

**Chairperson and Committee Members**  
APPEAL HEARINGS COMMITTEE

**23 JANUARY 2013**

Meeting Status: **Public**

Purpose of Report: For Decision

## **OBJECTION TO MENACING CLASSIFICATION**

### **PURPOSE OF REPORT**

- 1 This report seeks the Committee's consideration and decision on the objection lodged by Rebecca Horn against the Classification of her dog, Ruby, as a Menacing Dog under Section 33a of the Dog Control Act 1996 (the "Act").

### **SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Council's Significance Policy

### **BACKGROUND**

- 3 Rebecca Horn is the registered owner of Ruby, a female, black and tan, Doberman cross.
- 4 On Saturday 17 November 2013 at 2.20pm Animal Control received a call about a dog wandering in Michael Road, Paraparaumu Beach. An Animal Control Officer responded to the call, drove to Michael Road and patrolled the area.
- 5 Brenda Cameron was walking along Michael Road with her two Shetland Sheepdogs, Loki and Rico, on leash. Brenda noticed her two dogs kept looking behind them, when she looked she saw that a dog was following them. This dog was Rebecca Horn's dog, Ruby. Ruby was not on a leash and was unsupervised.
- 6 Ruby caught up with Ms Cameron and her dogs, coming around her right side, and then in front of her and her dogs. Ms Cameron told the dog to 'go home'. She felt unsafe so went up a driveway along Michael Road and called for help. No one was home up the driveway so she walked back out to the street and decided to keep on walking.
- 7 Ms Cameron states the next thing that happened was that Ruby was 'on top' of Loki, then picked him up and was vigorously shaking him. Ms Cameron thought he was going to be killed. Ruby would not let go of Loki, Ms Cameron tried to kick her off him although she was in a tangle with dogs and leashes. Loki's leash and collar came off in the tangle. Ms Cameron picked up her other dog, Rico, and was screaming for help
- 8 At this time the Animal Control Officer arrived, witnessed what was happening and momentarily distracted Ruby, causing her to drop Loki. Ruby ran off down the road jumping at and trying to get Rico who was still in Brenda's arms. The Animal Control Officer again distracted Ruby and then set about trying to catch her.

- 9 Ruby ran to 65 Michael Road and sat at the doorstep of this property. Ruby was barking and growling at the Animal Control Officer, who knocked on the door. Rebecca Horn answered. The Animal Control Officer advised Mrs Horn of what had just occurred. Mr and Mrs Horn were very surprised to hear that Ruby had been wandering as they thought she was in their back yard. Ruby was seized under Section 71 of the Dog Control Act 1996 and was held pending investigation. Attachments 1 – 3 show where the incident took place and the dogs concerned.
- 10 Loki was taken to the vet and was treated for four puncture wounds, two at the top of his neck and two on the underside of his neck. Loki also suffered bruising. He was treated with antibiotics and pain relief. The initial vet bill was \$176.60 with a follow up bill of \$73.22.
- 11 Mr Horn immediately (that day) constructed a second gate on the property to prevent Ruby from scaling the front fence by getting her toe on the railing and jumping over it.
- 12 Mrs Horn has been very co-operative and compliant, there was no hesitation in paying the vet bill's. She has sought the services of a dog behaviourist and Ruby is now in a training programme with Canine Solutions. Both Mr and Mrs Horn were very distressed and are genuinely remorseful for this incident.
- 13 After investigation, Mrs Horn was issued with an infringement notice (\$200 payable) for failure to control Ruby and the dog, Ruby, was classified as menacing. On 2 December 2013 Mrs Horn advised the Council she objected to the classification and wished to exercise her right to appeal the decision.

## CONSIDERATIONS

### Considering the Objection

- 14 Section 33B of the Act states that, when considering an objection, the territorial authority may uphold or recind the classification, and in making its determination must have regard to:
  - (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 matters*
- 15 The following paragraphs provide information relevant to Section 33B of the Act for the Committee's consideration
  - (a) *the evidence which formed the basis for the classification;*

Rebecca Horn's dog, Ruby, was classified Menacing due to an incident where she escaped from the property unbeknown to her owner and attacked a dog being walked on a leash along the public footpath.
  - (b) *any steps taken by the owner to prevent any threat to the safety of persons and animals;*

Mr and Mrs Horn immediately erected another gate to prevent Ruby from being able to scale the fence again. The gate has the railings facing outside and is an effective barrier.

Mrs Horn employed the services of Jo Goddard from Canine Solutions once the dog was released from the pound. Officers understand Ruby has been involved in training day-care days under Canine Solutions.

*(c) the matters relied on in support of the objection; and*

Mrs Horn is honest about the fact Ruby has 'issues', and she is working with Canine Solutions to resolve these. She is objecting to the fact that if the classification as Menacing is upheld, the dog will always have to wear a muzzle in public for the rest of its life. A letter from Mrs Horn is attached as Attachment 4.

*(d) any other relevant matters*

A letter from the owner of the dog that was attacked is attached as Attachment 5.

## Financial Considerations

16 There are no financial considerations as this matter has not been brought before the courts.

## Legal Considerations

17 *Section 33 of the Act stated that:*

*33a Territorial Authority may classify a dog as menacing*

*(1) This section applies to a dog that-*

*a) has not been classified as a dangerous dog under Section 31; but*

*b) A territorial authority considers may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of---*

*(i) any observed or reported behaviour of the dog; or*

*(ii) any characteristics typically associated with the dogs breed or type*

Rebecca Horn's dog, Ruby, was not under control, escaped her property and attacked one of two dogs being walked by their owner on a public footpath.

## Delegation

18 The Committee may make a decision on this matter under Section B5 of the Governance Structure 2013-2016 as approved by Council on 7 November 2013.

## Consultation

19 There are no consultation requirements.

## Policy Implications

20 There are no policy implications. The recommendation is consistent with previous action in similar circumstances.

## Tāngata Whenua Considerations

21 There are no tangata whenua considerations.

## Publicity Considerations

22 Public interest in this matter is likely. A media release will be prepared on the Committee's decision.

## RECOMMENDATIONS

23 That the Committee upholds the Menacing Classification of Rebecca Horn's dog, Ruby.

**Report prepared by:**

**Approved for submission by:**

Julie Toseland

Tamsin Evans

**Animal Control Team Leader**

**Group Manager  
Community Services**

## ATTACHMENTS:

1. Aerial of location of incident
2. Photograph of Ruby
3. Photographs of Loki's injuries (2 pages)
4. Letter from Rebecca Horn
5. Letter from complainant