

**IN THE MATTER** of the Dog Control Act  
1996

**AND**

**IN THE MATTER** of an objection against the  
classification of a dog as  
menacing pursuant to  
section 33C of the Dog  
Control Act 1996.

**BETWEEN** **Joseph Blair Bridgeman**

Objector

**AND** **Waikato** **District**  
**Council**

Respondent

**BEFORE THE WAIKATO DISTRICT COUNCIL REGULATORY  
SUBCOMMITTEE.**

Chairperson Noel Smith  
Members Carolyn Eyre  
Jan Sedgwick

**HEARING** at Ngaruawahia on 24 July 2020

**APPEARANCES:**

Mr Joseph Bridgeman, Objector (dog owner)  
Ms Janet Bridgeman, Objector's sister, to assist objector  
Ms Tracey Oakes, Team Leader, Animal Control Officer, Waikato District Council  
Ms Amanda Davis, Animal Control Officer, Waikato District Council  
Ms Christine Pidduck, Solicitor, Waikato District Council, to assist the Committee

**DECISION**

**Pursuant to Section 33B (2) of the Dog Control Act 1996 the Regulatory  
Subcommittee rescinds the classification of the dog, known as 'Zeek', as a  
menacing dog.**

## **Introduction:**

[1] On 17 January an incident was reported to Waikato District Council Animal Control Officers that a dog had rushed out and confronted a pedestrian walking on the footpath past the premises of 10 Newton Street, Ngaruawahia where Zeek was kept. Animal Control staff attended shortly after the incident was reported, and as a result of the interaction with the dog and subsequently the owner, Mr Joseph Bridgeman, the dog (Zeek) was classified as a menacing dog. Mr Bridgeman objected to the classification which necessitated a hearing before the Council's Regulatory Subcommittee (the Committee).

[2] The hearing panel was presented with a Council agenda which contained, amongst other correspondence, a copy of the complaint, extracts of legislation, an Animal Control Officers statement, a copy of the menacing classification notification to Mr Bridgeman, his written objection as well as photos and supporting letters for Mr Bridgeman.

[3] The complainant, Ms Deacon, was not present at the hearing to give evidence or provide the Committee with the opportunity to clarify any aspect of her written complaint.

[4] The written complaint outlined what Ms Deacon alleged occurred at approximately 11.50am on 17 January 2020. The following is an extract from her complaint.

*“When I got outside 10 I heard a dog barking but kept walking. Then I heard a dog running on the footpath behind. I turned around and saw the dog running down the driveway and at me. I screamed but no one was around. The dog kept coming at me. I always walk with a walking stick. The dog was aggressive towards me and kept coming and barking. I poked it with a stick. If I didn't do that it would've bitten me for sure. I got the dogs nose which stopped it. The dog ran back into the property.”*

## **HEARING:**

### **Objector – Mr Bridgeman**

[5] At the commencement of the hearing the Chairperson outlined how the hearing would take place. Some time was spent ensuring that Mr Bridgeman, who acknowledged that he was unable to read or write, understood why he was present and what the effects of the menacing classification actually meant. It was noted that Mr Bridgeman's sister was present to support him. The Committee was satisfied that Mr Bridgeman had the required level of support to fully understand the proceedings and engage with the Committee.

[6] Mr Bridgeman outlined that he had taken possession of Zeek when Zeek was two months old. Mr Bridgeman confirmed he has lived at 10 Newton Street for approximately 6 or 7 years. Zeek was treated like his child. Mr Bridgeman noted that a few days ago a chap walked passed his premises and Zeek was in the back yard with access to the fence that bordered the footpath. He stated that the chap went up to Zeek and over the fence he patted Zeek without any issue. Mr Bridgeman went on to outline that he usually puts up a child's portable safety gate across the doorway when the front door of the dwelling is left open. On the day in question he had not reminded his fellow occupants that they needed to put the gate up if they wanted to open the door. Another occupant of the premises, who was present at the property on the day whilst Mr Bridgeman was at work, admitted to

Animal Control Officers that she had failed to prevent Zeek from accessing the public footpath. Mr Bridgeman stated he felt that Zeek should not be neutered or be required to be muzzled as Zeek was not a menacing dog. He referred to the letters he had submitted from many people including neighbours and former workmates.

