

# **Request for Decision**

Vicious Dog Appeal - ACR 835338

Presented To:	Hearing Committee
Presented:	Wednesday, Apr 17, 2019
Report Date	Wednesday, Mar 20, 2019
Type:	Public Hearings

#### Resolution

Option One:

THAT the City of Greater Sudbury upholds the finding of the Licence Issuer that the Dog is a vicious dog, pursuant to Section 33 (1)(a) of By-law 2017-22, as outlined in the report entitled "Vicious Dog Appeal - ACR 835338" from the General Manager of Corporate Services, presented at the Hearing Committee meeting on April 17, 2019.

#### Option Two:

THAT the City of Greater Sudbury upholds the finding of the Licence Issuer that the dog is a vicious dog pursuant to Section 33(1)(b) of By-law 2017-22, as outlined in the report entitled "Vicious Dog Appeal - ACR 835338" from the General Manager of Corporate Services, presented at the Hearing Committee meeting on April 17, 2019;

AND THAT the Owner be exempt from the requirements of By-law 2017-22, section(s): \_\_\_\_\_\_.

#### Option Three:

THAT the City of Greater Sudbury reverse the finding of the Licence Issuer that the Dog is a vicious Dog, pursuant to Section 33 (1)(a) of By-law 2017-22, as outlined in the report entitled "Vicious Dog Appeal - ACR 835338" from the General Manager

of Corporate Services, presented at the Hearing Committee meeting on April 17, 2019.

## Signed By

#### **Report Prepared By**

Melissa Laalo By-law Coordinator - Animal Care and Control Digitally Signed Mar 20, 19

#### **Manager Review**

Brendan Adair Manager of Security and By-Law *Digitally Signed Mar 20, 19* 

#### **Financial Implications**

Jim Lister Manager of Financial Planning and Budgeting Digitally Signed Mar 20, 19

#### Recommended by the Department

Kevin Fowke General Manager of Corporate Services Digitally Signed Mar 20, 19

#### Recommended by the C.A.O.

Ed Archer Chief Administrative Officer Digitally Signed Mar 26, 19

# Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

# **Report Summary**

City of Greater Sudbury By-law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals and the registration of dogs and cats. Part III of the by-law entitled "Vicious Dogs"; section 28 of the by-law, contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation. In response to a complaint of a dog attack that occurred on October 09, 2018, By-law Enforcement investigated the matter. In addition to three Part I Provincial Offence Notices, the Licence Issuer issued a Vicious Dog Notice to effectively deem the Dog vicious and impose restrictions to ensure the health and safety of the community. The Owners have appealed the notice, requesting a hearing of the matter by Committee of Council. The Committee may uphold or reverse the notice and its contents or, if the Dog is deemed vicious, may exempt the owner from all, or some of the requirements of Section 29, 30 or 31.

# **Financial Implications**

There are no financial implications associated with this report.

#### Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #835338, issued to Jennifer Hodgins, 3510 Keith Avenue, Chelmsford, City of Greater Sudbury.

#### **Background**

City of Greater Sudbury By-Law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals and the registration of Dogs and Cats. Part 3 of the By-Law entitled "Vicious Dog"; section 28 of the By-Law contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation.

The effect of the notice is to ensure the owner of a dog deemed vicious by receipt of the notice, erect vicious dog signs on the owner's property, muzzle and leash the dog when not inside the owner's dwelling at all times, provide that the dog is microchipped and requires the owner to obtain additional liability insurance.

The By-Law is specific about how the process is carried out and the contents of the notice. Several provisions in the By-Law for the issuance of the notice are mandatory requirements of the Registrar and of the recipient of the notice.

This section also provides for an appeal of the notice by the owner of the dog requesting a hearing of the matter by Council or Committee of Council. The Committee may uphold the notice and its contents, exempt the owner from the erecting of the signs, muzzling, leashing, microchipping or obtaining insurance requirements or from all, or may modify the conditions for any of these conditions.

#### **By-Law Procedure Vicious Dog Notice - 835338**

Part 3 of By-Law 2017-22 designates the Manager of Security and By-Law Services for the City of Greater Sudbury as the License Issuer pursuant to the By-Law, and By-Law Officers in Compliance and Enforcement have been appointed by the License Issuer to perform the task of issuing Vicious Dog Notices pursuant to the By-Law.

