

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Dog Control Hearings Panel will be held on:

Date: Tuesday 28 July 2020
Time: 10.00am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Dog Control Hearings Panel OPEN AGENDA

Membership

Chairperson Cr Ewan Wilson
Heamana

Members Cr Margaret Forsyth
Cr Maxine van Oosten
Cr Angela O'Leary (Alternate)
Cr Rob Pascoe (Alternate)

Quorum: Three members

Meeting Frequency: As required

Becca Brooke
Governance Manager
Menetia Mana Whakahaere

20 July 2020

Telephone: 07 838 6727
Becca.Brooke@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The Dog Control Hearings Panel is responsible for:

1. To conduct fair and effective hearings and make determinations on objections under the Dog Control Act 1996.

<i>The Panel is delegated the following Terms of Reference and powers:</i>

Terms of Reference:

1. Hear and determine any objections under the Dog Control Act 1996.

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies – <i>Tono aroha</i>	4
2	Confirmation of Agenda – <i>Whakatau raarangi take</i>	4
3	Declarations of Interest – <i>Tauaakii whaipanga</i>	4
4	Confirmation of the Dog Control Hearings Panel Open Minutes - 8 May 2020	5
5	Objection to dangerous classification - Yalda Ahmadi	8
6	Objection to disqualification from dog ownership - Ropata Marshall	39

1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Committee to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

Council Report

Item 4

Committee: Dog Control Hearings Panel **Date:** 28 July 2020
Author: Rebecca Watson **Authoriser:** Amy Viggers
Position: Governance Advisor **Position:** Governance Team Leader
Report Name: Confirmation of the Dog Control Hearings Panel Open Minutes - 8 May 2020

Report Status	<i>Open</i>
----------------------	-------------

Staff Recommendation

That the Committee confirm the Open Minutes of the Dog Control Hearings Panel Meeting held on 8 May 2020 as a true and correct record.

Attachments

Attachment 1 - Dog Control Hearings Panel Meeting Open Minutes - 8 May 2020 .

Dog Control Hearings Panel

OPEN MINUTES

Minutes of a meeting of the Dog Control Hearings Panel held via an Audio Visual Link on Friday 8 May 2020 at 10.06am.

PRESENT

Chairperson	Cr Ewan Wilson
Members	Cr Margaret Forsyth Cr Maxine van Oosten
In Attendance	Julie Sanderson – Group Business Manager Susan Stanford - Animal Education and Control Manager Peter Crocker – Animal Control Team Leader Trudi Swanson – Animal Education and Control Officer James Clarke – Director of the Mayor’s Office
Governance Staff	Rebecca Watson – Governance Advisor

1. Apologies

Resolved: (Cr Wilson/Cr van Oosten)
There were no apologies.

2. Confirmation of Agenda

Resolved: (Cr Wilson/Cr van Oosten)
That the agenda is confirmed.

3. Declarations of Interest

No members of the Committee declared a Conflict of Interest.

4. Objection to disqualification from dog ownership - Kaz Thompson

The Animal Education and Control Manager spoke to the report, providing Committee Members with a history of the animal and interactions with the owner. Staff responded to questions from Committee Members concerning education for owners, severity of injuries sustained, steps taken to date to make contact with the owner to notify them of the hearing taking place.

Staff Action: Staff undertook to provide a pamphlet providing animal education at the first contact or infringement and include this on file.

Resolved: (Cr Wilson/Cr van Oosten)

That the Dog Control Hearings Panel continues with the hearing concerning the disqualification from dog ownership of Kaz Thompson.

Cr Forsyth dissenting

Resolved: (Cr Wilson/Cr van Oosten)

That the Dog Control Hearings Panel:

- a) receives the report; and
- b) determines that the disqualification from dog ownership of Kaz Thompson is upheld.

5. **Objection to dangerous classification - Yalda Ahmadi**

The Animal Education and Control Manager spoke to the report, and provided an overview of the history of the animal and the interactions with the owner. Staff responded to questions from Committee Members concerning the steps which had been taken to date to make contact with the owner to notify them of the hearing taking place.

Resolved: (Cr Wilson/Cr van Oosten)

That the Dog Control Hearings Panel does not hear the objection to the classification of "Baby" as a dangerous dog at this date, and sets a further hearing at a later time and date, to be determined and set once confirmed contact has been made with the owner.

The meeting was declared closed at 11.38pm.

Council Report

Committee: Dog Control Hearings Panel **Date:** 28 July 2020
Author: Susan Stanford **Authoriser:** Jen Baird
Position: Animal Control Manager **Position:** General Manager City Growth
Report Name: Objection to dangerous classification - Yalda Ahmadi

Report Status	<i>Open</i>
----------------------	-------------

Purpose - *Take*

1. To seek a determination from the Dog Control Hearings Panel on the classification of “Baby” as a dangerous dog.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Dog Control Hearings Panel:
 - a) receives the report; and
 - b) determines that the classification of “Baby” as a dangerous dog is upheld.

Executive Summary - *Whakaraapopototanga matua*

3. “Baby” is an eight-year-old Pit Bull Terrier cross with an extensive history of contact with Animal Education and Control (AEC) for roaming, rushings and attacks. On 16 January 2020, “Baby” attacked and bit a member of the public, resulting in the dog being classified as dangerous on the sworn evidence of an Animal Education and Control Officer (AECO).
4. Section 31 of the Dog Control Act 1996 sets out the circumstances in which a Territorial Authority must classify a dog as dangerous and outlines a dog owner’s right to object to that classification (as detailed in paragraphs 25-27 of this report).
5. Staff recommend that the classification of “Baby” as a dangerous dog is upheld (option A) as detailed in paragraphs 22-23 below.
6. Staff consider the decision in this report has low significance and that the recommendations comply with the Council’s legal requirements.

Background - *Kooreo whaimaarama*

7. In 2012, “Baby”, an eight-year-old, brown and white Pit Bull Terrier cross, was registered to Azmat Ahmadi; in 2015 ownership transferred to Yalda Ahmadi, Azmat’s sibling. Ownership was transferred due to a change in personal circumstances for Azmat Ahmadi.

8. "Baby" has a lengthy history of contact with AEC including:
 - 15 roaming complaints received
 - 3 rushings
 - 2 attacks (1 dog vs dog, 1 dog vs person)
 - 2 unregistered dog follow-ups
 - 2 barking complaints received.

(For the full history, see Attachment 1).
9. "Baby" was classified as menacing by breed in 2013. Consequently, "Baby" was required to be de-sexed and to wear a muzzle when out in public.
10. On 15 January 2020 at approximately 4pm, Brett Whiteley, a member of the public, was door knocking in Bankwood Rd to talk to people about their local church. As he walked down the drive of the dog owner's property, "Baby" came out from behind a car "snarling and showing teeth". The dog was not contained or tied up; Brett did not see any sign noting there was a dog was on the property.
11. Brett backed down the drive, trying to keep the dog from biting him. When he was close to the road he tripped and fell backwards; "Baby" then bit his left hand and backed off.
12. The people from the house then secured the dog and Brett sought medical attention for his hand, which required stitches.
13. On 16 January 2020, AEC received a complaint from Brett that he had been bitten by a dog the previous day; CRM 190933 was created (see Attachment 2).
14. As a result of this attack, "Baby" was classified as dangerous on the sworn evidence of AECO D37 (see Attachment 3 – Dangerous classification).

Discussion - *Matapaki*

15. In considering their decision, committee members should consider the following:
 - The incident that formed the basis for the classification.
 - The number and type of incidents that have occurred.
 - Any escalation in behaviour demonstrated by the dog.
 - The potential impact to public safety.
16. [Roaming dogs across Hamilton city](#) is an issue that has been highlighted recently. Dogs that roam frequently expand their territory and can show signs of aggression towards people or animals that enter it, posing a risk to public safety.
17. "Baby" has a lengthy history of contact with AEC for roaming, barking, rushing and attacks, including the attack that resulted in "Baby" being classified as dangerous. Previous rushings/attack outcomes have resulted in advice given or being unsubstantiated as victims/witnesses have not wanted to give formal statements.
18. To date, it seems that the dog owner has not taken sufficient action to contain "Baby" and prevent her from roaming; the dog's escalating behaviour poses an on-going risk to public safety.
19. The dog owner appears to have little understanding of her responsibilities as an owner of a menacing dog. She has asked if the dog would require muzzling once classified as dangerous, which suggests that she did not know that her dog currently should be muzzled when out in public. This lack of understanding may have contributed to the inaction to prevent "Baby" from roaming or ensuring she was adequately contained. On the day of the attack on Brett and when the AECO visited, "Baby" was not contained.

20. Yalda Ahmadi is objecting to the classification of “Baby” as dangerous on the following grounds:
- The dog has not done this before.
 - The family has been robbed so now “Baby” is more alert.
 - She only barks when there are visitors.
 - Baby roamed previously because the gate was not well secured and they believe that as dogs get bored they will go for a stroll.
 - She believes that “Baby” would never hurt anyone.
 - There is a sign alerting people to a dog being on the property.
 - The dangerous classification would stop “Baby” being social and being out freely.
 - “Baby” is friendly and does not hurt anyone intentionally (see Attachment 4 – Objection received).

Options - *Kōwhiringa*

21. Under the Dog Control Act 1996, territorial authorities have two options when considering an outcome of an objection to a dog being classified as dangerous:
- A. To uphold the classification, or
 - B. To overturn the classification.
22. Staff recommend option A because “Baby” has a long history of roaming and not being adequately contained, which culminated in the attack for which she was classified as dangerous. The dog owner’s failure to contain “Baby” even after repeated interactions with AEC indicates a disregard for her obligations as a dog owner to contain and control her dog. The dangerous classification will place stricter obligations on the dog owner regarding “Baby’s” containment, which should reduce her risk to public safety.

Financial Considerations - *Whaiwhakaaro Puutea*

23. This is a regular operating activity funded through the Long-Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

24. [Section 31](#) of the Dog Control Act 1996 sets out the circumstances in which a territorial authority must classify a dog as dangerous including:
- The owner has been convicted of owning a dog that has attacked
 - On the basis of sworn evidence attesting to aggressive behaviour by the dog
 - The owner of the dog admits in writing the dog is dangerous.
25. [Section 31](#) also outlines a dog owner’s right to object to the classification to the territorial authority.
26. [Section 32](#) sets out the effects and the owner’s obligation of owning a dog classified as dangerous.
27. Staff confirm that the classification of dangerous and options provided for the Dog Control Hearings Panel complies with the Council’s legal requirements under the Dog Control Act 1996.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

28. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future (‘the 4 wellbeings’).

29. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.

