone. She informed him that she was there to investigate a possible dog attack and advised him that he did not have to speak with her, but that she would like to hear his side of the story. Paulo agreed to speak to her and stated he was aware of the incident, but the victim was not bitten. Paulo explained that he opened the door at the same time that Desirea was exiting the shared laundry room, to which Zeus got out. Paulo explained that Zeus went in front of the victim and barked at her, to which Paulo stated he immediately went and picked up Zeus. At this time, Officer Fernandes explained in detail the Town of Ajax Dog and Cat By-Law #48-2017 specifically in regards to knowingly or unknowingly allowing a dog to bite, as well as went over the fact that an Order to Restrain was issued to him in 2022. She advised him that she may issue a stricter Order to Restrain at a minimum.

On March 19, 2024, at the end of Officer Fernandes' investigation she concluded that this bite is a second incident with Zeus, and for the safety of the community a more stringent Order to Restrain should be issued.

On March 21, 2024, Officer Fernandes sent an Order to Restrain via registered and regular mail.

March 25, 2024, Officer Fernandes received letter from Appellant stating that the owner of the dog is appealing the Order to Restrain.

March 26, 2024, a registered letter sent to the Appellants on behalf of the Secretary of the Town's Property Standards / Animal Services Appeal Committee advising them of the time, date, pertinent information for the April 11, 2024, Appeal meeting.

Chair McNally asked if the Committee had any questions for the Officer.

Chair McNally asked Officer Fernandes if she was aware if the yard space of the property is a shared space and if both tenants have access to that space? Officer Fernandes replied

that she did receive clarification from the property owner and that it is a shared duplex. Stating that in both tenant's lease agreements, it does not state anything about the backyard, and that the backyard is a shared space including a shared shed that is also within the backyard.

Chair McNally requested the Appellant to now approach the podium and ask any questions he may have of the Officer. Appellant stated that he had no questions.

Chair McNally asked if there were any witnesses on behalf of the Town. There were none.

The Appellant was advised that he could now present his testimony. The Appellant said that when he moved to Tulloch Drive it was during COVID. He first went to view the basement apartment; he noticed that the current tenant had 2 dogs. The Appellant was then told that the people upstairs do not use the backyard. The upstairs tenants were a family of 5 and during the time they were there he had no problems or issues with them or the dogs. When Desirea (victim) and Chris had moved in they had known that the backyard was not shared. After a few months coming into spring, the tenants upstairs (victim) asked the landlord if they could use the backyard. The landlord told them no because the Appellant has the backyard but if they speak with him, he might want to share. The Appellant then agreed to share the backyard. The Appellant stated that they do not like dogs and every time my dogs would come out, they would start to scream and jump. He stated that the dogs are little Shih Tzu's not big dogs. The victim then claimed that his dog bit her, which was the first incident.

The Appellant explained that at this moment he has requested a FOI (Freedom of Information) because he would like to see the pictures of the bite because he says that this has gone too far. He stated that the victim's kid bit her on the leg not the dog because the child was beside her and the dog was barking. After that first incident they stopped using the backyard and all their stuff is in the front yard. The Appellant says the backyard is not shared, the shed is shared, and the hose shared. The back door is not shared and that is the Appellant's entrance to his basement unit. The only door they use is at the top door to go down to the laundry room which is also shared. The Appellant stated that 2 years later we have this current incident. He again does not think his dog bit her. It does not look like a bite and he has seen the pictures it looks like a kid's teeth marks. He has put up a ring door camera on his back door pointing towards the gate and he has gone through precautionary measures also. The people upstairs were all upset because they felt this invaded their privacy. He is not sure how it invades their privacy if it faces the fence and his side of the driveway. He has also inserted a peephole on his apartment door so in case they do come down he can hear them. The Appellant said that the laundry has been another situation. They are only allowed to do laundry 3 times a week now, prior to that they were doing laundry 5 times a week. Before the alleged dog bit the landlord found out that the upstairs tenants were doing laundry every day and when he was asked about it he did acknowledge that they were, which made the upstairs tenants upset.

