

Calgary (City) v. Van Male

Alberta Judgments

Alberta Court of Justice

S.L. Bagg J.

Heard: June 21, 27, 2024.

Judgment: July 5, 2024.

Docket: 240334466Z1

Registry: Calgary

[2024] A.J. No. 913 | 2024 ABCJ 153

Between City of Calgary, Applicant, and Laradon Patricia Van Male, Respondent

(70 paras.)

Case Summary

Municipal law — Powers of municipality — Regulation of property and activities — Animals — Dangerous dogs — Destruction — Application by applicant to have respondents two dogs declared dangerous and humanely euthanized granted — Banksy and another dog escaped their yard and attacked multiple dogs and a person — Dog found to have killed and injured other dogs and a person without provocation — Court applied civil standard of proof and statutory framework — Dog declared dangerous and ordered euthanized — Application granted — Dangerous Dogs Act.

Application by applicant to have respondents two dogs declared dangerous and humanely euthanized. The proceedings arose after Banksy and another dog escaped their yard and attacked multiple dogs and a person in the Auburn Bay neighbourhood. The applicant withdrew its application with respect to one dog (Gucci) following an aggression assessment. The case proceeded solely in relation to Banksy. The Court considered evidence from several witnesses and veterinary reports. The respondent challenged the application on the grounds of provocation and proposed alternative remedies.

HELD: Application granted.

The Court adopted the civil standard of proof and the definition of a dangerous dog from relevant Alberta case law. Based on the severity of the attacks and the absence of provocation, the Court found that Banksy posed a serious and ongoing danger. Banksy was declared a dangerous dog and ordered to be humanely destroyed. The Court found that the attacks were unprovoked and resulted in severe injuries and the death of another animal. The respondent failed to rebut the applicant's evidence or propose a sufficient control plan. The destruction order was determined to be the only appropriate remedy given the risk to public safety.

Statutes, Regulations and Rules Cited:

Dangerous Dogs Act, [RSA 2000, c D-3](#)

Dog Owners' Liability Act, [RSO 1990, c D16, s. 3](#)

Counsel

James T. Floyd and Andrea Hankins, for the Applicant.

Kira Berkeley

Wayne D. Gillis, for the Respondent.

Reasons for Decision

S.L. BAGG J.

1 The hearing for this matter was held on June 21 and 27, 2024. On June 21, 2024, I gave an oral decision on the dangerous dog application. On June 27, 2024, I gave an oral decision concerning the remedy. The Parties were advised that written reasons of the decisions were to follow. These reasons clarify but do not change my oral reasons. However, and to the extent that they differ, these written reasons shall prevail.

1. Introduction

2 On April 19, 2024, the City of Calgary ("the City") filed an application seeking a court order pursuant to the *Dangerous Dogs Act*, [RSA 2000, c D-3](#) ("*Dangerous Dogs Act*" or "*Act*") to have two Pitbull/Cross dogs, Gucci and Banksy, declared dangerous and humanely euthanized. Throughout this decision and depending upon the evidence being referenced, the dogs are referred to by name, as Pitbull crosses, Pitbulls, or Pitbull type dogs.

3 The April 19, 2024 application stemmed from events which occurred on the evening of February 25, 2024, in the community of Auburn Bay, when Gucci and Banksy escaped their yard following a gate being accidentally left open.

4 It is not disputed that the Pitbull/Cross dogs were involved in two serious dog attacks, one of them fatal. Following these attacks, Gucci and Banksy were seized and delivered to City of Calgary Animal Services. Their owner, Laradon Van Male, was charged under Calgary's *Responsible Pet Ownership Bylaw* 47M2021 (the "*Responsible Pet Ownership Bylaw*" or "*Bylaw*"). Additionally, the City of Calgary brought this application pursuant to the *Dangerous Dogs Act*.

5 Following a canine behaviour and aggression evaluation by Nikeae Michalchuk, the City of Calgary abandoned this application with respect to Gucci, who was then dealt with in accordance with the administrative process outlined in the *Responsible Pet Ownership Bylaw*. The City did not seek to have Gucci euthanized.

6 With respect to the application as it pertains to Banksy, the parties agree that the issues to be determined are: (i) the standard of proof under the *Dangerous Dogs Act*, (ii) whether Banksy is a dangerous dog pursuant to that *Act*, (iii) and, if yes, what is the appropriate remedy.

