

Chairperson and Committee Members
APPEAL HEARINGS COMMITTEE

18 MARCH 2014

Meeting Status: Public

Purpose of Report: For Decision

DOG OWNER'S OBJECTION TO DISQUALIFICATION

PURPOSE OF REPORT

- 1 This report seeks the Committee's consideration and decision on the objection lodged by Ms Tiahuia Emery against her Classification as a Disqualified Dog Owner under Section 25 of the Dog Control Act 1996 (the 'Act').

SIGNIFICANCE OF DECISION

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

BACKGROUND

- 3 Ms Emery is the registered owner of Hoha, a male entire, tan, mastiff cross.
- 4 The following has been taken from the dog owner's record in NCS (the council record system):
 - 05.02.13 Dog wandering complaint. (Ms Emery was found with an unregistered dog and was added to the Council's database)
 - 25.03.13 Dog wandering complaint
 - 27.03.13 Dog noise complaint
 - 10.04.13 Dog threatening complaint
 - 17.04.13 Dog wandering complaint
 - 25.05.13 Dog lost report (from owner)
 - 19.07.13 Dog noise complaint
 - 27.07.13 Dog threatening complaint
 - 20.08.13 Dog threatening complaint
 - 21.08.13 Infringement notice issued for failing to register dog
 - 12.09.13 Dog wandering complaint
 - 08.10.13 Dog wandering complaint
 - 11.11.13 File note with regard to dog having been re-homed
 - 15.11.13 Transferred out of KCDC dog register

- 08.12.13 Dog attack complaint
- 03.01.14 Dog impounded
- 03.01.14 Infringement issued for failure to register
- 03.01.14 Infringement issued for failure to keep dog controlled or confined
- 09.01.14 Ms Emery was escorted from the Civic Building due to her threatening and abusive behaviour. Animal Control Officers were inspecting her property at the time when they were contacted by phone by Customer Service Officers and advised to leave the property as Ms Emery and her partner were on the way home. Ms Emery and partner, in their vehicle, crossed the centre line on Matai Road causing the Council vehicle to take evasive action. Police were notified and Ms Emery was visited by the police.
- 11.01.14 Dog wandering complaint
- 22.01.14 Dog wandering complaint
- 29.01.14 Dog found complaint
- 29.01.14 Animal Control Officer sighted dog wandering on Fincham Street. Owners arrived in vehicle to retrieve dog. According to the Council officer, Ms Emery and her partner were verbally threatening and abusive and made threats against the officer's life. Report lodged with police.
- 29.01.14 Infringement notice issued for failure to control or confine
- 30.01.14 Animal Control Officers hand delivered Disqualification paperwork to Ms Emery with Police in attendance. Officers report that four adults on the property were threatening and highly abusive. Amongst those present were Ms Emery and her partner. Staff were threatened with 'being found and dealt to'.

CONSIDERATIONS

Disqualification

- 5 Section 25(1) of the Dog Control Act 1996 (the Act) states that a council must disqualify a person from owning a dog if that person has three or more infringement offences (not relating to a single incident or occasion) within a continuous 24 month period. Officers issued the disqualification notice to Ms Emery after an infringement notice was issued on 29 January 2014. This was the fourth such notice issued since 21 August 2013.
- 6 Section 25(1) does not apply if the Territorial Authority (TA) is satisfied the circumstances of the offence or offences are such that: (a) disqualification is not warranted; or (b) the TA will instead classify the person as a probationary owner.

- 7 Officers are satisfied, given the history shown above, that disqualification was justified and that classification as a probationary owner was not an appropriate course of action.
- 8 Section 26 of the Act provides the opportunity for a person disqualified under section 25 to (a) object to the disqualification by lodging with the TA a written objection; and (b) the person shall be entitled to be heard in support of the objection.
- 9 Ms Emery advised of her objection to the disqualification on 12 February 2014 and her written statement is attached as Appendix 6.

Considering the Objection

- 10 Section 26(3) of the Act states that in considering any objection, the TA shall have regard to- *(a) The circumstances and nature of the offence or offences in respect of which the person was disqualified; and (b) the competency of the person objecting in terms of responsible dog ownership; and (c) any steps taken by the owner to prevent further offences; and (d) the matters advanced in support of the objection; and (e) any other relevant matters.*
- 11 Section 26(4) of the Act states that, in determining an objection under this section, the territorial authority may uphold, bring forward the date of termination, or immediately terminate the disqualification of any person.
- 12 With respect to section 26(3) of the Act and issues for Council to consider, (referred to above) the following is noted: Ms Emery has been disqualified from dog ownership for a period of five years, the result of her being issued with four infringement notices in a five month period. Over a ten month period Council has received 15 complaints about Ms Emery's dog wandering, acting in a threatening manner and attacking a member of the public.
- 13 The Council continued to receive complaints about the dog wandering, even after it had been returned with conditions agreed with the owner. However since the time of issuing disqualification, the Council has not received another complaint about the dog wandering.

Financial Considerations

- 14 There are no financial considerations.

Legal Considerations

- 15 Ms Emery has received four infringement fines within a 24 month period. Section 25 of the Act states:

25 Disqualification of owners

(1) a territorial authority must disqualify a person from being an owner of a dog if-

(a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months.

Delegation

- 16 The Committee has the delegated authority to make a decision on this matter under the Governance Structure 2013-2016 Triennium approved 7 November 2013, section B2, paragraph 7.1:

Animal Control

- 7.1 Authority to exercise the functions, duties and powers of the Council under the Dog Control Act 1996 and the Kapiti Coast District Council Dog Control Bylaw 2008, and the Impounding Act 1955;

Consultation

- 17 There are no consultation requirements.

Policy Implications

- 18 There are no policy implications.

Tāngata Whenua Considerations

- 19 There are no Tāngata Whenua Considerations.

Publicity Considerations

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

RECOMMENDATIONS

- 21 That the Committee upholds the Disqualification of Tiahuia Emery.

Report prepared by:

Approved for submission by:

Julie Foote

Tamsin Evans

Animal Control Team Leader

Group Manager, Community Services

ATTACHMENTS:

- Appendix 1 Infringement number 03722, failure to register
- Appendix 2 Infringement number 03763, failure to register
- Appendix 3 Infringement number 03762, failure to control or confine
- Appendix 4 Infringement number 03766, failure to control or confine
- Appendix 5 Aerial view of dog owner's residence and surrounding streets
- Appendix 6 Written objection from Ms Emery – considered in public excluded session