Subsection 28(1) of the By-Law states "The License Issuer may conduct an investigation to determine if a Dog should be found to be a Vicious Dog, where the License Issuer receives:

- (a) A written complaint, signed by the complainant, that a Dog has Attacked or Bitten a Person or a Domestic Animal without provocation or mitigating factors;
- (b) Particulars of the name and address of the owner of the Dog or adequate information to ascertain the Owner of the Dog which is subject of the complaint; and
- (c) Particulars of the Incident or Incidents giving rise to the complaint. and if deemed to be a vicious dog, requiring the owner to comply with any or all of the requirements set out in sections 28, 29 and 30."

A written complaint was received by the License Issuer from of	
, Greater Sudbury, requesting that the dog named """, kept at the address of	
, Greater Sudbury, be deemed vicious, based on an incident that	
occurred October 09, 2018.	

On Tuesday, October 09, 2018 at approximately 3:00pm, the Complainant and their dog "were attacked and bitten on their own property. The Complainant states that they were in their own yard cleaning their car. The Complainant then observed the complainant states that they were in their own yard cleaning their car. The Complainant then observed the care and control of an owner. The Complainant stated they attempted to get inside their home to avoid an attack however the dog known as "attacked unprovoked, pinned the Complainant against the front door, and bit the complainant resulting in puncture wounds to the buttocks region. The Complainant opened the door to their home to escape, where the dog "at this time entered the home as well and proceeded to attack and bite the Complainant's dog "at this time entered the home as well and proceeded to attack and bite the Complainant, the dog owner resulting in puncture wounds. It took three people at the scene, the Complainant, the dog owner said dog from the complainant's home during the attack on the complainant's dog.
Afterwards, the Complainant brought their dog "to seek medical attention and saw the Veterinarian at Animal Hospital. At this appointment it was noted that wounds resulted. The Complainant was provided with medication for pain and for prevention from infection as well as a buster collar to prevent further injury as stated in the invoice.
Greater Sudbury By-Law Enforcement Officer, Gerald Sagle, investigated this incident where the owner of the dog "", was served three Certificates of Infraction for the offences of "Owner of Dog or Cat Permit Dog or Cat to be at Large, Owner permit Dog to behave in manner endangering safety of Domestic Animal, Owner permit Dog to behave in manner endangering safety of Person " on October 10, 2018.
On October 10, 2018, Officer Gerald Sagle, as part of his investigation in Case #835338, reviewed and considered facts contained within the complaint letter and statements. Results of that investigation were presented to the License Issuer for consideration for a Vicious Dog Notice. It was determined that there was no provocation to the attack and bite on the Complainant and their dog "Limital". The Complainant was on their own property attempting to clean their car and entered their home in an attempt to get away from the attacking dog, and "Was inside the home behind a closed door.
Vicious Dog Notice, #835338, dated Wednesday, October 10, 2018, was prepared and delivered to the registered owner of the dog,
On January 16, 2019, the owner of vicious dog contacted the Licence Issuer to request removal of the Vicious Dog Notice, as explained by them; "it is profoundly incorrect that my dog attacked without provocation and there were no mitigating factors".
Relating to the Part I Certificate of Infractions that were issued to offences of "Owner of Dog or Cat Permit Dog or Cat to be at Large" "Owner permit Dog to behave in manner endangering safety of Domestic Animal" "Owner permit Dog to behave in manner endangering safety of Person", these matters are scheduled for Early Resolution to be heard in Provincial Offences Court on March 27, 2019 at 9:30am. Early Resolution is a formal court process, whereby a defendant has the option to meet with the Municipal Prosecutor to discuss the charge(s). Early Resolution meetings are typically used to ask the position of the prosecutor, to discuss the time to pay a fine, to request disclosure for the charge(s) or to discuss the possibility of pleading to a lesser offence supported by the facts.

#### Appeal Notice

A letter of appeal of the Vicious Dog Notice was received by the owner of the dog and the hearing was scheduled. (See Letter of Appeal is attached to this report.) A notice was sent to the owner of the dog advising of the date and time of the hearing.

#### Conclusion

In consideration of this report, the witnesses and the appellant, pursuant to subsection 33(1) the Hearing Committee may decide one of three options below;

- Uphold the Notice;
- 2. Modify the Notice exempting the owner from erecting vicious dog signs, muzzling or leashing, obtaining liability insurance or modifying any of these conditions; or
- 3. Quash the Notice exempting the owner from all requirements to muzzle and leash.

