

Agenda – Standing Policy Committee on Protection and Community Services – July 5, 2012

APPEAL HEARINGS

**Item No. 2 The Pound By-law No. 2443/79 – 8 Carr Close
 (Old Kildonan Ward)
 File PA 270A/2012**

An appeal was received against the decision of the Lord Selkirk-West Kildonan Community Committee to reject an Excess Animal Permit for 8 Carr Close to Nicole Roussin and Tom Obendoerfer.

Agenda – Standing Policy Committee on Protection and Community Services – July 5, 2012

Order Number: PA 270/2012

Applicant: Nicole Roussin and Tom Obendoerfer

Appellant: Tom Obendoerfer

Premises Affected: 8 Carr Close

Exhibit Filed:

1. Order PA 270/2012 dated May 18, 2012, issued by the Lord Selkirk-West Kildonan Community Committee
2. Notice of Appeal filed by Tom Obendoerfer, received June 7, 2012
3. Notification of Appeal Hearing dated June 8, 2012
4. Report from the Chief Operating Officer, Animal Services Special Operating Agency, dated April 30, 2012.

REPRESENTATIONS:

In Support of the Appeal:

In Opposition to the Appeal:

For Information on the Appeal:

For the City:

Moved by Councillor

That the receipt of public representations be concluded.

Moved by Councillor

That the appeal(s) be allowed / allowed in part / dismissed and the Order of the Lord Selkirk-West Kildonan Community Committee be confirmed / cancelled.

Agenda – Standing Policy Committee on Protection and Community Services – July 5, 2012

Moved by Councillor

That the public hearing with respect to this appeal be concluded.



**THE CITY OF WINNIPEG
EXCESS ANIMAL PERMIT
LORD SELKIRK-WEST KILDONAN COMMUNITY COMMITTEE**

CORRECTED ORDER

PA 270/2012

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Eadie, Chairperson
Councillor Pagtakhan
Councillor Sharma

Hearing: May 15, 2012
North Committee Room
Council Building, 510 Main Street

Applicant: Nicole Roussin and Tom Obendoerfer

Premises Affected: 8 Carr Close

Nature of Application: A request for approval of an Excess Animal Permit as required under Subsection 30(2) of The Pound By-law No. 2443/79.

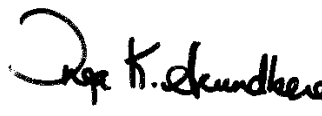
It is the opinion of the Lord Selkirk-West Kildonan Community Committee that this application does not meet the criteria of Subsection 30(2) of The Pound By-law No. 2443/79.

ORDER:

The Lord Selkirk-West Kildonan Community Committee hereby directs that the application by Nicole Roussin and Tom Obendoerfer, for an Excess Animal Permit on property located at 8 Carr Close is hereby refused.

DATE OF ORDER: *May 18, 2012*

CERTIFIED BY:



Clerk

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

- (a) be addressed as set out below,
- (b) be received at that office not later than 4:30 p.m. on *June 7, 2012*,
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]
- (c) refer to Excess Animal Permit Order No. PA 270/2012, give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: The City of Winnipeg
c/o Chief Operating Officer,
Animal Services Special Operating Agency
1057 Logan Avenue
Winnipeg, Manitoba, **R3E 3N8**
Fax: 204-986-6878

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Tom Obendoerfer
Nicole Roussin

In Opposition:

Irene and Kenneth Jensen

For Information:

Nil

For the City:

Mr. L. Gordon, Chief Operating Officer, Animal Services (SOA)

Letter of Appeal in Reference to Excess Animal Permit
Order No. PA 270/₂₀₁

I, Thomas Obendorf of 8 Carr Close, 999-6335 would like to Appeal the rejection of the aforementioned Excess Animal Permit Order No. PA 270/2012. My reasons for this Appeal are as follows: (1) Conflict of Interest. The Councillor who brought forth this motion to reject the Order (Councillor Sharma) had a previous association with the Party in Opposition Kenneth and Irene Jensen. Therefore I feel the Order was not given a fair chance at Neutrality. (2) The complaints of those in Opposition were ones of Excess Barking and one episode of one of the Dogs digging under the fence thereby getting into their yard. Having one less Dog would still leave 3 Dogs and which if allowed to bark could still seem "Excessive". This would not be the case as the barking has now been curtailed. As for the digging, the dog in question was not the "Digger" but rather one of our Dogs. That too has now been curtailed. (3) As was mentioned we are planning to move shortly (Fall time), so even a temporary Permit order of approximately 6 months would suffice.