Social

30. The Council considers that the keeping of animals can enhance the quality of life and well-being for individuals and families; however, the Council also has a responsibility to protect the community from unreasonable animal nuisances – families, whanau, iwi, haapu, and communities should be safe from dangerous animals.

Risks - *Tuuraru*

31. Should the dangerous classification be overturned, removing the additional owner obligations around containment, AEC staff believe “Baby” will continue to roam and pose an ongoing risk to public safety as demonstrated by her escalating behaviour (the attack for which she was classified as dangerous).

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

32. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Engagement

33. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Animal history

Attachment 2 - CRM190933

Attachment 3 - Dangerous classification

Attachment 4 - Objection received .

Appendix 1
Animal history

AN219469 "Baby"

Date and CRM	Complaint	Outcome
15/2/2012 64963	Assist SPCA Vet reported owner wanting to crop dogs' ears	
19/2/2013 82056	Roaming dog - from Elmwood	Impounded Owner Azmat Ahmadi
4/3/2013 82715	Roaming dog - from Elmwood	Unsubstantiated
12/3/2013 83228	Roaming dog - from Elmwood	Unsubstantiated
13/3/2013 83261	Roaming dog - from Elmwood (9.22pm)	Unsubstantiated
6/6/2013 86881	Roaming dog – 2 dogs roaming in Ashurst Park	Impounded
9/7/2013	Dog classified as menacing on breed	
1/8/2013 88926	Roaming dog - Ashurst park	Advice given Dog has just had pups
14/8/2013 89390	Roaming dog – from Elmwood, ripping up rubbish	Advice given
10/9/2013	Menacing follow-up – not de-sexed	Infringement issued (9846). Dog subsequently de-sexed
27/9/2013 91951	Request withdrawal of infringement 9846	Infringement withdrawn
17/12/2013 95477	Roaming dog - from Elmwood	Unsubstantiated
11/4/2014 100736	Roaming dog – from Elmwood (8.30pm)	Area patrolled no dog found
17/5/2014 102293	Roaming dog – from Elmwood	Unsubstantiated
24/6/2014 103711	Roaming dog – from Elmwood (7.45pm) Neighbours report dog tied up during the day and allowed to roam at night	Unsubstantiated
22/6/2014 103658	Failure to keep control Dog rushing at children	Unsubstantiated
1/9/2015 122141	Unregistered dog Dog from Elmwood (new address Hume Pl)	Registered
3/9/2015	Change of ownership to Yalda Ahmadi	
2/1/2016 129705	Roamed onto neighbouring property – dog v dog attack. Neighbour reported dog owner was abusive.	Written warnings to both dog owners for dogs not being contained
14/2/2016 130377	Roaming dog Neighbours dog jumped fence into complainants' section	Advice given
3/7/2016 136157	Barking dog - Fairview St Dog from Hume Pl	Advice given
26/7/2016 137009	Rushing Dog jumped fence, rushed at and growled at complainant and her dog	Advice given

23/9/2016 140746	Unregistered dog	Dog registered
25/11/2016 142355	Barking dog Dog owner noted dog barking at another roaming dog	Advice given
18/5/2018 166659	Rushing Dog from Fairview rushed complainant, his wife and their dog	Advice given
16/7/2018 168401	Roaming dog Dog from Fairview getting into rubbish, jumped fence	Advice given
16/1/2020 190933	Dog attack Complainant bitten by dog from Bankwood Rd (dog from Fairview)	Infringement issued (#12545) Dog classified as dangerous
29/1/2020 191414	Dangerous classification documentation served	

Note: unsubstantiated does not mean it didn't happen but that when Animal Education and Control attended/investigated they could not confirm the incident for certain or key witnesses did not want to provide statements.

Animal Complaint Record 190933/2020

COMPLAINANT		Officer	D37
Complaint Received	1/16/2020 11:28:00 AM	Home Phone 1	
Name	Brett	Home Phone 2	
Address	Newell Road RD 3 Hamilton 3283	Mob Phone	

PROPERTY

Property Address	Bankwood Chartwell 2001	Lot 2 DP S5657	Safety Alert		
-------------------------	-------------------------	----------------	---------------------	--	--

ANIMAL DETAILS

Animal Number	219469	Animal Name	Baby	Tattoo	900032000 256118
Animal Location	Bankwood RD Chartwell 2001	Color	BRO /WHI	Sex	F
Owner Address	Bankwood Road Chartwell Hamilton 3210	Owner Name	Yalda Ahmadi	NAR No.	1090621

REQUEST DETAILS

Offence Date		Comp bitten on the hand by a dog at Bankwood Ave, Chartwell at approximately 4pm on the 15th Jan 2020. Comp advised there were no signs on the property advising there was a dog. Comp required stitches. Described dog as a medium to large, shorthaired dark brown dog. One dog registered to the address, Baby - Female, Brown and White American Pit Bull Terrier X - Classified as Menacing.
Major Category	Dog Control	
Minor Category	Dog Offences > Dog Offences	
Category 3	Dog Offences > Attack > Attack	
Category 4	Dog Offences > Attack > HDVP > Historic Attack Dog V Person	

INVESTIGATION DETAILS

Officer	D37
Start Date	1/16/2020 12:01:00 PM
Finish Date	1/29/2020 10:23:00 AM
Outcome	Animals - Sect 52A Fail Keep Dog Ctl Inf
Task	Investigation

160120 @ 1201 - Database checks, dog registered to "Baby" has a lot of history for roaming, barking and 2 x rushing - no statements provided. 1235 - Phoned complainant. 1430 - Called to complainant's address to take statement. Brett tells me that really he just wants them (the dog owner's) to put up signage that they have a dangerous dog on property and keep it fenced in. Explained to Brett what we can and can't enforce and the possible outcomes for this attack. I have requested a medical report - Brett will try and get one from his wife but tells me she didn't want him to report it as she doesn't like causing other people trouble - I explained to Brett that by taking action, we hope to prevent further trouble for an other potential victim. Brett agreed and will provide medical report and provided statement to me today. Brett tells the dog came from behind a car at the front of property, it was not chained or contained in any way. Brett was off work today and unable to drive as a result of the injury to his hand. 1545 - Called to Bankwood Road, the garage door was up and door to yard open so I phoned the dog owner Yalda who came out to talk with me. When I asked her where the dog was, she said in the back yard. I pointed to the open door and asked that went to the yard, she said yes and hurried to close it. Turns out the door was in a room attached to garage - but Yalda has no idea where the dog was to start with. Advice given that she should always know where her dog is and ensure all gates and doors are secure to prevent dog being free to leave. Yalda is really shocked at what her dog has done. Discussed possible outcomes - will discuss possible dangerous classification with D25 when he returns to work. Yalda put dog on lead for photo. Dog didn't react to me at all.

210120 @ 1314 - Discussion with D25 - agreed dog to be classified as dangerous. 230120 @ 1335 - Phone to comp - no answer 1336 - Phone call to Yalda the dog owner to advice of outcome. Yalda not happy with dangerous classification as she believes her dog is nice and not at all aggressive. She thinks the comp came onto her property and said her dad saw him hitting the dog with a cap. Yalda asked whether her dog will have to wear a muzzle when walked if classified dangerous. I advised that as her dog is already classified menacing, it should already be wearing muzzle when walked. Explained criteria to meet dangerous classification. Yalda tells she is going to challenge the classification. Advised of infringement to be issued. 240120 - Infringement #12545 issued 1109 - Dangerous classification signed by court 1116 - Phone call to complainant to update. (Abbey - 29/01/2020)

Previous Complaints for Dog

CRM No.	64963/2012	Task	2DSP
Animal	219469	Outcome	COMP
Maj Cat.	Dog Control	Officer	D34
Min Cat.	Dog Offences > Dog Offences	Opened	2/15/2012 1:42:00 PM
Cat 3	Dog Offences > Unregist > Unregistered Dog	Closed	2/15/2012 1:42:00 PM
Cat 4			

2:30 pm
334

Trudi

From: Hamilton City Council <PROD.Authority@hcc.govt.nz>
Sent: Thursday, 16 January 2020 11:34
To: Animal care
Cc: Customer Service
Subject: New Customer Request Task: 190933/2020 - Dog Offences > Attack > HDVP > Historic Attack Dog V Person

Private Bag 3010
Hamilton 3240
New Zealand
TEL 07 838 6655
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

A new CRM task has been created for you to action.

Request Details:

Action officer: Trudi

Request Number: 190933/2020

Description: Comp bitten on the hand by a dog at Bankwood Ave, Chartwell at approximately 4pm on the 15th Jan 2020. Comp required stitches. Described dog as a medium to large, shorthaired dark brown dog. One dog registered to the address, Baby - Female, Brown and White American Pit Bull Terrier X - Classified as Menacing.

Due Date: 05/02/2020

Safety Issues: N/A

Safety Issues: N/A

[Access your Tasks Here](#)

Customer Details

Contact Name: Brett

Contact Address: Newell Road RD 3 Hamilton 3283

Contact Home Phone:

Contact Mobile:

Contact Email Address:

Property Address: Bankwood Road Hamilton Chartwell 3210

Street Name:

Category: Dog Offences > Attack > HDVP > Historic Attack Dog V Person

16/1

12:01pm Database checks
Dog registered to 'Baby' has
a lot of history for roaming, barking
and 2x rushing - (no statements provided)

12:35pm - phoned comp

2:30pm Called to comps address to take
statement.

Brett tells me that really he just wants
them (the dog owners) to put up signage that
they have a dangerous dog on property
and keep it fenced in.
Explained to Brett what we can and can't
enforce and the possible outcomes for this
attack.

I have requested medical report - Brett will try
to get one from his wife - but tells me she
didn't want him to react it as she doesn't like causing

other people trouble - I explained to Brett that by taking action we hope to prevent further trouble for another potential victim. Brett agreed and will provide med report and provided statement to me today.

Brett tells the dog came from behind a car at the front of property. It was not chained or contained in any way.

Brett was off work today and unable to drive as a result of the injury to his hand.

3:45pm - called to Bankwood road. The Garage door was up and door to yard open so I phoned the Dog owner Yalda, who came out to talk with me. When I asked her where the dog was she said in the back yard I pointed to the open door and asked if that went to the yard she said yes and hurried to close it.

Turns out ~~door~~ ^{the dog} was in a room attached to the garage - but Yalda had no idea where the dog was to start with.

Advice given that she should always know where her dog is and ensure all gates and doors are secure to prevent dog being free to leave.

Yalda is really shocked at what her dog has done.

Discussed possible outcomes - will discuss possible dangerous class with D25 when he returns to work.

Yalda came put dog on lead for photo
Dog didn't react to me at all.

21/1 1:14 pm Discussion with D25 - ~~is~~ agreed
dog to be classified as dangerous.

23/1 1:35 pm Phone to comp - no answer.
1:36 pm

Phone call to Yalda Re D/O to adv
who of outcome.