The License Issuer is confident that the Vicious Dog Notice issued to \_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, City of Greater Sudbury, satisfies the requirements of By-Law 2017-22, Part 3, Section 28, a By-Law to regulate the keeping of animals and the registration of Dogs and Cats. The purpose of the notice is to mitigate the recurrence of a similar incident and provide an assurance of safety for the area residents and the general public. The Registrar recommends that the Vicious Dog Notice be upheld by the Committee.

### **Supporting Documents**

- 1. Victim Statement 835338
- 2. Request to Deem Vicious 835338
- 3. Copy of Vet Bill
- 4. Ten (10) Investigation Photos
- 5. Certification of Infractions- PON 6155895B, 6155896B, 6155897B
- 6. Animal Registration 2018
- 7. Vicious Dog Notice
- 8. Letter of Appeal from Vicious Dog Owner
- 9. Officer Notes ACR 835338



Compliance and Enforcement Services PO BOX 5000, STN A 200 Brady Street Sudbury ON P3A 5P3 311

Long Distance: 705-671-2489 Fax: 705-671-0871

# **WITNESS STATEMENT**

Case ID: 835338 Date: October 9, 2018 Time: 3:00 pm
Witness Name: Address: (Surname) (First name) (Street) (City) (Postal Code)
Phone Number
Statement taken by: SAGLE Gerald 7850
Atapproximately 3:00pm on October 9, 2018  Cleaning  Car at  In the Front driveway  When could hear a dog barking
get back here" then heard  get back here" then turned to see a German Shepherd dog running towards  with teeth showing growting.  ran towards
German Shepherd jumped up back around the neck scratched back then pushed the dog down with right arm where the dog went on all fours and
two to three times, resulting in two puncture

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Compliance and Enforcement Services PO BOX 5000, STN A 200 Brady Street Sudbury ON P3A 5P3 311

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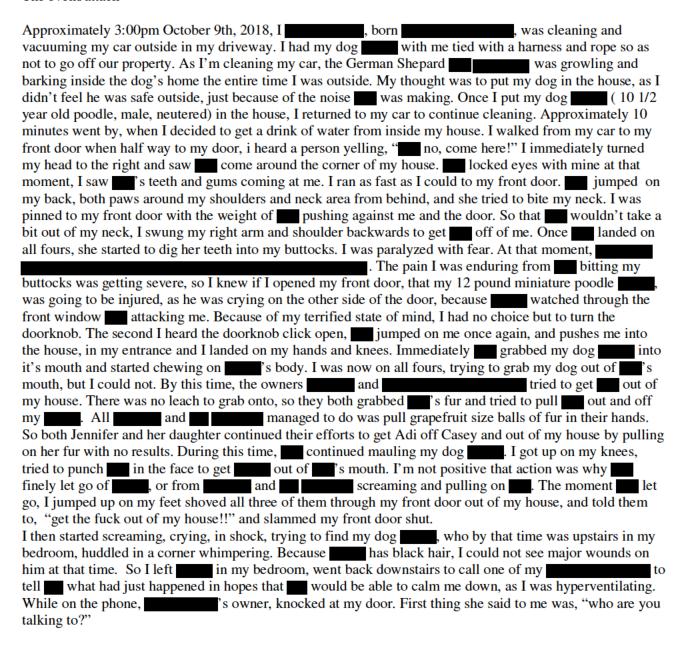
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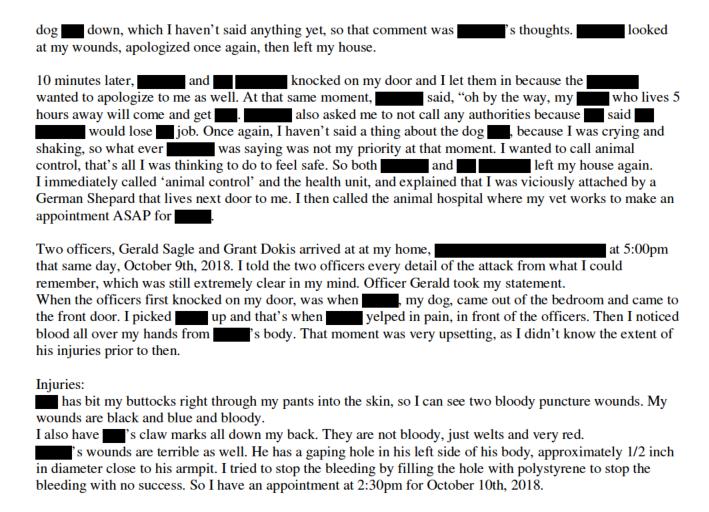
October 10, 2018