The Appellant also believes that the victim caused this too, every time he would come close to opening the door, she would come out then go back into the laundry room. The Appellant says that on the day of the incident, he was exiting his unit with his one dog Teddy. Teddy started barking because he is 13 years old and half blind. His other dog Zeus then came out right beside him, by the time he turned around he was barking at her and did not have a chance to get behind her, at least from what he could see. If it did happen, he did not see it and where the bite was in the picture he believes the bite did not occur. The Appellant said the dog is now having seizures which began on Saturday. He has taken precautionary measures by putting up cameras and now that Zeus is having seizures and is on anti-

seizures medication he does not believe it would be a good idea to muzzle the dog. He spoke to his veterinarian about the current situation and muzzling the dog, which he said would not be favorable for Zeus but did not want to get involved.

The Appellant said he is ok with placing the dog on a leash to bring him upstairs, since it's only 3 days a week the upstairs tenants would have access to the stairs and laundry room. Regarding the hose and everything else they have access to but for the last couple of years if he is outside, they have always asked if they can grab the hose which he has always then grabbed the dogs so they can get what they need. A beware of Dog sign has also been put up on the gate as Officer Fernandes recommended and has done what he could.

Chair McNally asked the Appellant if his testimony was complete. Appellant replied that he had no issue with the people upstairs. He stated that the Officer is saying that it was a public space but it's not a public space because that is his entry door which would be like his porch. The other tenants have their porch out front where they have their BBQ picnic table or chairs, his is on the side. They can walk by using what they need, and he has never told them no, or to come back tomorrow. When the upstairs tenants are out, he knows they are there because they will leave the gate open or leave the shed door open and knows not to let the dogs out.

Chair McNally asked if the committee has any questions for the Appellant.

Member Went asked for a point of clarity of what was the Appellant asking from the Committee?

The Appellant replied "the muzzle restriction in the backyard". He says that the upstairs tenants and himself do not have any issues with each other. When they have needed anything in the backyard, he has let them pass all the time and the dog has never been muzzled or has had a problem with anyone else except for the victim.

Member Went wanted to be clear that the Order to Restrain asks for the muzzle to be on when entering the shared laundry "is that you don't want that to be in place?" The Appellant described the layout of the foyer between his apartment door, the laundry room door, and the stairs entering the space. He states that the laundry room door and his door are 3 to 4 ft away from each other. He states that it is a shared space, but his apartment door is right next to the laundry room.

Member Went asked for another clarification regarding the Appellant believe that the bite did not occur and that it was caused by something else. The Appellant explained that he has requested to see the pictures from the first incident through the Freedom of Information. When the first incident occurred, he did not want to cope with it because he got the backyard back the way he had it before. He didn't think it was a big deal, so he just let it go, but now after this incident he requested Freedom of Information regarding the first incident.

Member Black indicated that she had a couple of questions for the Appellant. She said that the Appellant indicated that the laundry is a shared space and asked if that is also part of your vestibule of your entrance to your unit. The Appellant replied, "kind of it would be". The Appellant went on to say that where the upstairs tenant's door would be they would have to come down the stairs where there is landing and the backyard door and go down another 5 steps where you have the laundry room and his door to his unit. Member Black asked if you would pass by his door to his unit to get to the laundry room. The Appellant said yes.

Member Black commentated that in terms of the previous Order to Restrain from 2022 it did require that the dog is to be on a leash when in shared spaces. Were you leashing your dog when it was in the laundry room previously? The Appellant responded that he (Teddy) was not in the laundry room, he was opening his door to go out and had the one dog Teddy. Teddy started barking and that's when Zeus came running out from behind him. Member Black then asked if he was leaving his door open when entering a shared space? The Appellant said he doesn't know how to describe it, its vestibule but the laundry is a separate room. The victim has access to the stairs to go to laundry room and I have access to the stairs to go out the side door. Member Black asked if the dog was outside of his unit in a shared space that was sort of a pass-through hallway why wasn't it on a leash? The Appellant said he came running out as the other one started barking as the the door was closed but he sort of put his nose through then made it out.