Yalda not happy with dangerous
classification as she believes her dog
is nice and not at all aggressive

She thinks the comp came onto her
property and said her Dad saw him
bitting the dog with a cap

Yalda asked whether her dog will have
to wear a muzzle when walked if
classified dangerous.

I advised that as her dog is
already classified menacing it should already
be wearing muzzle when walked
Explained criteria to meet dangerous classifica

Yalda tells she is going to challenge
the classification.

Advised of Infringement to be issued

24/1 Infringement # 12545 issued.

11:04 am Dangerous class signed by court.

11:16 am Phone call to comp to update

en005 - Animals Enquiry - Hamilton LIVE - 28752 - 6.11

Hamilton City Council
Te kaunihera o Kirikiriroa

Document Edit Name and Address Payments Animals Other Modules Help

OK Cancel Cut Copy Paste Find Excel Help Mapping Memos Attachments

Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

1 of 1

Document Browse

****Menacing Animal****

11 Memos Recorded

Animal Type: 1 Dogs Number: 219469
MicroChip Brand: MICROCHIP Id: 900032000256118
Alpha Key:
Assessment: 40517 Parcel: 4305744
Owner: 1090621
House Number:
Street Name: Bankwood
Suburb Name: Chartwell 3210

Owner Details

Name: Yalda Ahmadi
Address: Bankwood Road
Chartwell
Hamilton 3210
Mobile Phone:
Home Phone:
Business Phone:
e-Mail Address:

Animal Details

Kept at Address: Bankwood Road Chartwell Hamilton 3210
OutsideTag: Ref:
Animal Name: Baby Neutered: Y Gender: Female
Breed: PITB Terrier American Pit Bull Cross: CRXX
Main Colour: BRO Brown Second: WHI White
Birth: 22/11/2011 Age: 8 Years 1 Months Death:
Features: Permit Number:
Depart:

Registration Details

Tag Number: 15183 Tag Set: 2019/20
eTran: Recpt Date: 30/07/2019 Reg Till: 30/06/2020

By Law Code Search

Code Type: Code Value:

Item 5

Attachment 2

i_me002 - Memos - Hamilton_LIVE - 39080 - 6.11

Document Edit Help

OK Cancel Cut Copy Paste Add Update Delete Find Excel Help

1 of 2

Document

Memo

Warning - Authority Wide

Module AN Companion Animals

Account 219469

Dogs - Baby

Type 97 Registered Menacing Dog

Number 1

Date 09/07/2013

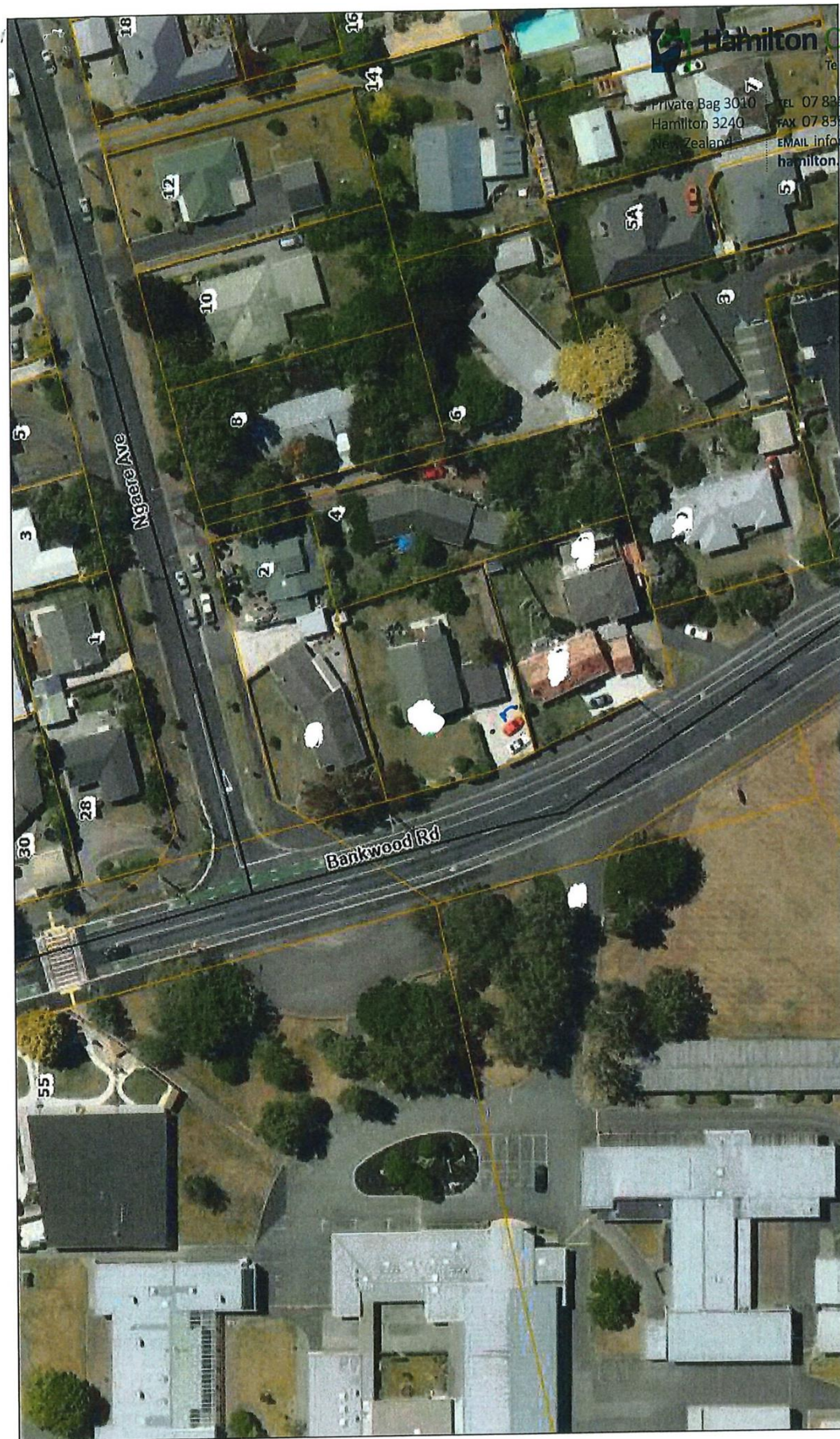
Start Date 09/07/2013 End Date

Text

Menacing Classification issued to Azmat Ahmedi as owner of Baby, pitbull terrier (based on breed)

Created 2013-07-09 14:02:22 Modified 2013-09-26 08:14:13 Operator 1759 Julie Summers

OVR



Print Size: A4 Landscape # Bankwood Road LocalMaps Print

Dog Baby AN# 219469

Scale: 1 : 891

45

90 Meters

was loose at front of property hidden behind parked cars when victim approached the gate on left hand side.

Cadastral Information is from Land Information New Zealand, Crown Copyright Reserved.
Disclaimer: Hamilton City Council does not guarantee that the data shown on this map is correct.
Use of this information is in conjunction with the GIS Conditions of Use Agreement.
Please visit www.hamilton.govt.nz for details.
Cadastral Information is from Land Information New Zealand, Crown Copyright Reserved.

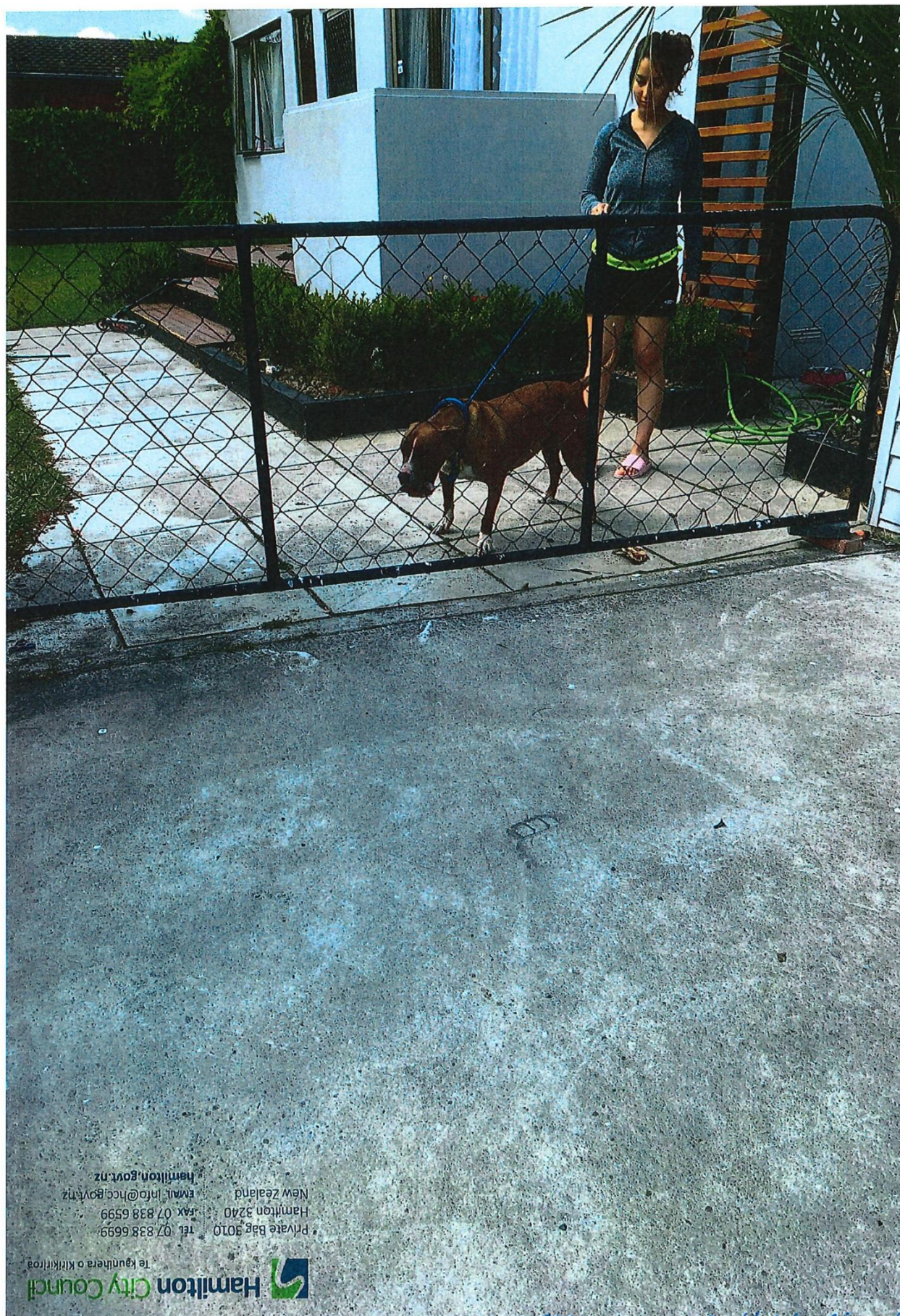
Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6666
FAX 07 838 6666
EMAIL info@hamilton.govt.nz
hamilton.govt.nz

Hamilton City Council
Te Kaunihera o Kirikiriroa

Attachment 2

Item 5



Hamilton City Council
Te Kūhūhēra o Kiri-kiri-roa

Private Bag 3010
Hamilton 3240
New Zealand
Tel: 07 838 6699
Fax: 07 838 6599
Email: info@hcc.govt.nz
hamilton.govt.nz



Item 5

Attachment 2



CRM 190933/2020

STATEMENT FORM



Hamilton City Council

Te kaunihera o Kirikiriroa

Private Bag 3010
Hamilton 3240
New Zealand

Phone 07 838 6699
Fax 07 838 6599

info@hcc.govt.nz
www.hamilton.co.nz

TIME 2:36 pm

DATE 16/1/2020

PLACE Newell Road
Tamahere, Hamilton

My full name is Brett

and I live at Newell Road, Hamilton, I am

making this statement to Trudi D37, Dog Control

Officer of the Hamilton City Council. On the 15th January, at

approximately 4pm am/pm I was door knocking in

(Describe Incident)

1. the area of Bankwood Road talking
to people about the local church.
When I walked down the drive
of Bankwood Road, I looked for
a sign of a dog living at the
property, I didn't see anything so
I continued.