I, deem to the German Shepard who lives at vicious dog, I'm requesting on October 10th, 2018, for a vicious dog order to be put on this dog. My reasoning is from the event/attack that occurred on October 9th, 2018.

#### The event/attack



I found that very disturbing because said it with a loud voice. I told it was talking to my the phone, then said apologized to me for what happened. At that time, said was putting





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weight history (m kg)
10-10-18 7.50
02-02-18 7.00
01-10-18 6.80
11-07-17 6.70
08-12-15 6.50
06-28-16 6.30
06-27-16 6.30





















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# **VICIOUS DOG NOTICE #835338**

Pursuant to City of Greater Sudbury Animal Control By-law 2017-22

# **REGISTERED MAIL & HAND DELIVERED**



The City of Greater Sudbury is in receipt of a written complaint that your dog, registration number #2018——, has attacked another dog and person without provocation or mitigating factors on October 09, 2018.

As License Issuer pursuant to By-law 2017-22, a By-law of the City of Greater Sudbury to Regulate the Keeping of Animals, Responsible Pet Ownership and the Registration of Dogs and Cats, and under authority of Section 28 of the By-law, I deem your dog to be a vicious dog. Therefore, you are hereby required to comply with the requirements as set out in Sections 29, 30 and 31 of the by-law which states:

#### WARNING SIGN - VICIOUS DOG

- 29 (1) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog which has been found to be a Vicious Dog shall at all times display a warning sign purchased from the License Issuer:
  - (a) At that entrance to the Dwelling Unit of the Owner of the Vicious Dog, which a person would normally approach; and
  - (b) In a location and manner such that the sign will be clearly visible to a person approaching the entrance to the dwelling unit.
  - (2) Every Owner of a Dog which has been found to be a Vicious Dog shall:
  - (a) ensure that the sign purchased in accordance with subsection 29(1) is affixed to the Dwelling Unit or otherwise erected or placed in a manner that cannot be easily removed by a passerby; and
  - (b) replace the sign as required from time to time, in the event the sign is removed or defaced or otherwise becomes illegible.

(3) No Person shall remove a sign erected pursuant to subsection 29(1), while the dog found to be a Vicious Dog resides at that premises, except in accordance with paragraph 29(2)(b).

# CONTROL OF VICIOUS DOG

- 30 (1) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog, which has been found to be a Vicious Dog shall ensure that at all times when the dog is not on Premises owned or occupied by the Owner of the dog, the dog is:
  - (a) Muzzled;
  - (b) Securely fitted with a collar or harness in a manner such that the dog cannot detach the collar or harness;
  - (c) Leashed with a Leash securely attached to a collar or harness at all times in a manner such that the dog cannot detach the Leash from the collar or harness; and
  - (d) The Leash held by a Person who has the strength and capacity to securely control the dog so as to not permit or allow unwanted contact with another person or a domestic animal.
- (2) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog, which has been found to be a Vicious Dog shall ensure that at all times when the dog is on premises owned or occupied by the Owner of the dog, the dog is:
  - (a) Securely contained inside the Dwelling Unit of the Owner of the Dog or
  - (c) if outside the Dwelling Unit of the Owner of the Dog, the Dog is:
  - (i) Muzzled;
  - (ii) Securely fitted with a collar or harness in a manner such that the dog cannot detach the collar or harness;
  - (iii) Restrained by a chain or other restraint sufficient to prevent the dog from leaving the premises; and
  - (iv) Contained within a securely enclosed area, including a fence of an appropriate height for the breed of dog, constructed so as to prevent the dog from leaving the premise and in a manner such that the Vicious Dog is unable to come into contact with persons or other domestic animals
- (3) Unless provided to the contrary by the Hearing Committee, the Owner of a Dog, found to be a Vicious Dog shall provide evidence to the License Issuer that the dog has been Microchipped within 21 days of:
  - (a) The effective date of the service of the notice of the finding by the