JUN 07 2012

Received



Tom Obendorf
8 Carr Close
Ph. (204) 999-6335

Exhibit "3 referred to in File 270A/2012



REGISTERED MAIL RW 609 543 685 CA

June 8, 2012

File PA 270/2012

Tom Obendoerfer
8 Carr Close
Winnipeg, MB R2P 2B7

Appeal – The Pound By-law No. 2443/79 – 8 Carr Close

This will acknowledge receipt of your communication dated June 7, 2012, appealing the Order from the Lord Selkirk-West Kildonan Community Committee, dated May 15, 2012, regarding provisions of the Pound By-law No. 2443/79 for the premises located at 8 Carr Close.

Please be advised that the appeal will be heard by the Standing Policy Committee on Protection and Community Services at its meeting on Thursday, July 5, 2012, at 9:00 a.m. in the Council Building, 510 Main Street.

The purpose of the appeal hearing is to allow interested persons to make submissions, ask questions or register objections with respect to this matter.

Information or documents concerning this matter and a description of the procedure to be followed at the hearing are available for inspection in the City Clerk's Department, 510 Main Street or can be accessed on the Internet site: www.winnipeg.ca/CLKDMIS.

A handwritten signature in black ink, appearing to read 'Josie Marques'.

Josie Marques
Senior Committee Clerk
Telephone 204-986-4228
Email jmarques@winnipeg.ca

- c. Mr. L. Gordon, Chief Operating Officer, Animal Services Special Operating Agency
Ms A. Perez, Clerical Support, Animal Services Special Operating Agency
Ms C. Slingsby, Field Operations / Court Coordinator, Animal Services Special Operating Agency.
Nicole Roussin
Irene and Kenneth Jensen



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ADMINISTRATIVE REPORT

Title: Excess Animal Permit Application for Nicole Roussin and Tom Obendoerfer of 8 Carr Close– PA 270/2012

Issue:

Critical Path: Lord Selkirk – West Kildonan Community Committee

AUTHORIZATION

Author	Department Head	CFO	CAO
L. Gordon, COO Animal Services SOA	L, Gordon COO Animal Services SOA	n/a	n/a

RECOMMENDATIONS

That the Lord Selkirk – West Kildonan Community Committee approve the application for the Excess Animal Permit PA 270/2012 subject to the following conditions:

- that the permit be granted for one (1) year;
- that the permit be limited to the four (4) dogs as named on the application dated February 20, 2012

REASON FOR THE REPORT

This report has been prepared as required under City of Winnipeg Pound By-law 2443/79 Subsection 30.(3), (b), (e) (f), (g), (h), and (i).

IMPLICATIONS OF THE RECOMMENDATIONS

There are no financial implications associated with the report. The revenue generated by the permit helps achieve the Animal Services' Council approved revenue budget.

HISTORY

The Animal Services Agency is in receipt of an application for an Excess Animal Permit dated February 10, 2012 for the premises known as 8 Carr Close. There have been no prior Excess Animal Permits granted to this applicant.

The application lists the following three (3) owned dogs and one (1) visiting dog:

- Labrador Retriever, black, male/neutered, 3 years old – current license
- Labrador Retriever, black, female/spayed, 2 years old – current license

- Labrador Retriever, tan, male/intact, 1 year old – current license
- Labrador Retriever, brindle, male/intact, 1 year old – current license

On March 11, 2012 the Animal Services Agency conducted the required inspection of 8 Carr Close. The subject property is two storey household with a full basement. The backyard is enclosed by a 6' wooden fence. The property was observed to be clean with no odours present. At the time of inspection the dogs appeared to be in good health.

There have been two (2) complaints and one (1) previous complaint filed with the Animal Services Agency:

November 20, 2010 – *Barking*

- Warning letters sent

January 4, 2012 – *Barking*

- Warning letters sent

January 24, 2012 – *Dogs Too Many*

- Verbal warning given to apply for an Excess Animal Permit

Businesses and/or Residences presently operating adjacent to the property:

Direction:	Address:	Residence/Business
East Side	26/32 Carr Close	Residence
West Side	14/18/22 Olford Crescent	Residence
North Side	6 Carr Close	Residence
South Side	14 Carr Close	Residence

The area is primarily residential in nature.