The area to the left of the drive
was a fenced off area.

A dog came at me from my
right, from behind a car.

It came right at me snarling, showing
teeth and trying to bite me.

I backed away down the drive

AC/F01 Version 6
25.03.04

Item 5

Attachment 2

Animal Education & Control

trying to keep it from biting me.

I tripped when I was about 2 yards from the road and fell backwards. The dogs sole goal was to bite me. It bit my left hand, then it backed off.

The owners from the house came out into the driveway. They called the dog and immediately put it into the fenced area.

My hand was bleeding quite badly, so I left.

I told the owners I would be contacting Animal Control and showed them my hand.

I drove with one hand to my wifes surgery as she is a doctor.

They put stitches in the cut and gave me antibiotics to take

2. Description of Dog A large head, large jaw, small ears
Dark brown

3. Any witnesses (or owner present) A man, and some kids
from the property came out after the attack.

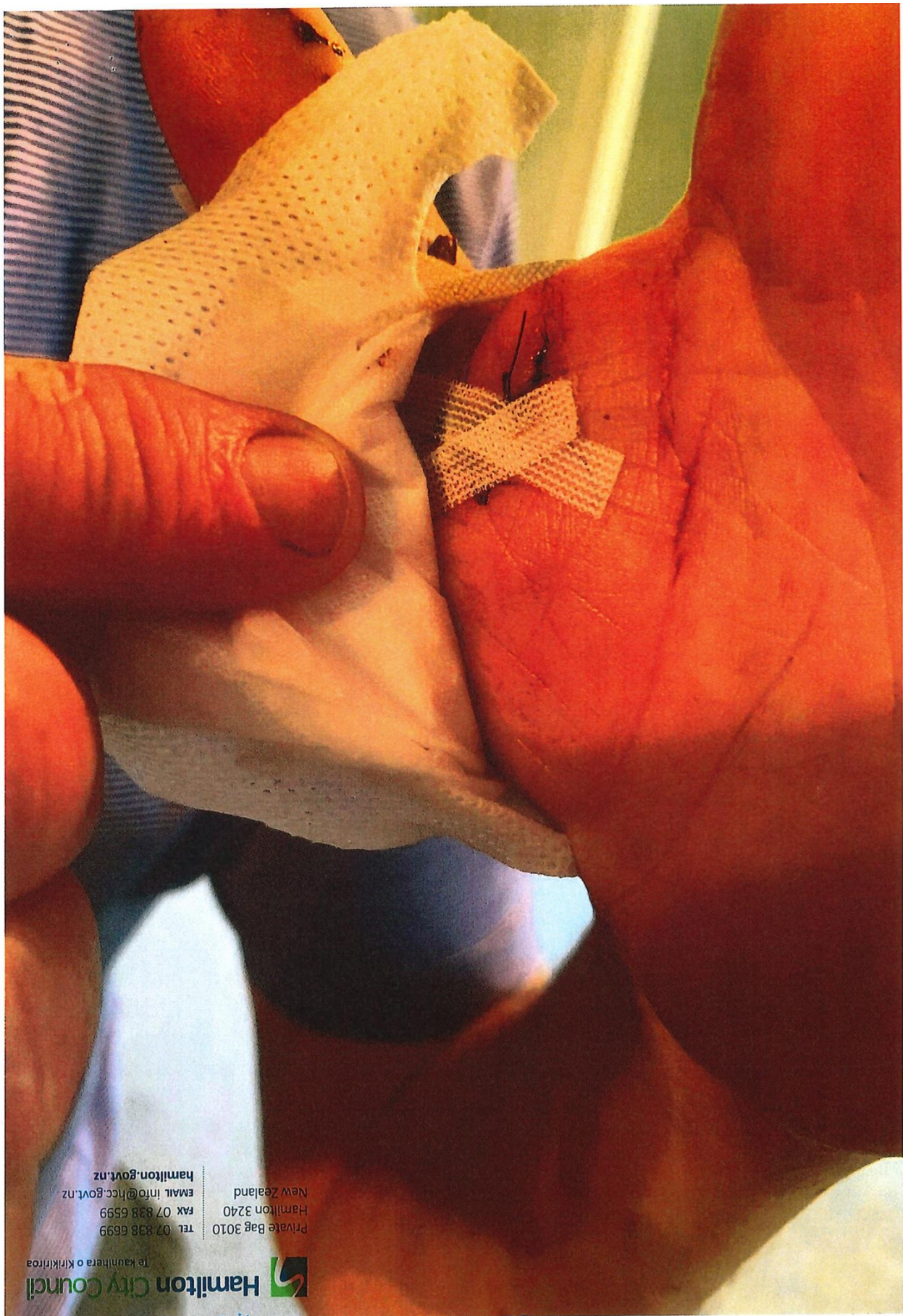
I declare that the information recorded above is true and an accurate account and I am aware that this information could be produced as evidence in a court of law and I may be required to give evidence in this regard.

SIGNED Belt OCCUPATION ACCOUNTANT

DATE AND TIME 16/1/20 3.00pm

WITNESSED [Signature]





Item 5

Attachment 2



IN THE MATTER of Section 31(1)(b) Of the Dog Control Act 1996

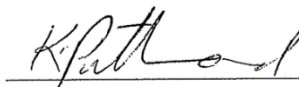
I, Trudi Elisabeth Swanson, Dog Control Officer with Hamilton City Council, do solemnly swear that:

1. Yalda Ahmadi, of . Bankwood Road, Chartwell, Hamilton is the registered owner of a brown & white, female, American Pitbull Terrier cross dog named "Baby".
Microchip number: 900032000256118.
2. On the 09/07/2013 "Baby" was classified as a menacing dog based on breed
3. On the 15/01/2020 "Baby" attacked a member of public visiting the address. This attack resulted in an injury to the victim's hand that required medical attention and sutures to close the wound.
4. This attack involving "Baby" has been investigated by Hamilton City Council, I have reasonable grounds to believe that the dog constitutes a threat to ongoing public safety.

Based on the above, the dog known as "Baby" will be classified as a Dangerous Dog under the Dog Control Act 1996 and amendments.

~~AFFIRM~~
~~SWORN~~ before me at Hamilton
this 24th day of January 2020.


Trudi Elisabeth
Dog Control Officer D37
Hamilton City Council


K Putland
Deputy Registrar
District Court



Hamilton City Council
Te kaunihera o Kirikiriroa

Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

24/01/2020

Yalda Ahmadi
Bankwood Road
Chartwell
Hamilton 3210

Dear Yalda

Please find enclosed Infringement notice: 190933

The offence that has been committed is Failure to keep dog under control.

We have spoken too you in relation to this.

As a consequence, an infringement notice has been issued under Section 53(1) Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Due to an offence being committed by your dog, you will no longer be eligible for the category one registration fee for two years.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards

Animal Education and Control Officer D37

Animal Education & Control

COPY

Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

Item 5

NOTICE OF CLASSIFICATION OF DOG AS A DANGEROUS DOG

SECTION 31, DOG CONTROL ACT 1996

TO: *(Name of Owner)* Yalda Ahmadi

ADDRESS: Bankwood Road, Chartwell, Hamilton 3210, ,

DOG: *(Description)* Female, American Pit Bull Terrier Cross, Brown and White in colour, Named Baby, Aged 8 years and 2 months approximately, Microchip 900032000256188

This is to notify you that this dog has been classified as a dangerous dog under section 31(1) of the Dog Control Act 1996.

This is because on Wednesday, 15th January, Baby attacked a member of public visiting Bankwood Rd, Chartwell resulting in an injury to the victim's hand that required medical attention and sutures to close the wound.

A summary of the effect of the classification and your right to object is attached.

For the purposes of the Dog Control Act 1996, you are the owner of a dog if –

- You own the dog; or
- You have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner) ; or
- You are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.


Signature of officer

29/1/2020
Date

AC/F06
Version 4
24.01.05

Animal Education & Control

Attachment 3

COPY



Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

EFFECT OF CLASSIFICATION AS A DANGEROUS DOG

Section 32 and 36A Dog Control Act 1996

You are required, -

- (a) Within one month after receipt of this notice, to ensure that the dog is kept within a securely fenced portion of your property that it is not necessary to enter to obtain access to at least one door of any dwelling on the property; and
- (b) Not to allow the dog to be at large or in any public place or in any private way, (other than when confined completely within a vehicle or cage) without-
 - (i) the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breath and drink without obstruction; and
 - (ii) the dog being controlled on a leash (except in a designated dog exercise area); and
- (c) To produce to the Hamilton City Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon and certifying:
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (d) Where a certificate under paragraph (c)(ii) is produced to the Hamilton City Council, to produce to the Hamilton City Council, within one month after the date specified in that certificate, a further certificate under paragraph (c)(i); and
- (e) In respect of every registration year commencing after receipt of this notice, to pay dog control fees for the dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and
- (f) Not to dispose of the dog to any other person without the written consent of the territorial authority in whose district the dog is to be kept.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with any of the matters in paragraphs (a) to (f) above. In addition, on conviction the Court must order the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (f) above. The ranger or officer may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (f).

