

IN THE MATTER of an objection against the disqualification as owner pursuant to section 26 of the Dog Control Act 1996 by Angela Thompson

BEFORE THE WAIKATO DISTRICT COUNCIL REGULATORY SUBCOMMITTEE.

Chairperson Cr Janet Gibb

Members Cr Crystal Beavis
Cr Peter Thomson

HEARING at NGAARUAWAAHIA on 18 April 2024

APPEARANCES

Ms C Pidduck – Waikato District Council Legal Counsel, to assist.
Ms P Prakash – Waikato District Council Junior Solicitor, to observe.
Mr P Greeves – Waikato District Council Senior Animal Control
Ms T Ambury – Waikato District Council Animal Control Team Leader

IN ATTENDANCE:

Mr T Rowland – Democracy Team, WDC

APOLOGIES AND LEAVE OF ABSENCES:

The objector Angela Thompson advised on the day of the hearing that she would not attend the hearing.

DECISION

Introduction

[1] The hearing opened at 10:02am with a note of non-attendance of the objector Angela Thompson.

[2] The Chairperson, Cr Gibb introduced the staff members in attendance at the hearing and outlined why the meeting continues without the objector.

[3] Legal Counsel noted the three emails that the objector had sent to Democracy regarding the objection on Thursday 11 April 2024 and Thursday 18 April 2024. Legal Counsel noted that any other matters that were not included in the report provided by Animal Control, such as the emails, could be included in the hearing's discussions, however given that the objector was not present it would be for the

subcommittee to consider the weight to give these items in consideration of the case..

Hearing

[4] The Chairperson, Cr Gibb asked the Senior Animal Control Officer (SACO) Greeves to outline how the objector came to the knowledge of the Waikato District Council Animal Control Team.

[5] The SACO noted that there was a report of a suspected dog attack on 13th April 2023 on stock in a neighbouring paddock. There was no evidence of a positive identification of the attacking dogs, but video evidence of the dog's roaming was provided via the stock owner. The dogs were impounded for the roaming.

[6] As a result of subsequent trapping activity and video evidence provided by the stock owner the SACO reported that one infringement was issued to the objector on 11/7/23 (1 dog), two further infringements on 7/8/23 (2 dogs) and another two infringements on 31/10/23 (2 dogs). .

[7] In response to a query by Cr P Thomson, the SACO noted that infringements must be lodged at court even though the payment is made to Council.

[8] The SACO noted that the objector was told she was receiving the first infringements after the objector had identified her dogs in the video evidence provided to Animal Control.

[9] Animal Control contacted the objector again when further infringements were lodged, with the objector allegedly becoming less cooperative with the Animal Control team.

[10] The SACO noted that it was a high bar to disqualify someone from owning a dog, noting that they had tried to educate the objector regarding their dogs so they could eliminate the issues prior to disqualifying the objector.

[11] The committee noted that a shorter period of a three-year disqualification was suggested by the Animal Control team, as they had evidence of the dogs roaming but no evidence of any alleged attacks.

[12] Legal Counsel noted that the objector could appeal any decision to the District Court, referencing a recent case that Hamilton City Council was involved in, and noted that the maximum disqualification period of five years for the most serious matters.

[13] The SACO noted that it was the continued incidents and the lack of responsibility of the dog owner that led to the decision to disqualify the owner rather than imposing a probationary -owner classification.

[14] The SACO advised that if the disqualification was upheld, the dogs could not be given to be cared for by someone else on the same property. A person disqualified as a dog owner could only be in possession of a dog for the purpose of – preventing it from causing injury, damage, or distress; or returning within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

[15] Cr Gibb noted the recommendation provided by staff would need to be amended to Section 25 (1)(a)) as opposed to Section 33A (2) of the Dog Control Act 1996

The hearing was adjourned for deliberations at 10:35am.

Reasons and decision:

Circumstances and nature of offence or offences in respect of which the person was disqualified.

[14] Evidence provided at the hearing showed there are numerous recorded incidents of roaming by the dogs owned by the objector. In addition to the incidents of roaming that caused Council to issue infringement notices, the neighbour, Mr Hubbard, also alleges that the dogs continued to roam after the date of the last infringement notice. The Council has sighted videos of dogs roaming on Mr Hubbard's property. Evidence given at the hearing was that these and other videos were shown to the objector who has positively identified her dogs in the videos.

[15] Section 4 of the Act sets out the objects of the legislation as including making better provision for the control of dogs by imposing on the owners of dogs' obligations designed to ensure that dogs do not cause a nuisance to any person and do not cause distress, or endanger any other person or animal.

The competency of the person objecting in terms of responsible dog ownership.

[16] Evidence given at the hearing was that the objector, Ms Thompson, has shown little to no remorse when spoken to by Council about the dogs roaming, even when Council advised she risked further infringements. Ms Thompson has received multiple infringement notices.

Any steps taken by owner to prevent further offences.

[17] Ms Thompson has not outlined in her objection to disqualification any steps that she has taken or proposes to take to prevent the offences reoccurring. Council has been advised the dogs no longer reside with the objector.

The matters advanced in support of objection.

[18] The objector's written evidence states she believes the complainant is placing bait on his property to lure her dogs onto the property in order to report them to Council. The Objector believes the complaints stem from a feud between neighbours.

Any other relevant matters.

[19] Section 25 (1)(a) of the Dog Control Act 1996 states that the territorial authority must disqualify a person from being an owner of a dog if the person commits 3 or more infringement offences (not related to a single incident or occasion) within a continuous period of 24 months.

[20] The evidence shows that the objector has had 3 or more infringement offences within a continuous period of 24 months.

[21] In an email to the committee on the morning of the hearing on Thursday 18th April 2024, the objector stated she would not be turning up to the hearing, saying "As per instructions from my lawyer, there is no reason to come to the hearing, I don't actually have a case to put forward."

[22] The committee held the hearing and followed the process to allow for questions to be put to the SACO where necessary to understand the reason for the disqualification of the objector, however the committee could not ask questions of the objector in her absence.

Having regarding the evidence before the committee and considering the matters in accordance with s26(3) of the Act, the Committee unanimously determines to uphold the disqualification of Angela Thompson but to reduce the term of the disqualification from five years to three years.

Dated at Ngaaruawaahia this day of May 2024

**Janet Gibb
Chairperson**