2. Law

7 The *Dangerous Dogs Act* is a brief piece of legislation without a preamble or interpretation section to assist with its application. The relevant section to this case reads:

Complaint as to dangerous dog

2(1) A justice may take cognizance of a complaint that a dog is dangerous and not kept under proper control and if it appears to the justice that the dog is dangerous, the justice may make an order in a summary way directing the dog to be kept by the owner in a proper way or to be destroyed.

3. Standard of Proof

8 Because the *Act* uses the phrase "may take cognizance", the City argues that the standard of proof is below the civil standard. However, recent cases under the *Dangerous Dog Act* have carefully considered this issue, see: *Calgary (City) v Bagaric* [2022 ABKB 635](#) and *Edmonton (City) v Andrews* 2023 ABPC 220 ("*Edmonton (City) v Andrews*"). I accept the reasoning in these cases and shall apply the civil standard, a balance of probabilities.

4. Is Banksy a Dangerous Dog

a. Interpretation

9 Given that there is no definition of "dangerous dog" in the *Act*, the above noted cases looked to outside sources. In *Edmonton (City) v Andrews*, the Court reviewed numerous definitions from other jurisdictions and concluded that for the purpose of Alberta's *Dangerous Dogs Act*, a "dangerous dog" is defined as:

[80] ... any dog that:

- (a) s injured or killed a person or animal, without provocation, whether on public or private property;
- (b) as threatened or endangered the safety and security of a person or animal, without provocation, whether on public or private property; or
- (c) hows aggressive tendencies toward persons or animals, without provocation, whether on public or private property, and presents an imminent danger.

10 This definition is comparable to the test for determining whether an animal is a "vicious animal" pursuant to the City of Calgary, *Responsible Pet Ownership Bylaw*, which sets out the following criteria:

- (a) the *Animal* has caused a *Severe Injury* to a *Person*, whether on public or private property;
- (b) the *Animal* has, while off its Owner's property, caused *Severe Injury* to another *Animal* or the death of another *Animal*; or
- (c) there are reasonable grounds to believe the *Animal* poses a risk to the health and safety of *Persons* in the *City*.

11 I accept and apply the definition for "dangerous dog" from *Edmonton (City) v Andrews*.

b. Application

12 On February 25, 2024, Banksy was involved in two separate relevant incidents.

Incident #1

13 I have reviewed affidavit evidence and a witness statement from Greg Reinbold whose Australian shepherd, Joey, and Chihuahua cross, Davey, were attacked by Banksy and Gucci. Greg Reinbold was also injured in this incident.

14 While there was speculation by the Defendant's witness, Jason Arsenault, about whether the attack was provoked by the smaller dogs' high-pitched barking, on the basis of the evidence I reviewed, I find that on a balance of probabilities the attack was without provocation.

15 According to Greg Reinbold, shortly after 8 pm on February 25, 2024, he was walking down the street with Joey and Davey, when he observed two large Pitbull type dogs quickly walking towards them. As the dogs were unsupervised by any owner and appeared threatening, Greg Reinbold picked up the smaller of his two dogs, Davey, and moved off the sidewalk with Joey to avoid a meeting. At this point, Banksy and Gucci approached them and attacked Joey. One dog was biting and pulling on Joey's neck, while the other was biting at his body. Greg Reinbold yelled and unsuccessfully tried to stop them. In the chaos, Davey fell out of Greg Reinbold's arms and ran away across the driveway. Fortunately, Dean Yanick, a good Samaritan, drove by and got out of his vehicle to help. The affidavit evidence and witness statements of Greg Reinbold and Dean Yanick together describe the two men attempting to punch, kick, and wrestle the Pitbulls away from Joey. Once freed, Greg Reinbold picked up Joey and ran to put him in Dan Yanick's vehicle for safety. The Pitbulls pursued him, chasing, biting and jumping at him, attempting to continue their attack. Once separated from Joey, Banksy and Gucci headed in the direction of Davey. Fortunately, Greg Reinbold was able to intercede in time, grabbing Davey and running to Dan Yanick's vehicle. The Pitbulls again pursued Greg Reinbold, biting and jumping in an attempt to get at Davey.