AC/F06
Version 4
24.01.05

COPY



Private Bag 3010 TEL 07 838 6699
Hamilton 3240 FAX 07 838 6599
New Zealand EMAIL info@hcc.govt.nz
hamilton.govt.nz

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you sell or otherwise transfer the dog, or offer to do so, to any other person without disclosing that the dog is classified as a dangerous dog.

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Hamilton City Council in accordance with the reasonable instructions of the Hamilton City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement-

- within 2 months from 1 July 2006 if your dog is classified as menacing on or after 1 December 2003 but before 1 July 2006;
or
- within 2 months after the dog is classified as menacing if your dog is classified as menacing after 1 July 2006.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of classification as a dangerous dog are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO CLASSIFICATION Section 31(3) Dog Control Act 1996

You may object to the classification by lodging with the Hamilton City Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object. You are entitled to be heard in support of the objection and will be notified of the time and place at which your objection will be heard.

AC/F06
Version 4
24.01.05

Susan Stanford

From: Yalda Ahmadi <@icloud.com>
Sent: Tuesday, 25 February 2020 12:09
To: Susan Stanford
Subject: Re: Objection to classification

The reason I'd like to object is that one incident that had taken place was unfortunate but not done in order to harm an innocent. My dog has been a family dog for the past 8+ years and never has it done such a thing. We have been robbed several times therefore she is now in alert mode for who comes in and out of the property. I was told that she has "many cases of barking and roaming" but honestly what dog doesn't bark?? The only time it barks is when there's someone visiting us to alert us. About roaming, our gate was not very well secure at the time in that house so naturally dogs could get bored and go for a stroll, not ideal but it does happen that still isn't a reason to classify her as a dangerous dog she wouldn't hurt anyone. And about the incident that had happened recently there were two sides of the story but only the victim's was accepted as he was hurt of course I do not mind the fine but it's common sense if I have set up a sign alerting strangers that there's a dog on sight and to not enter then it's there for a reason, my father was at the place at that time and he saw that some man was hitting baby with his hat over the gate when it was barking so by the time he walked out the man was then bleeding from his hand, yes it's unfortunate that the man was hurt to which I didn't really argue it but to classify her as a dangerous dog stopping her to be social and be out freely is not fair for her, she's a friendly dog and does not hurt anyone intentionally for no reason.

Sent from my iPhone

> On 25/02/2020, at 8:21 AM, Susan Stanford <Susan.Stanford@hcc.govt.nz> wrote:
 >
 > Hi Yalda
 > Thank you for getting back to me. I'll get the ball rolling on this. You will hear from someone in our Governance team with a meeting/hearing date.
 >
 > Can you please send to me the reasons you are objecting and any support you have for this so I can include it in the report for the committee members.
 >
 > Regards
 > Sue
 >
 > Susan Stanford
 > Animal Education and Control Manager | City Safe
 >
 > DDI: 07 838 | Mob: 021 | Email susan.stanford@hcc.govt.nz
 >
 > Hamilton City Council | Private Bag 3010 | Hamilton 3240 | <https://us-west-2.protection.sophos.com?d=hamilton.co.nz&u=d3d3LmhbbWlsdG9uLmNvLm56&e=c3VzYW4uc3RhbmZvcmlRAaGNjLmdvdnQubno=&h=59379ba239bd42b6a428877b3a5cebe0&t=amV1cW5Rd2F5dZlktTiszcGNiQWl1WFpKYINGSjhcWE9KbUlyRTJDZU9PND0=>
 > Like us on Facebook Follow us on Twitter
 >
 >
 > -----Original Message-----
 > From: Yalda Ahmadi <@icloud.com>
 > Sent: Monday, 24 February 2020 6:57 PM
 > To: Susan Stanford <Susan.Stanford@hcc.govt.nz>
 > Subject: Re: Objection to classification

>
 > Hi susan,
 > I apologise for some reason the email keeps going to junk but yes id like you to go ahead with this hearing as i dont believe my dog is dangerous
 >
 > Sent from my iPhone
 >
 >> On 24/02/2020, at 9:04 AM, Susan Stanford <Susan.Stanford@hcc.govt.nz> wrote:
 >>
 >> Hi Yalda
 >> I have not heard from you regarding whether or not you want to continue with your object to the dangerous classification of your dog.
 >> If I do not hear from you by Friday 28 February 2020 I will assume you no longer wish to pursue the matter.
 >> Regards
 >> Sue
 >>
 >> Susan Stanford
 >> Animal Education and Control Manager | City Safe
 >>
 >> DDI: 07 838 | Mob: 021 | Email susan.stanford@hcc.govt.nz
 >>
 >> Hamilton City Council | Private Bag 3010 | Hamilton 3240 | <https://us-west-2.protection.sophos.com?d=hamilton.co.nz&u=d3d3LmhbbWlsdG9uLmNvLm56&e=c3VzYW4uc3RhbmZvcmlRAaGNjLmdvdnQubno=&h=02bf712d44364dfb84ee61b3c65f7b7b&t=amV1cW5Rd2F5dzJkTiszczGniQWI1WFpKYINGSjhCWE9KbUlyRTJDZU9PND0=>
 >> Like us on Facebook Follow us on Twitter
 >>
 >>
 >> -----Original Message-----
 >> From: Susan Stanford
 >> Sent: Monday, 17 February 2020 8:21 AM
 >> To: Yalda Ahmadi <@icloud.com>
 >> Subject: RE: Objection to classification
 >>
 >> Hi Yalda
 >> Thank you for your email.
 >> I can see from Baby's animal record that she has an extensive history with us including roaming, barking and rushing people. Due to her history Animal Education and Control will continue with the dangerous classification.
 >>
 >> There is a formal objection process that includes a public hearing. I have attached the information to this email.
 >> If you wish to continue with the objection and have a hearing please let me know as soon as possible and I will get the process started.
 >> Also please include as much information as you can on why you are objecting as I include this in the Council report I have to write.
 >>
 >> Regards
 >> Sue
 >>
 >>
 >> Susan Stanford
 >> Animal Education and Control Manager | City Safe
 >>
 >> DDI: 07 838 | Mob: 021 | Email susan.stanford@hcc.govt.nz
 >>
 >> Hamilton City Council | Private Bag 3010 | Hamilton 3240 | <https://us-west-2.protection.sophos.com?d=hamilton.co.nz&u=d3d3LmhbbWlsdG9uLmNvLm56&e=c3VzYW4uc3RhbmZvcmlRAaGNjLmdvdnQubno=&h=02bf712d44364dfb84ee61b3c65f7b7b&t=amV1cW5Rd2F5dzJkTiszczGniQWI1WFpKYINGSjhCWE9KbUlyRTJDZU9PND0=>

LmdvdnQubno=&h=02bf712d44364dfb84ee61b3c65f7b7b&t=amV1cW5Rd2F5dzJkTiszczGNIQWl1WFpKYINGSjhCWE9KbUlyRTJDZU9PND0= Like us on Facebook Follow us on Twitter

>>

>>

>> -----Original Message-----

>> From: Valda Ahmadi .@icloud.com>

>> Sent: Friday, 14 February 2020 7:59 PM

>> To: Susan Stanford <Susan.Stanford@hcc.govt.nz>

>> Subject: Objection to classification

>>

>> Hi,

>> I am writing to you regarding a issue that has happened with my dog to which she has been classified as a dangerous dog.

>> I had actually emailed the email on the website to which they had responded but had gone to junk mail and i didnt get to see it. Id like to object to this as i believe my dog is not a dangerous dog it was just an unfortunate events to which theres two different sides of the story but yet she has been classfied as this and i believe it is not fair as she is actually a loving and calm dog i had also took her to a vet and it seemed like she had pain in her back legs to which it couldve also instigated the matter. I would like to request to relook into this matter.

>> Her name is baby , address 24 bankwood road chartwell. My name is yalda ahmadi

>>

>> Sent from my iPhone

>> <Public Hearing Information - Dog Control Act 1996 - Dangerous and Menacing Dogs.pdf>

Council Report

Item 6

Committee: Dog Control Hearings Panel **Date:** 28 July 2020
Author: Susan Stanford **Authoriser:** Kelvin Powell
Position: Animal Control Manager **Position:** City Safe Unit Manager
Report Name: Objection to disqualification from dog ownership - Ropata Marshall

Report Status	Open
---------------	------

Purpose - *Take*

1. To seek a determination from the Dog Control Hearings Panel on the disqualification from dog ownership of Ropata Marshall.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Dog Control Hearings Panel:
 - a) receives the report; and
 - b) determines that the disqualification from dog ownership of Ropata Marshall is upheld.

Executive Summary - *Whakaraapopototanga matua*

3. Section 25 of the Dog Control Act 1996 notes that a territorial authority must disqualify a person from being a dog owner if they have received three infringements in a 24-month period or committed an offence under the following acts:
 - The Dog Control Act 1996
 - Part 1 or Part 2 of the Animal Welfare Act 1999
 - Section 26ZZP of the Conservation Act 1987 or
 - Section 56I of the National Parks Act 1980.
4. Ropata Marshall has received five infringements for three separate events in a 24-month period.
5. Staff recommend that the Dog Control Hearings Panel uphold the disqualification for the recommended period, as detailed in the options section below.
6. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter in this report has a low level of significance.

Background - *Kooreo whaimaarama*

7. Ropata Marshall was disqualified from dog ownership on 17 February 2020 (**Attachment 1**) and his written objection was received on 23 March 2020 (**Attachment 2**). After a dog owner has received

Attachment 1

three infringements within a 24-month period the Council must disqualify them from dog ownership (see Legal and Policy section, paragraphs 24-27).

8. Ropata Marshall has received five infringements for three separate incidents involving two dogs (Batman and Blue) over a three-month period, from January to March 2020. Ropata Marshall is the owner of Batman and was the owner of Blue up until 12 February 2020, when he re-homed her.
9. Batman is a male, Pit Bull Terrier type-dog approximately one year old. Blue was a female, Pit Bull Terrier-type dog. Batman and Blue were litter mates.
10. The three incidents that resulted in infringements are:
 - 29/1/2020
Blue out roaming, able to get off the property by jumping the boundary fence. When AECOs arrived, Blue jumped the fence and rushed at the officers. Infringement #12664 issued for failure to keep dog controlled or confined (s52a).
 - 10/2/2020
Dog attack, Blue and Batman “bailed up” a member of the public and when another man went to assist them the dogs turned on him. Infringements #12709 and #12710 issued for failure to keep dog under control (s53).
 - 7/3/2020
Batman and Blue were out roaming and entered the complainant’s house rushing at his children. Infringements #12673 and #12674 issued for failure to keep dog controlled or confined (s52a) and failure to comply with any bylaw authorised by this section (s20) respectively). (Full animal histories – **Attachment 3** and copy of infringements (**Attachment 4**)

Note: Blue was owned by Ropata Marshall and resided at Lilac St when the first two offences occurred. Blue’s ownership was transferred to a W. Marsters on 12/2/2020. For the third offence Ropata Marshall was infringed for both dogs because at the time Blue was staying at his address in Lilac St and he was the person in charge of the dog at the time of the incident (infringement #12674)
11. Blue and Batman were subsequently impounded for another incident that occurred on 20 March 2020. Blue’s new owner did not claim her, and Blue was euthanised on 28 May 2020.
12. Ropata Marshall is objecting to being disqualified from dog ownership on the following ground:
 - Blue, not Batman, is the instigator of incidents.
 - The applicant has been co-operative with Animal Control staff.
 - The applicant has taken steps to mitigate the behaviour of Batmaan including, fixing fencing, supervising him in the garden and is willing to undertake any training directed by AEC. (See **Attachment 5** – for full objection submissions from James Carter, Solicitor).
13. Ropata Marshall will be accompanied by his solicitor, James Carter, during the hearing on 28 July 2020.