Evidence of support from occupants or owners of properties in the vicinity has been received, namely:

- 2 Carr Close
- 6 Carr Close
- 26 Carr Close
- 32 Carr Close
- 38 Carr Close
- 44 Carr Close
- 6 Penny Lane
- 26 Penny Lane
- 540 Mandalay Drive

This new application is being submitted to the Lord Selkirk – West Kildonan Community Committee (on May 15, 2012) as required under the City of Winnipeg Pound By-law 2443/79 Subsection 30 (3), (b), (e), (f), (g), (h) & (i). See appending supporting documentation

FINANCIAL IMPACT

Financial Impact Statement

Date: April 30, 2012

Project Name:

First Year of Program

2012

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Capital					
Capital Expenditures Required	\$ -	\$ -	\$ -	\$ -	\$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Funding Sources:					
Debt - Internal	\$ -	\$ -	\$ -	\$ -	\$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Total Additional Capital Budget Required	<u>\$ -</u>				
Total Additional Debt Required	<u>\$ -</u>				
Current Expenditures/Revenues					
Direct Costs	\$ -	\$ -	\$ -	\$ -	\$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Additional Comments:					

original signed by

Cindy Fernandes, Department Controller

CONSULTATION

In preparing this report there was consultation with:

SUBMITTED BY

Department	Community Services Department
Division	Animal Services SOA
Prepared by:	Leland Gordon
Date:	April 30, 2012
File No.	



Letter to Applicant -
PA 270/2012



Poster Insert - PA
270/2012



Pound By-law 2443/
79 Extracts



Animal Services Agency ▪ Agence des fourrières

April 19, 2012

Nicole Roussin and Tom Obendoerfer
8 Carr Close
Winnipeg, MB R2P 2B7

Dear Nicole Roussin and Tom Obendoerfer:

PA# 270/2012

RE: Community Committee Date

This is to advise you that we have received your application for an Excess Animal Permit. An Animal Services Officer has already contacted you and completed a site inspection on your property.

The Lord Selkirk – West Kildonan Community Committee will consider your application for the Excess Animal Permit at a public hearing on:

DATE: May 15, 2012
TIME: 5:00 p.m.
PLACE: Council Building
510 Main street
Winnipeg, Manitoba

Inquiries in regards to this meeting may be directed to the Committee Clerk for the Lord Selkirk – West Kildonan Community Committee at 986-3856.

POSTERS MUST BE PLACED ON THE SUBJECT PROPERTY NOT LATER THAN:

April 30, 2012

(an inspection will be done to ensure compliance)

Posters may be picked up at Animal Services no sooner than April 23, 2012. Animal Services is located at 1057 Logan Avenue. Our office hours are Monday to Friday, 8:30 a.m. until 4:30 p.m.

IT IS YOUR RESPONSIBILITY AS THE APPLICANT TO:

1. Erect and maintain the poster(s) in the following manner.
 - a) ON the subject property
 - b) No more than one (1) meter in from the property line



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- c) Facing out towards street or lane frontages in a manner that they can easily be read by passersby on the sidewalk, street or lane. Poster must be in conspicuous locations facing each street adjacent to the land or building referred to in the notice.
 - d) Poster(s) may be attached to any surface such as walls, trees, and fences or within windows provided the above regulations are followed.
 - e) POSTER (S) MUST NOT BE ATTACHED TO PUBLIC UTILITY POLES; ANY SUCH PLACEMENT WILL CONSTITUTE A VIOLATION OF THE POSTING REQUIREMENTS.
 - f) Poster(s) must remain up for the required **fourteen (14) days** prior to the public hearing, not including the posting date or the hearing date
2. Arrange to obtain replacement posters by calling this office at (204) 986-7847 immediately if the posters have been damaged or removed due to vandalism or adverse weather conditions.
 3. Remove all notices from the subject property immediately after the date of public hearing.
 4. Attend or authorize some other person to represent you at the public hearing at the date, time and place outlined above. Failure to appear or be represented, or failure to adhere to the above outlined posting requirements, may result in a delay in the consideration of your application.

The subject property will be inspected during the posting period to ensure posting procedures have been followed, and you will be notified of any non-compliance. This does not, however, preclude your own surveillance of the property or your responsibility to contact this office should you notice any irregularities.

If you have any questions or concerns regarding this letter, please contact Animal Services at (204) 986-7847.

Yours truly,

Original signed by Leland Gordon

Leland Gordon
Chief Operating Officer
Animal Services Agency



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COMMUNITY COMMITTEE Lord Selkirk – West Kildonan
APPLICANT Nicole Roussin and Tom Obendoerfer
O/A _____

NATURE OF APPLICATION:

**EXCESS ANIMAL PERMIT
PA # 270/12
Maximum 4 Dogs**

This property is located on the

PREMISES AFFECTED 8 Carr Close

PUBLIC MEETING AT: Council Building – 510 Main Street

ON: May 15, 2012 **AT** 5:00 P.M.