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16 Medical records and photos from the emergency services at CARE veterinary hospital indicate wounds on Joey's neck and abdomen. The neck wound was particularly serious - described in Joey's patient history report as a two centimeter puncture wound.

17 Because of Greg Reinbold's quick action Davey escaped injury.

18 Thanks to a thick coat and leather gloves, the injuries Greg Reinbold received in the incident were mitigated: he still required a visit to urgent care where he received tetanus shots, and antibiotics. The parties dispute whether Greg Reinbold was bitten - which I take to mean whether he was intentionally bitten by Banksy or Gucci. On the basis of the evidence I reviewed, and in particular a video of the incident, I find Greg Reinbold's injuries to be collateral, sustained due to his successful efforts to protect his dogs.

19 These are my findings with respect to Incident #1, given my review of the above referenced affidavits, statements, reports, photos and video.

Incident #2

20 The second incident is described in the affidavit of Nina Kostiuchook and a witness statement which was written by her daughter-in-law, Olha Kostiuchook, who translated from Russian on behalf of her mother-in-law. I also watched a video of this incident.

21 On the evening of February 25, 2024, Nina Kostiuchook went for a walk with her Pomeranian Spitz breed dog, Bonnichka. When she saw two dogs running unleashed approximately two hundred metres away, she continued past them. Soon after, the dogs caught up at a crosswalk and attacked Bonnichka. Nina Kostiuchook started screaming and attempted to fend the Pitbulls off with her foot, but she was afraid of being bitten. One bite from one of the Pitbulls crushed Bonnichka's neck, though the Pitbull continued to hold on, shaking the small dog in its jaws. During the moments in which the attack played out, Jason Van Male (the husband of Banksy and Gucci's owner) appeared on the scene and put a stop to it. At issue was whether or not Bonnichka was released before or after the Pitbull was punched in the head by Jason Van Male, and I cannot make a finding on this detail given the relative position of Jason Van Male to the Pitbull in the video. Either way, it was immediately obvious that Bonnichka did not survive the attack.

22 While it was unclear to me on the basis of the witness statements and video evidence whether Banksy or Gucci killed Bonnichka, the City asserted in its submissions that it was Banksy. This was effectively conceded to me in the Defendant's oral submissions in argument at the hearing, concerning the timing of the punch to Banksy's head by Jason Van Male.

23 Given my review of the above-referenced affidavit, statement, and video, and the Defendant's concession that Jason Van Male punched Banksy, these are my findings with respect to Incident #2.

c. Declaration

24 Based on the evidence I have, in the case of Incident #1, the witnesses describe both Pitbulls engaged in the attack and give no indication that one dog was less involved or aggressive than the other. In the description of the attack on Joey, Greg Reinbold specifically describes both dogs jumping, barking, and biting at him. There is no evidence of which dog caused which injuries. The same can be said for the injuries sustained by Greg Reinbold, and the pursuit of Davey.

25 In the case of Incident #2, Banksy killed Bonnichka.

26 Assessing Banksy's actions against the definition of a "dangerous dog" pursuant to the *Dangerous Dogs Act*:

- a) Banksy killed Bonnichka without provocation on public property;

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- b) Banksy and Gucci together threatened and endangered the safety and security of Joey, Davey and Greg Reinbold without provocation on public property;
- c) Given (a) and (b) Banksy showed aggressive tendencies toward persons and animals without provocation and presents imminent danger.

27 As such, I declare Banksy to be a dangerous dog pursuant to the *Dangerous Dogs Act*.

5. The Appropriate Remedy

According to the *Dangerous Dogs Act*, where I find a dog to be dangerous, "I may make an order in a summary way directing the dog to be kept by the owner in a proper way or to be destroyed".

28 This law is remedial and not retributive. If there is a penalty to be paid by Laradon Van Male for the events which occurred on February 25, 2024, then this will occur under the *Responsible Pet Ownership Bylaw*. The remedy sought pursuant to the *Dangerous Dogs Act* is to protect the public from dangerous dogs.

29 As was aptly stated in *City of Campbell River v Awad*, 2016 BCPC 431:

[25] It is important, given the community's concern about an attack such as this, to explain the law that binds this court. Members of the public have a right to feel safe from dangerous dogs in the community. There are those who believe that all Pit Bulls ought to be banned. Others believe that no dog should ever be destroyed. It is incumbent on me to apply the law, and not base my decision on sentiment, or fear. I must balance the protection of the public with the property rights of the owners of dogs.