Discussion - *Matapaki*

14. In considering their decision, panel members should consider:
 - the number of incidents that have occurred
 - the nature and seriousness of those incidents
 - any escalation in behaviour demonstrated by the dog
 - what steps the dog owner has taken to prevent further occurrences and the timeliness of those actions

- the potential impact to public safety.
15. [Roaming dogs across Hamilton city](#) are an issue which has been highlighted recently. Dogs that roam frequently expand their “territory” and can show signs of aggression towards people or animals that enter it, posing a risk to public safety.
 16. Disqualification from dog ownership is based on the past behaviour of the dog(s) that resulted in three or more infringements in a 24-month period. It is not founded on what the future behaviour of the dog may be.
 17. While Batman is noted by the owner and Mr Carter as not being the instigator of the incidents that occurred, this does not excuse or justify the behaviour of Batman and the impacts it had on community members.
 18. Ropata Marshall has at all times been courteous with AEC staff. However, if he had taken the actions that he has since the last incident on 20 March 2020 and been disqualified from dog ownership back in October 2019, we wouldn’t be where we are today, and two families and two other members of the public would not have been subjected to terror. In October 2019 when AEC first became aware of the puppies and the poor behaviour they displayed, Ropata Marshall met with AEC staff and was given advice on re-homing and managing the puppies’ behaviour.
 19. Mr Carter notes that an infringement for s53 (failing to control) of the Dog Control Act 1996 requires an offence greater than that of “mere roaming” and in this he is correct. The behaviours beyond roaming that Batman and Blue displayed which resulted in the infringements (#12709 and #12710) include rushing at Animal Control staff, “bailing up” a member of the public and turning on his would-be rescuer.

Options - *Kōwhiringa*

20. Under the Dog Control Act 1996, territorial authorities have four potential outcomes/options in determining an objection to disqualification. They are:
 - I. uphold the disqualification for the recommended period
 - II. uphold the disqualification but bring the termination date forward
 - III. terminate the disqualification immediately
 - IV. change the disqualification to that of probationary owner.
21. Staff recommend option one because of the extensive history of unacceptable behaviour in the dogs that Ropata Marshall owned or was in charge of at the time the incidents occurred.
22. Ropata Marshall has not demonstrated responsible dog ownership in that little action appears to have been taken to prevent Batman and Blue from roaming from when they first came to the notice of AEC and the last event in March 2020.

Financial Considerations

23. This is a regular operating activity funded through the 2018-2028 Long Term Plan.

Legal and Policy Considerations

24. [Section 25](#) of the Dog Control Act 1996 notes that a territorial authority must disqualify a person from being a dog owner if they have received three infringements in a 24-month period or committed an offence under the following acts:
 - The Dog Control Act 1996
 - Part 1 or Part 2 of the Animal Welfare Act 1999
 - Section 26ZZP of the Conservation Act 1987 or
 - Section 56I of the National Parks Act 1980.

25. [Section 26](#) of the Dog Control Act 1996 sets a person's right to object to disqualification from dog ownership and the territorial authorities' responsibilities in considering that objection.
26. If a dog owner is dissatisfied with the outcome from the territorial authority's hearing process under [section 27](#) of the Dog Control Act, they may appeal to the District Court.
27. Staff confirm that the disqualification and options provided for the Dog Control Hearings Panel comply with Council's legal obligations under the Dog Control Act 1996.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

28. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
29. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report.
30. The recommendations set out in this report are consistent with that purpose.

Social

31. Staff considers that the keeping of animals can enhance the quality of life and well-being for individuals and families; however, staff also have a responsibility to protect the community from unreasonable animal nuisances – families, whanau, iwi, haapu, and communities should be safe from dangerous animals.

Risks - *Tuuraru*

32. Should the disqualification be overturned AEC, believe Batman could potentially pose an ongoing risk of roaming if stringent containment measures are not adhered to.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

33. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Engagement

34. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Notice of disqualification from dog ownership

Attachment 2 - Notification of objection received

Attachment 3 - Animal histories (Batman - Girl - Blue)

Attachment 4 - Infringements

Attachment 5 - Reasons for objection to disqualification.

NOTICE OF DISQUALIFICATION FROM DOG OWNERSHIP

Section 25, Dog Control Act 1996

TO: (Name of owner) **Ropata Marshall**

ADDRESS: [REDACTED] Melville, Hamilton 3206, ,

This is to notify you that you have been disqualified under section 25 of the Dog Control Act 1996 from owning any dog.

This follows –

- 3 or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 17/2/2020 until 17/2/2025

A summary of the effect of the disqualification and your right to object is attached.

Signature of officer

Date

COPY

AC/F07
Version 4
24.1.05

EFFECT OF DISQUALIFICATION
Section 28, Dog Control Act 1996

You are required to dispose of every dog owned by you within 14 days of the date of this notice.

However, you may not dispose of a dog-

- to a person who resides at the same address as you; or
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only 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.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you-

- fail to dispose of every dog owned by you within 14 days of this notice; or
- at any time while disqualified, become the owner of any dog; or
- dispose of a dog owned by you-
- to a person who resides at the same address as you; or
- in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended.

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO DISQUALIFICATION
Section 26, Dog Control Act

You may object to the disqualification by lodging a written objection with the Hamilton City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard. No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until the Hamilton City Council has determined the objection.

There is a further right of appeal to the District Court if you are dissatisfied with the decision of the Hamilton City Council on your objection.

AC/F07
Version 4
24.1.05

Susan Stanford

From: Peter Crocker
Sent: Thursday, 21 May 2020 14:51
To: Susan Stanford
Subject: FW: Ropata Marshall - Batman

Follow Up Flag: Follow up
Flag Status: Flagged

Hi

This the objection of disqualification for dog owner Ropata Marshall.

From: James Carter <jcarter@jamescarterlaw.co.nz>
Sent: Tuesday, 24 March 2020 12:06 PM
To: Peter Crocker <Peter.Crocker@hcc.govt.nz>
Subject: Re: Ropata Marshall - Batman

Good afternoon Peter

Further to the above email, I am instructed that my client made a phone call requesting the release of Batman. This is to confirm he does apply for Batman's release.

Do you have any response to the matters raised regarding payment in the above email? My client does intend to come to Ellis Street between 1 and 2 pm to pay the fees owed however I hold the view this is not required unless the decision is to release.

Regards

James Carter
 Barrister & Solicitor
 M: 027 8600988

www.jamescarterlaw.co.nz

Patron of the Hamilton Dog Obedience Club
 Volunteer Solicitor at Community Law Waikato

This e-mail is a confidential communication between James Carter Law and the intended recipient. If it has been received by you in error, please immediately notify us by return e-mail and delete the original message. Owing to a legislation change, effective from 1 July 2018, we will be asking clients for more information. New Anti-Money Laundering (AML) Legislation requires us to obtain certain personal information and proof of identity from you prior to opening our file. This includes, but is not limited to, your Passport or Driver's Licence as well as proof of your address. For files opened in the name of a Trust, this information is required for all trustees and beneficiaries of the Trust and, in the case of a Company, all directors and shareholders.

On Mon, Mar 23, 2020 at 2:12 PM James Carter <jcarter@jamescarterlaw.co.nz> wrote:

Good afternoon Peter

If you intending to file a prosecution then the disposal of the dog falls with the court remit upon conviction. The s. 71 Notice only becomes relevant if there is an application for the release of the dog, what about the dog owner who is going to be prosecuted but accepts that the dog will not be released and does make such an application? S. 72 (2) is engaged in the absence of no release application.

As the decision as to prosecution is still effectively pending it would not, in my opinion, for the council to rely upon s. 69 would be erroneous.

In addition, I note your comments regarding wishing to fight for his dog and pay fees, etc. However, s. 71(4) clearly does not place any time limit on making an application for release, this, in turn, aids in the interpretation that when a prosecution is to take place then the right to dispose of a dog as per s. 69 DCA does not apply.

Disqualification:

My client has been disqualified for a period of 5 years by Notice dated 18 March 2020. In accordance with s. 26 DCA please take this email as Notice of objection under s. 26 (1) (a) & (b).

I note this requires a hearing and this may well take some time for the matter to be arranged [especially due to the current health climate].

It may be possible to arrange a hearing via AVL but that remains a matter for discussion. There is also an option for the matter to be heard on the papers, however, that would require the agreement of the dog owner taking into account s. 26(1)(b) which grants the applicant the entitlement to be "heard".

Please confirm you will not be taking any action to dispose of Batman taking into account the above submissions.

Kind regards

James Carter
Barrister & Solicitor
M: 027 8600988

www.jamescarterlaw.co.nz

Patron of the Hamilton Dog Obedience Club
Volunteer Solicitor at Community Law Waikato

This e-mail is a confidential communication between James Carter Law and the intended recipient. If it has been received by you in error, please immediately notify us by return e-mail and delete the original message. Owing to a legislation change, effective from 1 July 2018, we will be asking clients for more information. New Anti-Money Laundering (AML) Legislation requires us to obtain certain personal information and proof of identity from you prior to opening our file. This includes, but is not limited to, your Passport or Driver's Licence as well as proof of your address. For files opened in the name of a Trust, this information is required for all trustees and beneficiaries of the Trust and, in the case of a Company, all directors and shareholders.

On Mon, Mar 23, 2020 at 1:46 PM Peter Crocker <Peter.Crocker@hcc.govt.nz> wrote:

Hi Jim,

Just wondering what your client is intending to do regarding his dog Batman?

The family had a visit on Saturday but never requested the return of the dog therefore no retention notice has been issued to the owner, the seven day hold period is up today which means as of tomorrow the dog becomes the property of Hamilton City Council.

If he wants to try and fight for the return of his dog he needs to request it's return and pay the seizure fee asap.