License Issuer that the dog is a Vicious Dog, in the event that no Appeal is filed to the Hearing Committee; or

- (b) The date on which the Hearing Committee confirms the finding a dog is a Vicious Dog, in the event that an appeal is filed to the Hearing Committee.
- 31 (1) Unless provided to the contrary by the Hearing Committee, every owner of a dog, which has been found to be a Vicious Dog shall obtain and maintain in effect at all times, the person owns the dog found to be a Vicious Dog, a policy of liability insurance with an insurer licensed to operate in Ontario, providing for coverage in an amount not less than one million dollars per occurrence, for losses arising from injuries caused by the owners dog and providing for the City to be notified in writing of any cancellation, termination or expiry of the insurance policy.
- (2) Every owner of a dog, found to be a Vicious Dog shall provide to the License Issuer, evidence that insurance compliant with subsection 31(1) is in effect:
  - (a) Within 10 business days of the dog being found to be a Vicious Dog;
  - (b) On each application for a license or a renewal license for the Dog;
  - (c) Prior to the expiry date of any policy; and
  - (d) Upon request by the License Issuer.
  - (3) Every owner of a dog, found to be a Vicious Dog shall provide the information required under subsection 15(1) to the License Issuer writing within two business days of any change in ownership or residence of the dog and provide the License Issuer with the new address and telephone number of the owner.

As License Issuer and in accordance with Section 28(5)(c), I am advising you of your right, if exercised within 14 days of the service of the notice, that you may apply to the Hearing Committee, to seek one or both or a reversal the finding that the dog is a Vicious Dog and an exemption from any one or more of the conditions in section 29, 30 and 31; the process to do so; and the applicable fee for such hearing.

The process to apply to the Hearing Committee is as follows;

Application to Hearing Committee

32 – (1) An owner who has been given notice that his or her dog has been found to be a Vicious Dog, may apply in writing to the License Issuer for a hearing before the Hearing Committee established pursuant

to the City's Procedure By-law then in effect, and shall submit the applicable administrative fee for such applications. The application shall be filed within 14 days of the date that service of the notice under section 28 is effective.

The application fee for appeal hearings for Notices, as set out in Schedule CS-7 to the User Fee By-law 2017-24 is \$103.00.

Lastly and in accordance with section 28(6) of By-law 2017-22, the finding that a dog is a Vicious Dog shall be effective upon service of the notice under Section 28(5) and continue in effect unless and until such finding is revoked by the Hearing Committee.

Failure to comply with the provisions of this Vicious Dog Notice is an offence and will result in charges to the By-law and Provincial Offences Act.