Member Kinsella asked if he didn't think his dog Zeus had bit the victim or had the opportunity to bite her, if he can describe the laundry room and if there was enough room from behind the door for the dog to enter. The Appellant said that the victim was sitting in there with a laundry basket with the door against her and against the door jam. member Kinsella asked if there was no way he (Zeus) could of went behind her? The Appellant said he didn't think he did and if he did, he got back pretty quick before he grabbed him. The Appellant went on to say that he didn't see him go there. He was barking then sniffing back to barking then I grabbed him and put him to the side. He then told the victim that she can go, the victim asked "who are you talking to?" and the Appellant replied "you, you can go now." The victim then proceeded to go upstairs. The Appellant continued to add that there have been other times when they are in the laundry room and hear him open the door and they don't even come out of the laundry room until they hear him go upstairs and out the back door. He also said that if he hears them go into the laundry room, he does not take the dogs out right away because he can hear the laundry room door open and close since its right there.

Chair McNally asked about the time in-between the 2022 Order to Restrain and this most recent incident. Recognizing that perhaps there is an issue between the neighbors that perhaps the neighbors do not like the dogs and that lead to a previous incident, what specifics steps did you take between then and now to prevent another altercation or incident? The Appellant said that he sees them outside with the hose or needing to grab the hose to bring it through the gate to use or when they open the shed to grab what they need he does not go outside. There is a window at the top of the stairs which he can look right into the backyard as soon as he sees the gate is open or the door to the shed is open, he does not go out. There is an area of grass which they are not supposed to be there, and he won't be able to see if they were. Up to the shed they will go back grab their stuff and back out. If he is out with the dogs they will then ask if they can go and grab whatever they have too. He says it's not shared because all winter no one goes back there. He is the only one that goes back there to shovel all the snow in the back. He says that it is shared yes but its shared respectfully if they need something he never denied them from going back there and getting what they.

Chair McNally asked if the backyard is fully fenced? The Appellant replied yes from the backyard but from the grass section to the shed no, there is an open area from the grass part to the shed where there is asphalt.

Chair McNally asked if there was ever a time that the dogs were in the backyard without the appellant? The Appellant replied no he never leaves them outside by themselves if they are not with him, they are with his girlfriend, but they are never unsupervised.

Chair McNally then said she wanted follow with a question that another of the Committee Members had asked with regards to the appeal tonight. She noticed that in the letter that the appellant submitted that the issues were not just with the muzzle but also leashing or a chain in the backyard. Chair McNally wanted to come back to the shared space and if the appellant can explain one more time how that access works. Chair McNally proceeded to ask if the Appellant has primary access to that backyard as part of your lease agreement and if they access it when and how? The Appellant said yes and that they don't access to the backyard, they only access the shed and the garden hose. Chair McNally asked if they have to pass through the backyard in order to do that? The Appellant replied no they just pass through the gate which he can show the pictures or was not sure if Officer Fernandes had pictures. Chair McNally asked the Committee members if they were interested in seeing those photos as they did not have them as part of their Agenda material. The Appellant indicated that he was not a computer guy so he doesn't know how to print them off his phone. Chair McNally said they did not need to see the pictures but she just wanted to make sure they follow procedure. The Appellant explains where the shed is in comparison to his door entry. Chair McNally asked if the access to his unit is at of the house more of a side door and if that's where the shed is, and the backyard is fenced separately from that? The Appellant replied no that the backyard is not fenced. The only fence is at the gate where the driveway is and around the perimeter of the backyard. He indicated that from the grass to the asphalt is all open. The appellant also states that the tenants do not use the grass part in the back, they have all their kids' toys in the front yard. They only access is to the shed once a month and the hose couple times a week in the summer to fill up he kids pool.

Chair McNally asked the Committee members if they had any more questions for the Appellant. Being none, Chair McNally asked if the Officer had any questions for the Appellant. Again, none.

Chair McNally asked the Officer and Appellant to restate their positions starting with the Town.

Officer Fernandes stated that due to this being the second incident, a more stringent Order to Restrain is the appropriate action. For the safety of the victim as well of the safety of the community Officer Fernandes believes that including the muzzling in sections 2 and 3 to be appropriate.

Chair McNally asked the Appellant if he had a final summary he would like to share with the Committee.