Regards

Peter Crocker

Team Leader Animal Education & Control Officers | Animal Education & Control

DDI: 07 838 6797 | Fax: 07 838 6915 | Mob: 021 775 618 | Email: peter.crocker@hcc.govt.nz



Hamilton City Council | Private Bag 3010 | Hamilton 3240 | www.hamilton.govt.nz

Like us on Facebook Follow us on Twitter

This email and any attachments are strictly confidential and may contain privileged information. If you are not the intended recipient please delete the message and notify the sender. You should not read, copy, use, change, alter, disclose or deal in any manner whatsoever with this email or its attachments without written authorisation from the originating sender. Hamilton City Council does not accept any liability whatsoever in connection with this email and any attachments including in connection with computer viruses, data corruption, delay, interruption, unauthorised access or unauthorised amendment. Unless expressly stated to the contrary the content of this email, or any attachment, shall not be considered as creating any binding legal obligation upon Hamilton City Council. Any views expressed in this message are those of the individual sender and may not necessarily reflect the views of Hamilton City Council.

Attachment 3

Animal histories

Batman (an237775)

Date and CRM#	Description	Outcome
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from 4 Lilac St. Dog owner confirmed dogs had got out and was fixing fence.
10/2/2020 CRM192048	Roaming (public place) Multiple reports of two dogs from [REDACTED] out roaming.	Dog seized AECO saw two dogs on street, recognised them as belonging to [REDACTED]. They were jumping in and out of property over the fence.
10/2/2020 CRM192098	Dog attack Complainants partner went to the aid of a man who was being "bailed up" by two dogs on Collins Rd, they then turned on him but he managed to chase them away. Dogs reported as coming from Lilac St. Complainants partner to supply video of the dogs.	Infringements issued (#12709 and #12710 for s53 of Dog Control Act 1996 (DCA) failure to keep dog under control) Dogs had returned home by time AECO arrived. Dog owner denies dogs were out. Video supplied clearly shows dogs from [REDACTED] St.
7/3/2020 CRM193321	Roaming (public place) Dogs from [REDACTED] roaming on complainant's property in Collins Rd. Second caller dogs jumping the fence into her property in Lilac St.	Infringements issued (#12673 and #12674 issued for failure to keep dog controlled or confined (s52(a) and Failure to comply with any bylaw authorised by this section (s20) respectively). Statement and photos of dogs from [REDACTED] supplied by complainant.
12/3/2020 CRM193851	Roaming (public place) Two dogs roaming for last few days on one occasion they entered the complainants house, rushing at and scaring his children. Dogs identified as coming from [REDACTED]	Dogs seized for s52 and s57a Both dogs red flagged for showing aggression in the kennels.
18/3/2020 CRM194013	Disqualification papers served.	
20/3/2020 CRM194087	Rushing Two dogs from [REDACTED] have entered complainants house showing aggression towards the occupants.	Dogs seized

Girl (an226913)

Date and CRM#	Description	Outcome
26/10/2016 CRM141047	Menacing classification	Menacing classification documentation for "Girl" served.
29/11/2016 CRM142562	Menacing compliance follow-up Dog not de-sexed	Infringement issued (311173)
16/10/2019 CRM186071	Dog attack Seven puppies at [REDACTED] hauling a litter mate.	Dog impounded Victim puppy – deceased Puppies and mother dog showed aggression to AECO at property. Puppies approximately three months old. Once impounded "Girl" was held until de-sexing was organised as she was in breach of her menacing classification. The Dog owners had moved, and the dog was made GNA (gone no address) in May 2017. "Girl's" location remained unknown until this incident; her registration expired on 30 June 2018.
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from [REDACTED] St. Dog owner confirmed dogs had got out and was fixing fence.

Blue (an237777)

Date and CRM#	Description	Outcome
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from [REDACTED] Dog owner confirmed dogs had got out and was fixing fence.
24/1/2020 CRM191235	Urgent rushing Dog jumped front boundary fence of Lilac St property and chased two young girls who took refuge in a neighbours driveway.	Written warning issued. "Blue" classified as menacing
29/1/2020 CRM191436	Failure to keep control of dog Carmel coloured dog from Lilac St reported out roaming. When AECO's attended the dog "Blue" jumped the fence and rushed at the officers.	Infringement issued (#12664 for s52a, failure to keep dog controlled or confined)
10/2/2020 CRM192048	Roaming (public place) Multiple reports of two dogs from [REDACTED] out roaming.	Dog seized AECO saw two dogs on street, recognised them as belonging to [REDACTED] They were jumping in and out of property over the fence.

10/2/2020 CRM192098	<p>Dog attack</p> <p>Complainants partner went to the aid of a man who was being "bailed up" by two dogs on Collins Rd, they then turned on him, but he managed to chase them away.</p> <p>Dogs reported as coming from Lilac St.</p> <p>Complainants partner to supply video of the dogs.</p>	<p>Infringements issued</p> <p>(#12709 and #12710 for s53 of Dog Control Act 1996 (DCA) failure to keep dog under control)</p> <p>Dogs had returned home by time AEEO arrived. Dog owner denies dogs were out. Video supplied clearly shows dogs from [REDACTED] St.</p>
Ownership of "Blue" transferred to William Marsters on 12/2/2020		



Item 6

Attachment 3

INFRINGEMENT NOTICE
(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)

NOTICE NUMBER **12664**

TERRITORIAL AUTHORITY

  **Hamilton City Council**
Te kaunihera o Kirikiriroa
Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Forenames _____ Surname _____

Name of dog owner: _____

Address: _____

Date of birth: _____

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
29-1-2020	4.45 pm	S M T W T F S

Road/Street: _____ Locality: **HAMILTON**

OFFENCE COMMITTED INDICATED BY BOX TICKED

TICK ✓	IDENTIFYING NUMBER
<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger 18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars 19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog 19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section 20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification 28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog 32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog 32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog 33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog 36A(6)
<input type="checkbox"/>	False statement relating to dog registration 41
<input type="checkbox"/>	Failure to register dog 42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc 46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership 48(3)
<input type="checkbox"/>	Failure to advise change of address 49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc 51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined 52A(3)
<input type="checkbox"/>	Failure to keep dog under control 53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise 54(2)
<input type="checkbox"/>	Failure to carry leash in public 54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed 62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 52(A) \$200

Reg. No. or Description of Dog: Tag: 2688 1 Blue
Female, P+bull-cross, blue in
colour

PAYMENT OF INFRINGEMENT FEE

The infringement fee is payable within 28 days after 20-1-2020 (Earliest date notice delivered personally or posted)

OFFICER NUMBER: _____ THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"


THE INFRINGEMENT FEE MAY BE PAID TO:

HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

INFRINGEMENT NOTICE
(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)

NOTICE NUMBER **12709**

TERRITORIAL AUTHORITY

 **Hamilton City Council**
Te kaunihera o Kirikiriroa
Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Forenames _____ Surname _____

Name of dog owner: _____
Address: _____
Date of birth: _____

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
10/9/2020	7:51pm	S M T W T F S

Road/Street: _____ Locality: **HAMILTON**

OFFENCE COMMITTED INDICATED BY BOX TICKED

TICK ✓	IDENTIFYING NUMBER
<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger 18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars 19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog 19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section 20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification 28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog 32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog 32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog 33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog 36A(6)
<input type="checkbox"/>	False statement relating to dog registration 41
<input type="checkbox"/>	Failure to register dog 42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc 46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership 48(3)
<input type="checkbox"/>	Failure to advise change of address 49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc 51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined 52A(3)
<input checked="" type="checkbox"/>	Failure to keep dog under control 53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise 54(2)
<input type="checkbox"/>	Failure to carry leash in public 54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed 62(4)

Additional Details or other offences under the Dog Control Act 1996:

Ref CAR 192098 \$200 =

Reg. No. or Description of Dog: "Blue" the female, American Pitbull Terrier, Blue in colour, 6 months old approx

PAYMENT OF INFRINGEMENT FEE

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted) 13/9/2020


OFFICER NUMBER: D17 THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:
HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

INFRINGEMENT NOTICE
(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)

NOTICE NUMBER **12710**

TERRITORIAL AUTHORITY

 **Hamilton City Council**
Te kaunihera o Kirikiriroa
Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Forenames _____ Surname _____

Name of dog owner: _____
Address: _____
Date of birth: _____

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
10/9/2020	7:51pm	S M T W T F S

Road/Street: _____ Locality: **HAMILTON**

OFFENCE COMMITTED INDICATED BY BOX TICKED

TICK ✓	IDENTIFYING NUMBER
<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger 18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars 19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog 19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section 20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification 28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog 32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog 32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog 33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog 36A(6)
<input type="checkbox"/>	False statement relating to dog registration 41
<input type="checkbox"/>	Failure to register dog 42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc 46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership 48(3)
<input type="checkbox"/>	Failure to advise change of address 49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc 51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined 52A(3)
<input checked="" type="checkbox"/>	Failure to keep dog under control 53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise 54(2)
<input type="checkbox"/>	Failure to carry leash in public 54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed 62(4)

Additional Details or other offences under the Dog Control Act 1996:

Ref CAR 192098 \$200 =

Reg. No. or Description of Dog: "Batman" the male, American Pitbull Terrier, Black and white in colour, 6 months old approx

PAYMENT OF INFRINGEMENT FEE

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted) 13/9/2020

OFFICER NUMBER: D17 THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:
HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

INFRINGEMENT NOTICE

(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)

NOTICE NUMBER **12673****TERRITORIAL AUTHORITY****Hamilton City Council**Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Te kaunihera o Kirikiriroa

Forenames

Surname

Name of dog owner:

Address:

Date of birth:

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
7-3-2020	9:37am	S M T W T F S

Road/Street:

Locality: **HAMILTON****OFFENCE COMMITTED INDICATED BY BOX TICKED**

TICK ✓		IDENTIFYING NUMBER
<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 52(A)

\$200

Reg. No. or Description of Dog:

Reg. 2083 Male
Pit Bull, Black and white**PAYMENT OF INFRINGEMENT FEE**

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted)

OFFICER NUMBER: THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:

HAMILTON CITY COUNCIL	Cashiers	or	Animal Care and Control
	Ground Floor		217 Ellis Street
	Municipal Complex		Hamilton
	Garden Place		

INFRINGEMENT NOTICE

(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)

NOTICE NUMBER **12674****TERRITORIAL AUTHORITY****Hamilton City Council**Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Te kaunihera o Kirikiriroa

Forenames

Surname

Name of dog owner:

Address:

Date of birth:

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
7-3-2020	9:37am	S M T W T F S

Road/Street:

