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BULLETIN

NO MIDDLE GROUND ON DOG DESTRUCTION APPLICATIONS, SAYS COURT OF APPEAL

In *Santics v. Vancouver (City) Animal Control Officer*, 2019 BCCA 294, the BC Court of Appeal considered the “dangerous dog” framework set out in the *Community Charter* and *Vancouver Charter*. A key issue was whether a Provincial Court judge could find a dog to be “dangerous” within the meaning of s. 49(1) of the *Community Charter* or s. 324.1(1) of the *Vancouver Charter*, but still make a conditional order falling short of destruction. The Court found that the plain meaning of the dangerous dog provisions in the *Vancouver Charter* and *Community Charter*, considered along with the scheme and object of the legislation, made clear that there was no authority for conditional orders.

The Court did, however, confirm that the Provincial Court retains the discretion not to order destruction, even where the dog in question meets the statutory definition of “dangerous dog”. The Court stated that the “overarching question” relevant to any destruction application is whether the dog is “an unacceptable risk to the public”. The Court defined this novel standard with reference to whether, on the balance of probabilities, the dog is likely to kill or seriously injure in the future. While, in practice, judges often consider these criteria on dog destruction applications, such a statement from the Court of Appeal will shape future cases.

The Court also invited the Legislature to consider whether to amend the legislation, stating that it was possible that other dangerous dog schemes “are suited for British Columbia in whole or in part”.

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