[7] In response to questions from the Committee, Mr Bridgeman confirmed that the section was fully fenced around the house but access to the footpath was possible if the front door was open and not barred by the child's safety gate. He confirmed since the 10<sup>th</sup> of January Zeek had been kept inside or on a chain near his kennel in the backyard of the premises. He asserted that Zeek does not become aggressive and that he is a friendly dog. Mr Bridgeman stated that Zeek's best friend is a cat and referred the Committee to pictures previously submitted. He confirmed that to his knowledge that there had never been a previous incident with a member of the public. Mr Bridgeman confirmed that Zeek was easy to control and in his previous employment would take Zeek to Mt Maunganui where he would socialise with other employees and members of the public including children.

[8] Ms Janet Bridgeman told the Committee that when her brother is at work she would go to the premises and let Zeek out to exercise. Her children aged 9 and 12 years would often engage with Zeek and she has never been afraid to leave them with Zeek. She referred the Committee to a picture of her transporting Zeek in her vehicle alongside her daughter. She went on to tell the Committee that she would regularly take Zeek to school to uplift her children and that other children would rush up and pat Zeek. Zeek had never been aggressive or bitten anyone. She stated that she had sheep and at times a goat and a pig in the section at 10 Newton Street as it was her that managed the property for an absentee owner. Zeek had never attacked any of the animals she grazed on the section. Ms Bridgeman told how when walking Zeek to and from school that she often had other dogs run up to Zeek. He never tried to fight with them and normally carries on walking without incident.

#### **Animal Control Officer:**

[9] Ms Tracey Oakes, Team Leader, Animal Control, Waikato District Council gave evidence of attending 10 Newton Street following Council receiving a complaint about a dog from the address. Ms Oakes stated that as she and another officer, Ms Davis, approached the premises they called out in an attempt to alert any dog. She observed a dog, identified as Zeek, bark and run from the house and towards both herself and Officer Davis. She observed Officer Davis put her boot up and block Zeek's path. Officer Davis then told Zeek to go back inside and he moved off towards the dwelling. About then a woman came out of the dwelling at 10 Newton Street. Zeek turned and barked again and began advancing towards both she and Officer Davis. Zeek was then put inside the premises. A discussion ensued between the officers and the female occupant.

[10] Upon her return to the Council office Ms Oakes and her then team leader discussed the complaint and her observations at the property. As a result the then Council Animal Control Team Leader classified Zeek as a Menacing Dog.

[11] Following questions by the Committee, Ms Oakes, stated that it is normal dog behaviour for dogs to be territorial and for dogs to be more so when owners are absent.

She also clarified what was involved in the classification of a dog as menacing. She stated the following was taken into account:

- The level of aggression displayed
- The location – public or private
- The dog owners response
- Any previous history
- An Officers observed behaviour of the dog

Ms Oakes confirmed there was no prescribed process or criteria for classifying a dog as menacing.

[12] Ms Oakes confirmed that after calling out, when approaching the premises, that Zeek had appeared and that they were approximately 4 meters away from the property. Ms Oakes clarified that Zeek was only barking and was not snarling. Ms Oakes described Zeek as a proud dog and that he was a confident dog.

### **Right of Reply:**

[13] Mr Bridgeman accepted that the incident on 17 January 2020 involving his dog Zeek was his fault on the basis that he had not reminded his flatmate to erect the 'child gate' across the front door of the dwelling should she want to have the front door open.

[14] Mr Bridgeman commented that he did not believe the situation warranted Zeek being neutered or having to wear a muzzle if in a public place. He reiterated that Zeek had never been known to attack sheep, goats, pigs or children when he was left to play with them. Neighbours and others had provided letters in support of Zeek.

[15] Mr Bridgeman stated he was aware of instances where dogs had been de-sexed and the behaviour of the dog had become much more aggressive. He believed it was not an appropriate solution. Mr Bridgeman stated the best solution was that he keep Zeek away from the front of the house and out of public places. He repeated that Zeek was like his child and he wanted the ability to breed from Zeek at least once before Zeek died.

[16] Mr Bridgeman concluded the right of reply by stating that had Zeek actually done something wrong he would have no problem having Zeek de-sexed.

### **LEGISLATION:**

[17] The Dog Control Act 1996 sets out provisions in respect of classifying dogs as Menacing.