Locality: **HAMILTON****OFFENCE COMMITTED INDICATED BY BOX TICKED**

TICK ✓		IDENTIFYING NUMBER
<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 20

\$300

Reg. No. or Description of Dog:

Reg. 2083 Female
Pit Bull, Black and white**PAYMENT OF INFRINGEMENT FEE**

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted)

OFFICER NUMBER: THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:

HAMILTON CITY COUNCIL	Cashiers	or	Animal Care and Control
	Ground Floor		217 Ellis Street
	Municipal Complex		Hamilton
	Garden Place		

**IN THE HEARINGS COMMITTEE
AT HAMILTON CITY COUNCIL**

IN THE MATTER OF

**An Objection to
Disqualification in accordance
with s. 26 (1) Dog Control Act
1996**

BETWEEN

ROPATA MARSHALL

Hamilton 3206

AND

**THE HAMILTON CITY
COUNCIL**

**SUBMISSIONS AS TO WHY DISQUALIFICATION SHOULD
BE TERMINATED.**

Hearing: 28 July 2020 at 10:30 am Committee Room 1

Counsel: James Carter
jcarter@jamescarterlaw.co.nz
Mob: 027 860 0988

1084 River Road
Queenwood
Hamilton 3210
www.jamescarterlaw.co.nz

MAY IT PLEASE THE HEARINGS COMMITTEE:

1. Mr Ropata Marshall [the Applicant] is the registered owner of a male black and white Pitbull cross breed named “Batman”.
2. The Applicant, by notice, dated the 18th March 2020, was disqualified from owning a dog for the maximum period of five [5] years on the basis of being issued three [3] or more infringement notices within a 24 month period.¹
3. Copies of the Correspondence included with the Infringement Notices is attached and **Annexed “A”**. The Committee is referred to Notice No. 12664 [page 3 of 3] that refers to a dog named “Blue”. It should be noted the Applicant was looking after this dog for a third party. What is clear is that the Applicant’s own dog [Batman] behaved poorly when with this other dog. The dog “Blue” does not reside with the Applicant and does not visit.² The Committee is invited to give this notice less weight than Notices No.’s 12617, 12709 and 12710 which involve Batman.
4. By notice, dated the 23rd March 2020, an objection was filed within the required timeframe. The dog “Batman” was subsequently returned to the care of the Applicant and currently remains in his care.

The Law:

5. The ability to disqualify a dog owner from ownership falls within the discretion of a Territorial Authority [TA]. It is not a power that may be exercised by the District Court [although there is an avenue of appeal against the decision of the Hearings Committee via s. 27 Dog Control Act 1996 [DCA]].
6. In this case the power to disqualify has been exercised within s. 25 (1) (a) of the DCA. S. 25 (1) is subject to s. 25 (1A) that permits the TA not to disqualify if the TA is satisfied that the circumstance of the offence or offences are such that disqualification is not warranted [s.

¹ S. 25 (1) (a) Dog Control Act 1996. The maximum period of disqualification is five [5] years and the legislation is drafted to permit the TA to apply the period depending upon the severity of the offence. A TA should be able to justify the period imposed especially when the maximum is applied.

² It is not known if Blue remains with the Hamilton City Council.

25 (1A) (a)] or that the TA will instead classify the dog owner as a probationary owner [s. 25 (1A) (b)].³

7. Therefore, despite the wording of s. 25 (1) that states a TA “must” disqualify, a TA may fall back upon s. 25 (1A) and not disqualify the dog owner. The alternative should the TA conclude some form of control is required to monitor the dog owner is to utilise s. 25 (1A) (b) and classify the dog owner as a probationary owner.
8. S. 21 (2) DCA [Classification of probationary owners] reflects s. 26 (1) (a) in that the TA may classify the dog owner as a probationary owner following three [3] or more infringement notices within a 24 month period.
9. Probationary owner status can last up to two [2] years and permits the TA to require the dog owner to undertake training [s. 23A].

Submissions:

10. A meeting was held with between Peter Crocker at the Animal Control Centre at Ellis Street, Hamilton and counsel for the Applicant. During the discussion Mr Crocker stated that the dog, Batman, when by himself is a nice dog. However, when he was with Blue then Batman’s behaviour is poor. Blue is the instigator. The Applicant accepted this and since Batman was seized [along with Blue] and subsequently released there has been no contact between the dogs and will not be in the future.⁴
11. The Applicant has always been cooperative with Animal Control staff and has demonstrated a willingness to work with staff in the future. This cooperative manner is essential should the Committee decide to classify the Applicant as a probationary owner. It will permit staff to monitor the dog as well as give ongoing advice should the need arise.
12. The infringement notices are for failing to control, an infringement offence contrary to s. 53 DCA [Offence of failing to keep dog under control] captures a wide range of behaviour above that of mere roaming in a public place. S. 53 therefore requires further adverse

³ It is submitted this power is also delegated to council staff so that the decision either not to disqualify or classify as a probationary owner is available to staff in the first instance. Discussion between staff did take place and the decision was to refer this matter to Committee due to the number of infringements.

⁴ It is not known if Blue remains in custody as he is not owned by the Applicant who was looking after the dog on behalf of another person.

behaviour by the dog. The Applicant accepts that the issue of the infringement notices was not without just cause.

13. In response, the Applicant submits that since the dog Blue has been taken out of the picture the behaviour of Batman had radically altered and he does not make any attempt to leave the property. Batman is kept inside the dwelling and is not permitted to run freely on the property unsupervised.
14. The Applicant is aware that Batman has, by his previous actions, displayed adverse learnt behaviour. Since Batman's release from Council custody he has been kept inside the house and under supervision in the garden, it is submitted the previous learnt behaviour has been minimised or indeed removed since Batman's release.
15. In summary, the offences involved Batman getting over the boundary fence and then running across other properties. It is accepted this would have caused alarm to those persons occupying the boundary property. It is salient that when this took place Batman was in the company of Blue. As stated, this situation can no longer occur.
16. The Applicant has demonstrated an ability to accept responsibility for his previous poor dog ownership. With regards to looking after Blue the Applicant was attempting to assist a friend however it become noticeably clear this assistance came at the cost of Batman's behaviour and subsequent seizure. In short, the Applicant accepts his assistance to his friend was misplaced.
17. The Applicant has taken several steps to make sure Batman is kept under control.
 - Batman is no longer permitted to be in the garden unsupervised.
 - Batman is not permitted to be in the company of Blue.
 - The front of the property is fully fenced with a metal gate.
 - The remaining boundary is fully fenced.
 - The area that Batman was able to get through has been strengthened and the fence has been heightened [see photograph at Schedule 1 page 6].
 - The Applicant consistently demonstrates cooperation with Council staff, listens to and accepts advice.
 - The Applicant is willing to undertake any training that the Council requires.

- The Applicant is willing to grant consent to council staff to enter the property at a reasonable time, and without statutory power, to monitor Batman.

18. Batman is a family dog and lives with the Applicant, his partner and two children. The dog interacts very well with the children. That said the Applicant is aware of the risk of any dog and takes appropriate steps should a stranger come to the property.

19. Dogs are an integrated part of New Zealand society not only as pets but working animals. The loss of dog from a family causes distress under normal circumstances [for example death]. However, the loss of a dog through the powers of legislation makes it difficult for family members to accept, especially children. The Applicant accepts that his negligence, with regards to historic dog ownership, has put the loss of Batman at risk. In addition, the other dog of the family will also be required to be removed should the disqualification be upheld.

20. It is established law that no person may own a dog on a property where a person resides who is disqualified.

21. It is agreed that Council staff have acted correctly by referring this matter to the Hearings Committee rather than exercise their delegated authority to either remove the disqualification or classify the Applicant as a probationary owner.

22. It is submitted that the Hearings Committee may take comfort in all the efforts the Applicant has made to make sure no further incidents take place. Indeed, since Batman was released no further incidents have taken place.

23. The good attitude of the Applicant towards council staff can reassure the Committee that any required training will be undertaken as well as any general advice followed should he be classified as a probationary owner. As stated, the Applicant is more than willing for Council staff to undertake spot checks and grants access to his property for this purpose, even where a statutory power to enter does not exist.

24. The Hearings Committee may make the following decisions:

- Confirm the disqualification.

- Confirm the disqualification but reduce the time period.⁵
- Remove the disqualification and impose the classification of probationary owner.
- Remove the disqualification and not classify the Applicant as a probationary owner.

25. It is accepted the option to remove the disqualification and not to classify as a probationary owner is unrealistic. It cannot be argued that such a decision would address the requirement for public safety.

26. It is submitted that removing the disqualification and classifying the Applicant as a probationary owner would address the requirement for public safety. This submission is further supported as a condition that access to the property be granted at any reasonable time [without a statutory power to enter] would be agreed.

27. The Applicant is also fully aware that any further incident will likely result in a prosecution, and even if the offence does not carry destruction, that disqualification [upon conviction] will be the result.

28. The Hearings Committee is invited to remove the disqualification and classify the Applicant as a probationary owner in accordance with s. 21 DCA 1996.

This Objection is filed by James Carter

Counsel for the Applicant.



Dated at Hamilton this 14th day of July 2020

TO: The Hamilton City Council

Documents for service may be:

- (a) Posted to Counsel at 1084 River Road, Queenwood, Hamilton 3210;
- or
- (b) Emailed to the solicitor at jcarter@jamescarterlaw.co.nz

⁵ Currently the maximum has been applied of 5 years.



Schedule 1: Shows the additional fencing preventing any further escape from the property.

Ropata Marshall

Hamilton 3206



Hamilton City Council

Te kaunihera o Kirikiriroa

Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

Dear Ropata,

Please find enclosed Infringement notice: 12617

The offence that has been committed is Failure to keep dog controlled or confined.

We have spoken too you in relation to this.

As a consequence an infringement notice has been issued under Section 52A Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Due to an offence being committed by your dog, you will no longer be eligible for the category one registration fee for two years.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards

Dog Control Officer

Animal Education & Control

1 of 3

13/02/2020

Ropata Marshall

Hamilton 3206

Dear Ropata

Please find enclosed Infringement notices: 12709 & 12710

The offence that has been committed is Failure to keep dog under control.

Therefore, infringement notices have been issued under Section 53(1) Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards



Dog Control Officer

Animal Education & Control

2 of 3

Item 6

Attachment 5



Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

30/01/2020

Ropata Marshall

Hamilton 3206

Dear Ropata Marshall

Please find enclosed Infringement notice: 12664 (for incident with blue)

The offence that has been committed is Failure to comply with any bylaw authorised by the section.

As a consequence, an infringement notice has been issued under Section 52A Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Due to an offence being committed by your dog, you will no longer be eligible for the category one registration fee for two years.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards

D41

Dog Control Officer

Animal Education & Control

3 of 3