Appellant replied that he did not agree with the muzzling because he does not believe his dog bit her. He states that the victim has a 1 ½ to 2-year-old, plus a 5-year-old which have little teeth. If you see a picture of his dog's teeth, they are not that little, and his dog's teeth are also more together than what the pictures shows. He has also requested freedom of information so he can see what happened in the incident of 2022. The Appellant continues to say that when the first incident occurred, he did not pursue anything because he got the backyard back and didn't think it was a big deal. Since the second incident he now wants to see everything because he has a feeling the first time the dog didn't bite. The Appellant stated that when Officer Fernandes came by, he asked her if she would like to meet the dog, but she denied. When the first incident occurred 2 By-Law Officers came by, and he asked them if they would like to meet the dog which they did and they had no problems. He states

that he does not agree with the muzzle, that the dog has not had any issues with anybody else. He also thinks that his dog did not bite her.

Chair McNally stated that the Committee would now go into deliberation.

Member Black stated that her thoughts on this in terms of the previous Order to Restrain April 2022 request that the dog be leashed in any shared areas. Her concern is that the dog was in a shared area at this current incident when that took place and was not on a leash. Her concern is that the previous Order to Restrain was not followed. Member Black continues to say that if it had been followed perhaps, we wouldn't have had this incident that occurred. Her second point of concern is that the upstairs tenant has 2 young children and children can act very unpredictably and move in ways that can frighten dogs. Well, there hasn't been an incident of a bite yet, it does concern her that their potentially could be with children.

Member Kinsella states she echoed the same sentiments of Member Black, the fact that this is the second incident with this dog. Clearly, he wasn't leashed in the shared area is an area of concern she thinks it's kind of unfortunate do the age and health of the dog that it needs to be muzzled in the backyard especially given that it doesn't seem that the other tenants us the backyard all that much.

Member Went stated that he thinks that it looks like there is lot more going on in this household over and above the dog bit. In his opinion it does seem to appear there was a dog bite. From personal experience he thinks that this is a dog bite which can be quite traumatic for people, and to be in your own house and live in fear of another bite and it is a shared space someone should be able to live in their own house without that fear. He states that the dog needs to be restrained via chain or leach and if that can't be followed then yes the muzzle is required, he support the order as presented.

Chair McNally states that in respect to the age of the dog and having to be muzzled would be very unfortunate, she gets the sense that with this particular dog the issue is really between tenants sharing a property. That off the owner's property there doesn't seem to be any indication that there is an issue with respect to the dog's behavior. On point 3 of the Order which is with respect to "on property other than the owner's property" to maintain the requirement for the dog be on a leash but potentially eliminate the muzzle requirement in that environment because that would be under the control of the owner and might give would give dog the opportunity to have some relief from that requirement, that's just something that she can sort of propose. Chair McNally states that the other point she had in the Order to Restrain is point number 2 that perhaps it can be a little bit clearer. Typically, we say a leash or a chain in this Order we see "keep the dog restrained on a chain of sufficient strength" and potentially if the owner is with the dog that can be a leash or a chain, this is just a little wording issue that she has. Chair McNally goes on and states that she shares the same sentiments as Member Black about the issue of the previous Order to Restrain which wasn't followed in addition to the leashing in the shared spaces on the property. There was also a licence renewal issue although she recognizes that it has since been renewed, it has given her pause that the previous incident was not taken serious enough for the life of the animal.

Chair McNally asked if there we any other comments from the Committee before bringing forth the motion.

Moved by: Member Went entered a motion to uphold the order as presented.

All in favor.

Carried.

Chair McNally informed the Appellant the Committee is upholding the Order to Restrain without modification.

5. Verbal Update

5.1.1 Fairbairn – 925 Pickering Beach Road

D. Hannan, Staff Resource advised the Committee that the Order was upheld and believes that it's in compliance but would have to check with the Officer that has been involved because it has been reassigned to a new By-Law Officer. He believes that it is in compliance but was unable to find the Order tonight but does believe the tree was cut down.

6. New Business

D. Hannan, Staff Resource, advised the Committee that the Town had no new business.

7. Adjournment

Moved by: Member Went entered a motion to Adjourn the meeting.

All in Favour

Carried.

Chair McNally adjourned the meeting.

Chair