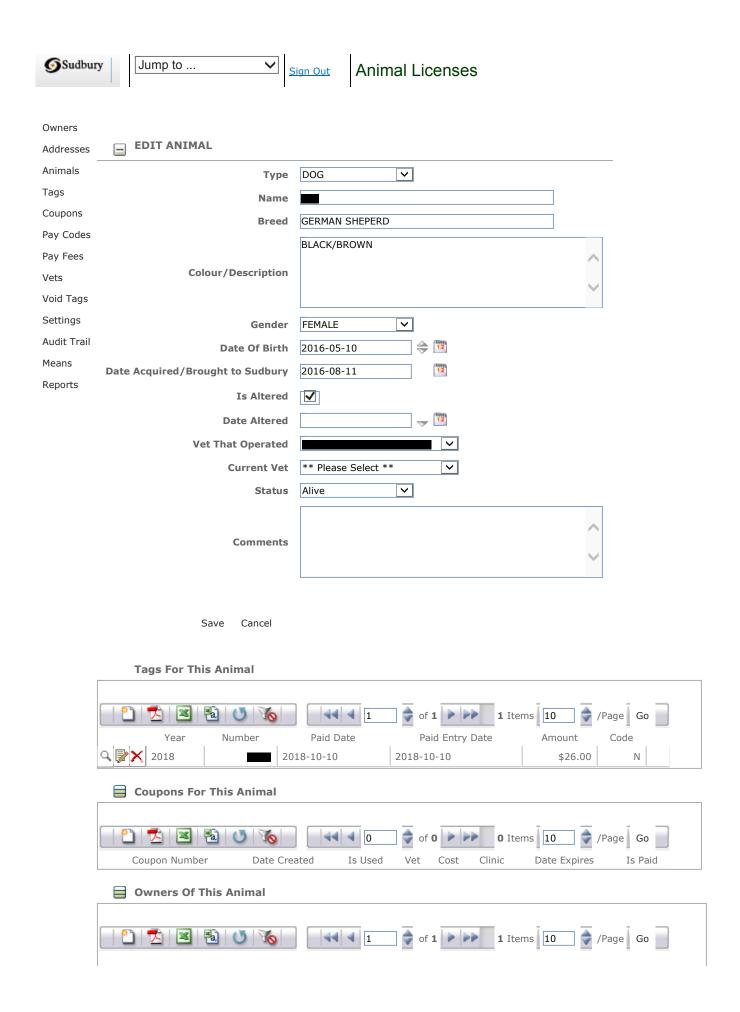
Dated this 10th of October, 2018

Brendan Adair, License Issuer

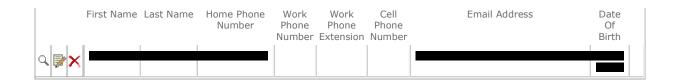
Manager of Compliance and Enforcement

City of Greater Sudbury

Edit Animal Page 1 of 2



Edit Animal Page 2 of 2



Animal Licenses Animal Licenses 1.1.161-5.0 Copyright 2016 City of Greater Sudbury. All rights reserved.

Haring Committee City of Greater Sudbury.

Oct 18,2018

incorrect a hearing to remove the victous clog order on my pet and Notice \$35338.

She is a Land half year old German Sheperd.

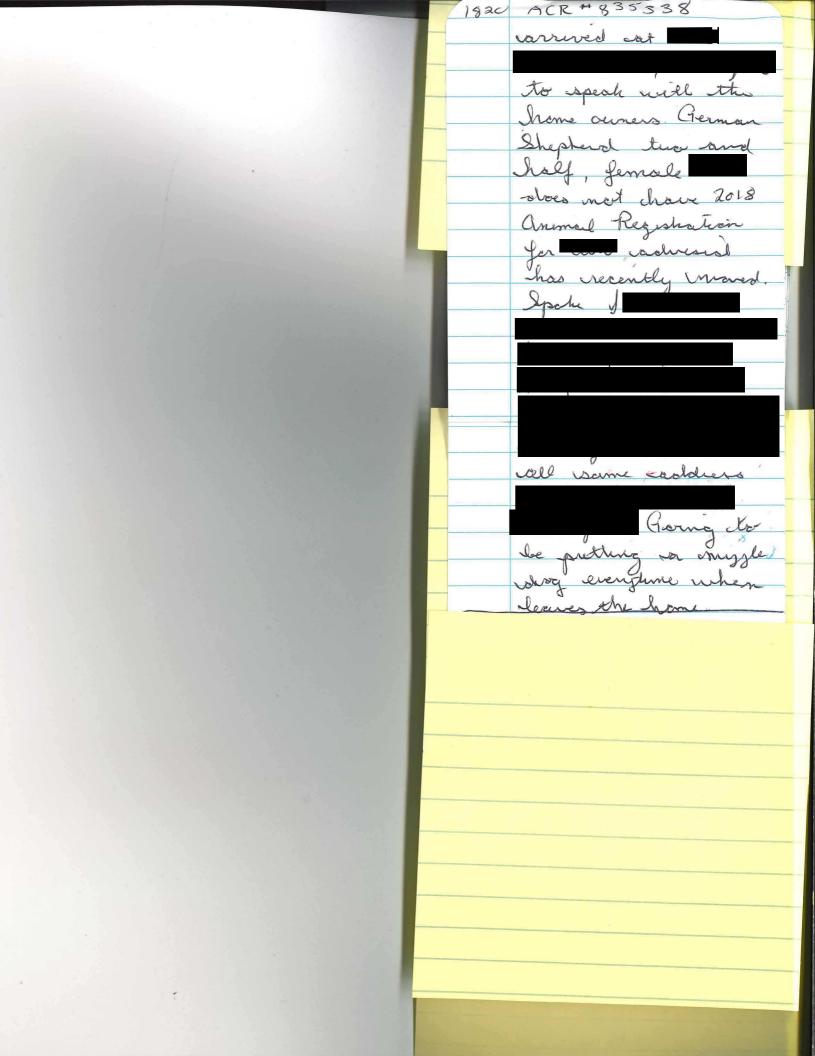
Microchip # The Notice

Stated that my dog attacked without provocation and there where no mitigating factors we feel this is profoundly incorrect based on witness accounts of the situation and would like to discuss it with the Committee