30 As was the case with the dangerous dog designation, there is nothing in the *Act* itself to provide direction about how to determine an appropriate remedy. There are two options provided: direct the owner to keep the dog in a way that is proper, or order the dog destroyed. On the face of it, clearly drafters contemplated two sets of scenarios: one where dogs were deemed to be dangerous but could be returned to their owners, and one where they could not. Given the fact that the focal point of these cases is public safety - then the issue is whether public safety can be assured in the absence of destruction.

31 While there is no test in our legislation to help answer this question, section 3 of Ontario's *Dog Owners' Liability Act*, [RSO 1990, c D16](#) is worded similarly to the provision I must apply. Usefully, Ontario's legislation provides a list of considerations which are relevant, and these have been relied upon by numerous courts across the country as a framework analysis for the question of how to understand the risk a previously aggressive dog may pose in the future in consideration of steps which may be taken by the dog owner: see *Calgary (City) v Peterson*, [2019 ABPC 319](#) ("*Calgary (City) v Peterson*"); *City of Vancouver v Santics*, 2018 BCPC 381; *R v Carpenter*, [2017 SKQB 34](#); *R v Sikand*, [2016 ONCJ 301](#); *R v Regnier*, 2016 SKQB 290; *R v Barber*, 2015 SKPC 178; and *R v Calero*, [2005 ONCJ 381](#). These considerations include: (a) the dog's past and present temperament and behaviour; (b) the seriousness of the injuries caused by the attacks; (c) any unusual contributing circumstances tending to justify the dog's actions; (d) the improbability that a similar attack would be repeated; (e) the dog's physical potential for inflicting harm; (f) precautions taken by the owner to preclude similar attacks in the future; and (g) any other considerations the Court considers relevant. This analysis permits the Court to establish the nature and extent of the risk to public safety, and then decide whether it can be sufficiently mitigated by measures short of destroying the animal.

32 The conclusions drawn in relation to these considerations are from the affidavits and statements of various witnesses to the incidents, as well as the veterinary records for Joey. I have also reviewed the behaviour and aggression assessments of Nikeae Michalchuk conducted April 19, 2024, Jason Arsenault and Jennifer Rutshcke, both conducted May 2, 2024. Each of these assessors was questioned on their affidavits and reports, and these transcripts were also reviewed.

33 Regarding the weight that I put on these behaviour and aggression reports, I find that of the three assessors,

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Nikeae Michalchuk has the most extensive training, background, and experience in conducting such assessments. She has previously been qualified by the Court as an expert witness in canine behaviour. Though he has significantly less experience, the assessment of Jason Arsenault was video recorded. The opportunity to view Banksy during his assessment served to inform and substantiate the assessor's conclusions. The assessment of Jennifer Rutshcke was conducted at the same time as that of Jason Arsenault, and according to her affidavit was completed with his assistance. Her conclusions do not deviate from his and therefore I will not refer to them.

a. Temperament

34 According to Banksy's owner, Laradon Van Male, Banksy, a Pitbull Cross, is two years and ten months. He has been a pet in her home since his birth. In her affidavit, she states: "he has never bitten anyone or tried to go after other dogs or people when taken on walks". She describes Banksy as loving, kind and obedient. While in her report, Nikeae Michalchuk hypothesizes that there were likely precursors to the aggression displayed February 24, 2024, this is denied by Laradon Van Male.

35 Banksy has been walked on a control pole on various occasions while in the City impound without issue.

36 The findings of the behaviour assessments regarding Banksy's temperament are contradictory. A pronounced example of this is each assessor's description of approaching and removing Banksy from his kennel to begin the assessment. The report of Nikeae Michalchuk describes Banksy as being extremely aroused and aggressive upon her approach to the kennel, with him taking seven minutes to be removed safely from the kennel on a control pole, and twenty three minutes to calm down enough to engage with her. In her report, she writes that this process of calming and connecting with a handler would normally take a dog less than five minutes in a similar environment.

