

**HASTINGS DISTRICT COUNCIL**

**Report and Decision of the Hastings District Council through its  
Hearings Committee**

**Hearing held in the Council Chambers Hastings District Council**

**on Tuesday 22 December 2015**

**(HDC TRIM ref CG-13-12-00081)**

**APPLICATION:**

This application is for the release of the dog "Lennox" which is currently being held at the Hastings District Council Animal Welfare Centre pending the hearing of a charge under Section 58 of the Dog Control Act 1996.

**RESOLUTION:**

Resolved by the Hearings Committee at the Hearing held on the 22 December 2015 that the application for the dog's release be **DECLINED**. The full decision and reasons are set out below.

**PRESENT:**

**Hastings District Council Hearings Committee**

Councillor M Lester, Chairperson  
Councillor R Heaps  
Councillor G Lyons

**In Attendance:**

John Payne – Manager Animal Control, Hastings District  
Council  
Christine Hilton (Committee Secretary)

Ms Georgina Waihi (Community Law Centre)  
Mr & Mrs M Faalele (Applicants)

## **1. The Application**

The applicant seeks a decision from Council under Section 71 of the Dog Control Act 1996 (DCA) for the release of a dog (Lennox) held by Council pending determination of a prosecution under Section 58 DCA which is due to be heard in the Hastings District Court on the 5 January 2016.

## **2. Procedural Matters**

The Hearings Committee visited the Animal Welfare Centre on Tuesday 22 December 2015 at 8.30am and viewed the dog "Lennox".

The dog was viewed in a confined environment and the Committee did observe signs of the characteristics outlined by Mr Payne at 3.0 of his officer's report.

## **3. Summary of Submissions**

The Committee received a written submission from the applicant Mr Faalele who appeared before the Committee in support of his application.

The Committee also received a victim impact statement from Ms Annie Evans, the Associate Principal of Taikura Rudolf Steiner School.

Mr Payne spoke to his report..

The following is a summary of the submissions considered by the Committee

### **3.1 Applicant's Evidence**

#### **Mr Faalele:**

- In his written statement Mr Faalele outlined that he wished the dog to be home for Christmas as it was very much a family pet and the request was made especially for his young children.
- He confirmed that new fencing would be completed prior to any return of "Lennox" isolating the back portion of their property from the main entrance.
- Mr Faalele stated that he removed the dog from the property following the incident as he was fearful of the treatment it would receive if confined to the Animal Welfare Centre. He accepted that he now appreciated the quality of the dog pound and no longer had any concerns for the welfare of "Lennox".
- He referred to the officer's report where it was stated that he had said that "Lennox did not bite the complainant and that it was just a warning". He now accepted that it was a bite and not a nip and felt that this had arisen because of a misunderstanding between himself and the Animal Control Officer.

### **3.2 Victim Impact Statement**

- Ms Annie Evans, Associate Principal, Taikura Rudolph Steiner School, submitted an impact statement on behalf of the victim of the dog attack, Ms Cherie Youngman.

- Ms Evans stated that following the attack on Thursday 8 October 2015 she was contacted by Ms Youngman, visited her at her home and she saw a heavily bandaged hand and was shown a photo of the wound which she described as "horrific".
- Ms Evans then outlined the effect that the dog attack had on Ms Youngman's ability to carry out her duties as a teacher of the Year 2 pupils at Taikura Rudolph Steiner School.
- Ms Evans submitted that she and the school had provided continuing support to Ms Youngman.
- In light of the circumstances surrounding the dog attack, Ms Evans stated that she was deeply concerned that someone else, possibly a child or even another child from her class could potentially be attacked by this dog, should it be released.

#### **Mr Payne's evidence**

- Mr Payne asked that his report to the hearing be taken as read.
- Mr Payne produced further information to the Committee that "Lennox" had never been registered with the Hastings District Council.
- Mr Payne produced as evidence, two photographs of the victim's hand showing clearly the injuries sustained by Ms Youngman and he confirmed that injuries of this magnitude were the result of a bite and not a nip.
- Mr Payne expressed concern regarding the effectiveness of additional fencing being installed. The dog attack in question had taken place despite similar existing fencing on the property.
- Mr Payne advised the Committee that while he has delegated authority to approve applications such as the present case, in this instance because of his judgement of the dog, he was not willing to exercise this delegation to approve an application for the return of the dog and had referred the matter to the Hearings Committee for a decision.

#### **4. Committee's Decision**

Following a consideration of the evidence summarised above and the report presented to the Committee by the Council officer, it is a decision of the Committee that the application by the applicant Mr Faalele for the release of the dog "Lennox" is **DECLINED**.

#### **5. Reason for the Decision**

1. That the Committee is satisfied that "Lennox" is being held in a safe and secure environment at the Animal Welfare Centre.
2. That while accepting the evidence of Mr Faalele that "Lennox" is a family pet, the Committee considers this to be a serious attack.

3. That the first hearing of the prosecution under Section 58 of the Dog Control Act will be heard on 5 January 2016 and that if "Lennox" was released prior to the hearing the Committee was not *"satisfied that the release of the dog would not threaten the safety of any person, stock, poultry, domestic pet or protected wildlife"*.



M Lester  
**Chair of Hastings District Council Hearings Committee**

Dated: 22/12/2015