Thankyou in advance

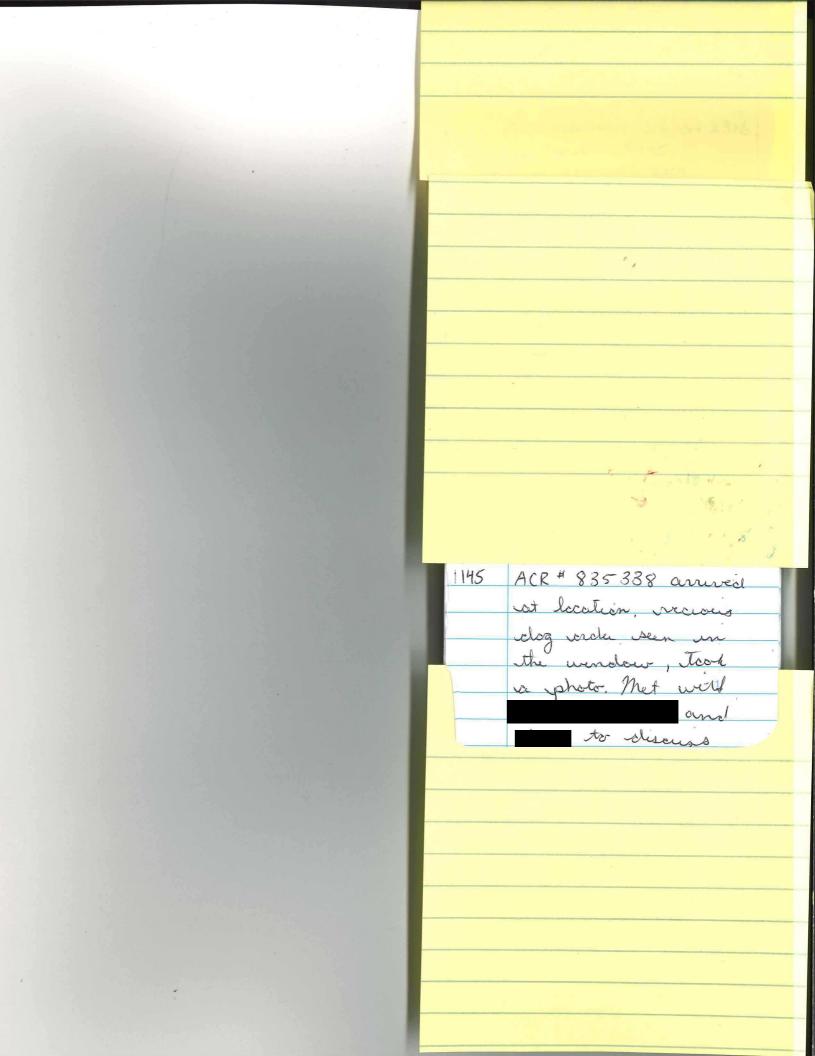
Jan 16,2019

1700 ACR# 835,338 arrived at location to speak regarding the event barling and the German Shepher run with liet on the lack, the Shepherd then attacked



1750 ACR# 835338 0 ACR # 835338 arrived 1830 to speak chocus matters occurred October 9,2018 regarding ricionis 181 dog options on

on home, advised not following through enformed would be discus 1850 ACR# 835338 spoke enforcement - alone



vicious slog croler. encloserre en clack jard, & was enformed that landord vadvered that it has 10 ench espeles cholding ento the ground, solvays has also enside the enclosure adused that they always have other alog ? on a sective least when Jacking outside, does not Teaux questioned why wit was permetted to take the dog down the street, but connat take the clay in the lackyard without an enclosure, unformed & could speak to my manga answer their muestion?

Notes:
BY-LAW OfficeR
G. DOKIS
09 Oct. 2018
ACR# 835338

1900 BLO Sagle took. Statement from from injuries buttocks) to Sagle observed scratch marks

Toward from + gullar Spoke to both ed very services + of possible victors Dog order of world be Pollowing of. Bho Eagle case

#1315