CITY OF WINNIPEG POUND BY-LAW #2443/79 EXTRACT

RESTRICTION AS TO NUMBER OF ANIMALS TO BE KEPT

30. (1) (a) No person shall harbour, keep, have in his possession or on his premises more than three dogs over the age of six months, regardless of the number of people who may be inhabiting the premises.
amended 5043/88
- (b) No person shall harbour, keep, have in his possession or on his premises more than three cats over the age of six months, regardless of the number of people who may be inhabiting the premises.
amended 5043/88
- (2) Subsection (1) shall not apply to any person who:
- (a) presently holds a valid and subsisting Dog Kennel License or Hobby Breeders License under City of Winnipeg By-law No. 6551/95;
- (b) complies with any applicable land use controls of the City of Winnipeg and who has received the approval of the Community Committee for the area in which the person wishes to have more than three dogs or three cats.
- (3) The process for obtaining said approval shall be as follows:
- (a) the applicant shall apply in writing to the Poundkeeper and provide any requested information, including evidence in support of the application from the owners or occupants of property in the immediate vicinity, together with an application fee of One Hundred and Twenty (\$120.00) Dollars;
- (b) the Poundkeeper shall submit every new application to the appropriate Community Committee with a report containing the following:
- (i) information as to whether or not permission has previously been granted for the premises or location named in the application;
- (ii) a report on the nature of the properties immediately adjoining the premises or location with

a description of the character of the surrounding district;

(iii) information as to whether all other requirements of this section have been met.

(c) The Poundkeeper shall provide

- (i) a copy of the report referred to in clause (b); and
- (ii) a notice describing the nature of the application together with the date, time and place of the meeting of the Community Committee at which the application will be considered;

to the applicant and shall advise the applicant that if he fails to attend the meeting of the Community Committee, the application will be considered in his absence.

(d) The applicant shall

- (i) post the notice referred to in clause (c) in conspicuous locations facing each street adjacent to the land or building referred to in the notice, and located so that the notice is not more than one metre inside the lot line; and
- (ii) ensure that the notice remains posted as provided in paragraph (i) for not less than 14 consecutive days before the day of the Community Committee meeting.

(e) The Community Committee shall hear any representations from the applicant or any other person who desires to be heard. It shall then make a decision to direct that the application shall be refused or to approve the application either temporarily or indefinitely and either conditionally or unconditionally. The decision shall be served on the owner in accordance with subsection 20.1(2).

amended 8162/2002

(f) The applicant or any person who made representations before the Community Committee may appeal the decision of the Community Committee to the Standing Policy Committee on Protection and Community Services by delivering a notice of appeal to the Poundkeeper in accordance with *The City of Winnipeg Charter*⁴ within 14 days of the decision of the Community Committee.

amended 8162/2002

- (g) Where an appeal is made under clause (f), the City Clerk shall notify the applicant and any person who made representations before the Community Committee of the date, time and place of the meeting of the Standing Policy Committee on Protection and Community Services at which the appeal will be heard. The Committee shall consider the appeal on its merits and may dismiss the appeal or approve the application either temporarily or indefinitely and either conditionally or unconditionally.
amended 8162/2002
- (h) Where an application has been approved by a Community Committee or by the Standing Policy Committee on Protection and Community Services for a temporary period, all rights associated with that approval cease for all purposes upon the expiry of that period.
amended 8162/2002
- (i) Where an approval is on a conditional basis under clauses (e) or (g), the applicant may reapply to the Poundkeeper to have the conditions to his application varied or removed and the reapplication shall be treated as a new application for the purposes of this subsection.
- (j) Every premise which is approved pursuant to this subsection shall be inspected annually and the applicant who obtained the approval shall pay an annual inspection fee of Sixty (\$60.00) Dollars per year forthwith after such inspection. Failure to pay said inspection fee shall result in the immediate cancellation of any approval which has been granted.
amended 7539/99 [Subsec. 30(2)(a) - (b); 30(3)(a) - (j)]