37 In contrast, Jason Arsenault acknowledges in his report that upon first encountering Banksy in his kennel he was barking excitedly in a high pitch at the front of the kennel, however he determines this not to be aggressive behaviour but rather a call for attention. As can be seen in the video, within a short period of time Jason Arsenault has Banksy out of the kennel and focused on the assessment. The video clearly shows Banksy barking at the door of his kennel with his tail tucked. When the door to his kennel is opened, Banksy struggles to push it open further and get out, yet at the moment he is leashed and out of the kennel he is friendly and attention-seeking from Jason Arsenault. I find his demeanour is that of a dog who is craving attention. It is relevant that at this point he has been in the City impound for more than two months and he has not been let out of his kennel for two days. Jason Arsenault's findings and my impressions from the video cannot be reconciled with the assessment of Nikeae Michalchuk.

38 Another difference between the assessments is when Banksy is exposed to another dog from a safe distance. In her report, Nikeae Michalchuk describes Banksy as aroused and fixated. In contrast, Jason Arsenault describes Banksy as generally disinterested by the decoy dog he is exposed to in his assessment. In this case, I find the video evidence aligns more closely with the assessment of Nikeae Michalchuk. When they are in adjoining enclosures, Banksy is only mildly interested in the second dog, Sara, in Jason Arsenault's assessment. However, later when the two of them are leashed and walking through the parking lot, Banksy is intensely interested in Sara, to the point that he is unable to focus on Jason Arsenault.

39 In considering the affidavit of Laradon Van Male, the reports, the video, and the February 25, 2024 incidents, my finding is that when Banksy is with humans in isolation of unknown dogs, he appears friendly and obedient. When Banksy is around dogs who are not known to him he is distracted at best, and at worst, extremely dangerous.

b. The Seriousness of the Injuries Caused by the Attacks

40 Banksy and Gucci seriously injured Joey, requiring surgery. It is suggested that without the intervention of two adult men Joey would have been killed.

41 Banksy and Gucci caused injuries to Greg Reinbold which required medical intervention. The seriousness of his injuries was mitigated by a thick coat and leather work gloves.

42 Banksy killed Bonnichka.

43 The injuries caused by the attacks are at the top end of seriousness.

c. Any Unusual Circumstances Justifying Banksy's Actions

44 There was speculation by Jason Arsenault that by chasing a rabbit Banksy and Gucci were in a heightened state of arousal on February 25, 2024. Both assessors observed that Banksy and Gucci running together would have created a pack mentality which made them more likely to attack. These are normal day to day events in the life of a dog and so to the extent that they are relevant, these factors aggravate the risk Banksy poses on the public.

45 As previously mentioned, Jason Arsenault considered the possibility that Joey, Davey or Bonnichka could have barked in a manner which encouraged the attacks. I did not find this could be proved on a balance of probabilities, and again, I find the possibility that Banksy could respond so disproportionately an aggravating factor.

d. The Dog's Physical Potential for Inflicting Harm

46 Banksy is a 97 lb intact male Pitbull/Cross.

47 Banksy and Gucci seriously injured Joey, and only gave up the attack because Greg Reinbold intervened. There was no indication they would have stopped before killing him.

48 Banksy killed Bonnichka instantly.

49 Given his size and the intensity of his bite, Banksy's potential for inflicting harm is at the top end for a pet.

e. The Precautions Taken by the Owner to Preclude Similar Attacks in the Future

50 During the hearing I learned that Laradon Van Male has previously owned Pitbull dogs and has experience with the breed. She reports that she has never before had any incidents of aggression with any of these animals. The City did not dispute this claim.

51 I was informed that before the accidental escape of Banksy and Gucci on February 25, 2024, Laradon Van Male and her family have always walked their dogs on leash and in a controlled fashion and there has never been an issue.

52 Banksy has been socialized with adults, children and other family pets without issue.

53 The Van Male's backyard is set up with a dog run and secure fencing. A Beware of Dog sign is posted. The only entrance to the yard is the gate which was inadvertently left open by Laradon Van Male's teenage son on February 25, 2024. He is not an ordinary resident of the home. This gate now has a lock on it, which can only be opened by Laradon and Jason Van Male.