- Section 33A refers:
  - 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 s31; 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 dog's breed or type

[18] Section 33B (1) allows the owner of any dog classified as menacing to object to that classification and be heard in support of that objection. Section 33B (2) allows a territorial authority to uphold or rescind the menacing classification and sets out what the decision making body must have regards to when making that determination. Section 33B (3) describes what the territorial authority must do once the determination is made and how that is communicated to the owner of the dog.

### **ANALYSIS OF THE EVIDENCE:**

[19] The basis of the decision to classify 'Zeek' as a menacing dog comes from the written statement of Ms Deacon, the evidence of Ms Oakes and the written statement of Ms Davis. In short the basis of the menacing classification is from the reported and observed behaviour of Zeek on the morning of 17 January 2020.

[20] The Committee notes that Ms Deacon was not present to give evidence or answer questions from the Committee. However the Committee accepts that Ms Deacon was making her way past 10 Newton Street at 11.50am on the morning of 17 January 2020. The Committee also accepts that Ms Deacon had a walking stick with her.

[21] Ms Deacon's written statements states, "... I walked home on the concrete footpath. When I got outside 10 I heard a dog barking but kept walking. Then I heard a dog running on the footpath behind. I turned around and saw the dog running down the driveway and at me. I screamed but no one was around. The dog kept coming at me. I always walk with a walking stick. The dog was aggressive towards me and kept coming and barking. I poked it with my stick. If I didn't do that it would've bitten me for sure. I got the dogs nose which stopped it. The dog ran back into the property...."

[22] Ms Oakes, in her evidence told the Committee that upon arrival that she and Ms Davis called out to alert any dog on the premises of their presence and so as to help them establish where the dog might be. The Committee was told of Zeek advancing towards both officers and barking whilst doing so. The Committee heard that Officer Davis used a stern voice and put her boot up to Zeek's face to stop him advancing towards her. Zeek's response was to retreat back towards the dwelling at 10 Newton Street.

[23] Mr Bridgeman's evidence was that Zeek was not an aggressive dog and Council staff confirmed that Zeek had never been brought to their attention previously. Several persons including neighbours with children and other associates of Mr Bridgeman supplied references noting Zeek's good behaviour towards people and other animals, including cats and sheep.

[24] Ms Pidduck, asked the Committee to consider that Zeek had in fact displayed, on two occasions on the 17<sup>th</sup> January, behaviour that could rightly be considered by the Committee and justified the classification of Zeek as a menacing dog.

### **DECISION:**

[25] In her written statement, Ms Deacon described Zeek as being both on the footpath and the driveway of 10 Newton Street at the same time. She describes Zeek as approaching

her and at the same time barking. Her statement is unclear as to where the alleged incident took place. That is to say was Zeek still on the driveway of 10 Newton Street when Ms Deacon poked him with her walking stick or was he on the footpath and thus in a public place? While any act arising in the classification of a dog as menacing does not have to occur in a public place the Committee was denied the opportunity to seek clarity of the events alleged to have occurred on 17 January by Ms Deacon not appearing to give evidence. Such clarification would have included what she meant when she described Zeek's behaviour as aggressive. Thus in the absence of Ms Deacon the Committee must weight how the conflicting and unclear written statement should be treated.

[26] Ms Oakes in her evidence and Ms Davis in her written statement acknowledge they called out in an attempt to get 'Zeek's attention. Ms Oakes accepted that a dog is likely to be more territorial when an owner is absent from the premises. However both officers were consistent in their description of Zeek's behaviour when confronted with a physical barrier and stern words said towards him. At no time did the Committee hear that Zeek pressed home any 'aggression' once confronted by Officer Davis's boot.

[27] Officer Oakes confirmed that Zeek had no prior history with the Council. References provided by independent parties, including neighbours, support Mr Bridgeman's contention that Zeek is not known to be an aggressive dog.

[28] The Committee, when considering all the matters it must have regard to in Section 33B(2)(a)-(d) of the Dog Control Act 1996, is of the view that the circumstances and evidence presented to the hearing are not sufficient to uphold the menacing classification issued on 17 January 2020.

[29] It is the unanimous decision of the Regulatory Subcommittee of the Waikato District Council that pursuant to Section 33B (2) of the Dog Control Act 1996 the Subcommittee rescinds the classification of the dog, known as 'Zeek', as a menacing dog.

A handwritten signature in black ink, appearing to read 'Noel Smith', is written over a light grey rectangular background.

Noel Smith  
Chairperson  
Regulatory Subcommittee  
Waikato District Council

29 July 2020