EXTRAIT DU RÈGLEMENT SUR LES FOURRIÈRES N° 2443/79 DE LA VILLE DE WINNIPEG

RESTRICTION QUANT AU NOMBRE D'ANIMAUX POUVANT ÊTRE GARDÉS

30. (1) a) Il est interdit d'héberger et de garder sur les lieux ou d'avoir en sa possession plus de trois chiens âgés de plus de six mois, peu importe le nombre de personnes habitant les lieux.
modification 5043/88
- b) Il est interdit d'héberger, de garder et d'avoir en sa possession ou sur les lieux plus de trois chats âgés de plus de six mois, peu importe le nombre de personnes habitant les lieux.
modification 5043/88
- (2) Le paragraphe (1) ne s'applique pas aux personnes qui :
- a) détiennent actuellement un permis de chenil ou d'éleveur amateur en vigueur et valide en application du *Règlement n° 6551/95* de la ville de Winnipeg;
- b) qui se conforment aux règles de gestion de l'utilisation des sols de la ville de Winnipeg et qui ont obtenu l'autorisation du Comité municipal relativement au secteur dans lequel elles désirent avoir plus de trois chiens ou plus de trois chats.
- (3) Voici la marche à suivre pour obtenir l'autorisation en question :
- a) Le demandeur présente une demande par écrit au gardien de la fourrière et fournit les renseignements demandés, y compris les preuves comme quoi les propriétaires ou les occupants des biens avoisinants appuient sa demande et verse le droit de cent vingt dollars;
- b) Le gardien de la fourrière soumet les nouvelles demandes au comité municipal approprié en y annexant un rapport faisant état :
- (i) du fait qu'une autorisation ait déjà été donnée ou non relativement au bien ou aux locaux que vise la demande,
- (ii) de la nature des biens contigus au bien ou aux locaux que vise la demande ainsi que de la nature du secteur avoisinant,

- (iii) du fait ou non qu'aient été respectées toutes les autres conditions que prévoit le présent article.
- c) Le gardien de la fourrière fournit les pièces indiquées ci-après au demandeur et l'informe que sa demande va être étudiée même s'il n'est pas présent à la séance du Comité municipal :
 - (i) une copie du rapport mentionné à l'alinéa b);
 - (ii) un avis faisant état de la nature de la demande ainsi que de la date, de l'heure et du lieu de la séance du Comité municipal au cours de laquelle sera étudiée la demande.
- d) Le demandeur :
 - (i) pose l'avis mentionné à l'alinéa c) dans des endroits bien en vue faisant face à chaque rue attenante au bien ou au bâtiment visé et le place de telle sorte qu'il soit situé en deçà de 1 mètre de la limite du lot;
 - (ii) veille à ce que l'avis demeure en place selon ce que prévoit le sous-alinéa (i) pendant au moins les 14 jours consécutifs précédant le jour de la tenue de la séance du Comité municipal.
- e) Le Comité municipal entend les observations du demandeur ou de toute autre personne désirant être entendue. Il décide alors d'ordonner le refus ou l'approbation, soit temporairement ou indéfiniment et soit conditionnellement ou inconditionnellement. La décision est signifiée au propriétaire en conformité avec le paragraphe 20.1(2).
modification 8162/2002
- f) Le demandeur et toute personne qui a fait des observations au Comité municipal peuvent en appeler de la décision de ce dernier devant le Comité d'orientation permanent de la sûreté et des services communautaires en faisant parvenir un avis d'appel au gardien de la fourrière en conformité avec la *Charte de la ville de Winnipeg*⁴, et ce, dans les 14 jours qui suivent la décision du Comité municipal.
modification 8162/2002

- g) Le greffier de la ville informe le demandeur et toute personne ayant fait des observations au Comité municipal de la date, de l'heure et du lieu de la séance du Comité d'orientation permanent de la sûreté et des services communautaires au cours de laquelle sera entendu tout appel interjeté en vertu de l'alinéa f). Le Comité détermine le bien-fondé de l'appel et peut rejeter l'appel ou approuver la demande, temporairement ou indéfiniment, et avec ou sans condition.
modification 8162/2002
- h) Les droits associés aux demandes cessent à toutes fins que de droit à l'expiration de la période temporaire pour laquelle les a approuvées le Comité municipal ou le Comité d'orientation permanent de la sûreté et des services communautaires.
modification 8162/2002
- (i) Dans le cas d'une approbation conditionnelle aux termes de l'alinéa e) ou g), le demandeur peut présenter de nouveau une demande au gardien de la fourrière afin de faire modifier ou enlever les conditions dont a été assortie sa demande. La demande présentée de nouveau est traitée comme une nouvelle demande aux fins du présent paragraphe.
- j) Tous les locaux qui ont été approuvés en vertu du présent paragraphe doivent être inspectés tous les ans et le demandeur qui a obtenu l'approbation en question doit payer des frais d'inspection annuels de 60 \$ immédiatement au moment de l'inspection. Le fait de ne pas payer les frais d'inspection en question entraîne le renversement immédiat des approbations accordées.
modification 7539/99 [alinéa n^{os} 30(2)(a) - (b); 30(3)(a) - (j)]