54 To address the public safety risk which Banksy poses, Laradon Van Male agreed to aggression training with Banksy, and any further condition the Court may impose.

f. The Improbability that a Similar Attack would be Repeated

55 The assessment of Nikeae Michalchuk finds that the public safety risk posed by Banksy is sufficiently high that it can only be addressed by euthanasia. This opinion is based on Nikeae Michalchuk's extensive experience in assessing the risk an animal poses in the community and the response-ability of the owner to manage the animal's requirements in order to eliminate public safety risk. I will address the two aspects of her reasoning in turn.

The Risk Banksy Poses in the Community

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56 Nikeae Michalchuk considered the actions of Banksy on February 25, 2024 and the level of injury he caused to Joey, Bonnichka and Greg Reinbold. She also considered his behaviour, observed during her assessment.

57 On the basis of the evidence I reviewed, I agree with Nikeae Michalchuk that Banksy is a dangerous animal capable of causing serious harm. Given the February 25, 2024 incidents, the findings in Nikeae Michalchuk's report, and the video of Jason Arsenault, I find that Banksy has a fixation on other dogs, and that when the opportunity presents itself he will attack and kill them. Further, he will injure a human who gets in the way of his drive to attack. There is no higher risk to public safety than a dog who will kill the beloved family member of another person.

58 In saying this, I reject the conclusions of Jason Arsenault in his report that Banksy is not aggressive towards other dogs, or that there is any explanation which could justify Banksy's actions on February 25, 2024.

59 Both Nikeae Michalchuk and Jason Aresenault agreed that if circumstances repeated themselves the same outcome could occur.

The Response-Ability of the Owner to Manage the Animal's Requirements in Order to Eliminate Public Safety Risk

60 An aspect of Nikeae Michalchuk's report which relates to this consideration is her assessment of Banksy's ability to bond with people, which she classified as low to moderate. This conclusion was on the basis of the time it took Banksy to affiliate with her before she could conduct her assessment. I have already found that Nikeae Michalchuk's experience with Banksy upon meeting him cannot be reconciled with that of the report of Jason Arsenault, and the video of his assessment which I had the opportunity to watch. I prefer the video evidence: there is no disputing that, despite his jumping and barking, Banksy is behaving in a friendly manor, but is desperate for attention. This finding is supported in Nikeae Michalchuk's own report, where she notes that when Banksy calms to the point that she initiates touch: "Banksy becomes incredibly loose - leaning into handler - laying down in a settled position".

61 In her assessment, on the basis of the February 25, 2024 incidents, and the fact that he was surrendered wearing a prong collar, Nikeae Michalchuk assumes that Banksy has been aggressive in the past. I cannot find that Banksy was previously aggressive on the basis of these assumptions. Laradon Van Male expressly denies that this is the case.

62 To the extent that Nikeae Michalchuk's recommendation is partly based upon her assumptions about the Van Males and their household, without having had the opportunity to hear from them about Banksy's past behaviour, and without regard for their willingness to address the risk Banksy poses to the public, her conclusion is seriously weakened.

63 Additionally, Nikeae Michalchuk's recommendation is partly based upon the pack mentality of both Gucci and Banksy together, and the suggestion that, because Gucci is returning home to the Van Males, then Banksy cannot return home and must be euthanized. However, she does not consider whether this concern may be somehow addressed by actions short of euthanasia.

6. The Outcome for Banksy

64 While I accept and agree with Nikeae Michalchuk's conclusion concerning the risk to public safety, the submissions of Laradon Van Male concerning the steps she is willing to take to address this risk, lead me to a different outcome.

65 I have reviewed numerous cases from across the country and the law supports that dangerous dogs may be returned to owners who accept and agree to properly mitigate the risk they pose. Banksy is not a dog with a long and unresolved history of aggression. Given that Laradon Van Male has only very recently become aware of his aggression issues, training and risk-mitigation are valid alternatives to his destruction: see *R v Woods*, 2008 ONCJ

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557; *Capital Regional District v Kuo*, 2008 BCCA 478 (appealed from *Capital Regional District v Kuo*, 2006 BCSC 2082); *City of Burnaby v Nagra*, 2010 BCPC 34; *R v Harmsworth*, 2012 ABPC 346; *R v Kwok*, [2014 SKQB 397](#); *Smith v Central Okanagan (Regional District)*, 2013 BCSC 228; *R v Regnier*, 2016 SKQB 290; *City of Campbell River v Awad*, 2016 BCPC 431; *Calgary (City) v Peterson*, [2019 ABPC 319](#).

66 In particular, in the case of *Calgary (City) v Peterson* I found that:

[19] ... while it may not be possible to alter a dog's fundamental instinct or aggressive tendencies, it may be possible, through intense training and relationship-building, to develop a level of loyalty and respect with a dog, which translates into obedience on the dog's part, to sufficiently lower the risk of future incidents. I am not talking here about simply signing up for obedience classes, I am talking about a total transformation of one's relationship with their dog in terms of leadership, involving an incredible amount of time and commitment. [20]?? ?? ??Notwithstanding the existence of such a dog-owner relationship, and in consideration of the impossibility of predicting the world around us, the environment and routine of such an aggressive dog would require additional serious management to be certain of guaranteeing the safety of others - and equally - not setting a dog up for failure, given its nature.??

67 While Banksy and Gucci's pack mentality could increase their likelihood of aggression in the future, there are court ordered conditions which specifically address this risk: *R v Douglas*, [2019 BCPC 80](#). These include training, and a prohibition from taking the two dogs out together. In her report, Nikeae Michalchuk recognized that "in the circumstances of implementing behaviour modification and upgraded management processes with a bonded pair of dogs residing together, there are great difficulties for dog owners, i.e., time, finances, environment, physical ability, and desire". However, in this instance there is no evidence that the dogs have driven one another to aggression in the home, and Laradon Van Male expressly agreed to abide by the requirement to walk them separately.

7. Conclusion

68 Banksy may be returned to his owner, providing Laradon Van Male signs a consent order agreeing to the conditions set out below. I was informed by the City of Calgary that Gucci was designated a "vicious animal" pursuant to the *Bylaw*, and she will also be returned with conditions. My order shall mirror those to the extent that this is logical, and additionally consider the added risk of the two dogs being returned together.

69 If Laradon Van Male chooses not to sign the order then Banksy will be humanely euthanized.

70 The conditions are as follows:

- I. Banksy must be licensed by the City of Calgary and receive a visible tattoo or identifiable microchip by a licensed veterinarian, with the relevant information to be shared with the Director.
- II. Banksy must be neutered at the owner's expense.
- III. When at home Banksy must be kept indoors, or if outdoors he must be in a secured yard and supervised by a person over the age of eighteen.
- IV. Laradon Van Male will install double-locking mechanisms on all yard gates, external doors and access points to the property.
- V. When outside of the home or yard Banksy must be muzzled, with a muzzle designed for a Pitbull, and kept on a leash not longer than one meter. He must be prevented from any interactions with other dogs while off property.
- VI. Banksy's home must exhibit signage consistent with that of a Vicious Dog designation under the *Bylaw*.
- VII. Laradon Van Male will, from time to time, permit a *Bylaw* Officer to inspect any outdoor portion of her property where Banksy may be contained.

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- VIII. Laradon Van Male shall retain the services of a Certified Professional Dog Trainer and complete ten private training sessions specifically with regard to Banksy, to a minimum of 10 hours of training, withing 160 days of this decision. Proof of completion is due by December 7, 2024.
- IX. Banksy must be walked without Gucci or any other dog, by no other than Laradon or Jason Van Male.
- X. Laradon Van Male must immediately report to City Bylaw Officers if there has been any breach of the *Responsible Pet Ownership Bylaw* by Banksy.
- XI. If at any time Laradon Van Male is in breach of the *Responsible Pet Ownership Bylaw* with respect to Banksy, Banksy will be immediately surrendered to a City Bylaw Officer or the Calgary Police Service, impounded, and euthanized.
- XII. If Laradon Van Male is found at any time in breach of this Order, Banksy will be immediately surrendered to a City Bylaw Officer or the Police, impounded, and euthanized.
- XIII. Laradon Van Male must obtain liability insurance specifically covering any damage for person injury that may be caused by Banksy in an amount not less than \$1,000,000 and provide proof of same.
- XIV. For the remainder of his life, Laradon Van Male shall retain ownership of Banksy.
- XV. The Order following this decision, to be drafted by the City of Calgary, will include all of these conditions and any other condition the City and the Court may find appropriate.

Dated at the City of Calgary, Alberta this 5th day of July, 2024.

S.L. BAGG J.

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