

July 1, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V19009311**

NATASHA TEVIS

Animal Services Enforcement Appeal

Activity no.: A19001572

Appellants: **Natasha Tevis and Jesse Tejada**

[REDACTED]
Kent, WA 98030

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
Regional Animal Services of King County
21615 64th Avenue S
Kent, WA 98032
Telephone: (206) 263-5968
Email: raskcappeals@kingcounty.gov

FINDINGS AND CONCLUSIONS:

1. Natasha Tevis' and Jesse Tajeda's (Appellants') dog, Luna, slaughtered a neighbors' chickens. Regional Animal Services of King County (Animal Services) served a violation notice asserting three minor violations and a designating Luna "vicious." After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we uphold the three minor violations but overturn the viciousness designation.

2. On April 7, 2019, Animal Services responded to a complaint about a dog having killed chickens. Ex. 2. Animal Services came out to the complainant’s property, photographed Luna (in the complainant’s chicken coop with the slaughtered chickens and with blood on his fur), and removed Luna. Ex. 4 at 001. Appellants retrieved Luna from Animal Services the following day. Animal Services then served a violation notice asserting that Luna had trespassed, run at large, been on public property not under control, and qualified as vicious. Ex. 5.
3. Appellants timely appealed. Ex. 8. Appellants explained how Luna had gotten out and their efforts to retrieve him. They did not challenge the existence of the first three violations, and appeal hearings are limited to those matters or issues raised in an appeal statement KCC 20.22.080.G. Appellants explicitly challenged the viciousness designation, meaning that at hearing Animal Services bore “the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.” KCC 20.22.080.G; .210. Unless directed to by law—and no special directive applies to today’s case—the examiner does *not* grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.
4. Given that Appellants retrieved and positively identified Luna from Animal Services, Luna was the bloodied dog pictured with the chickens, one of which had its had ripped off. Ex. 4 at 002. However, piecing together a language gap, a delay in calling Animal Services, and the presence of another owner apparently looking for a dog the same day, Appellants offered an amazing theory that maybe Luna had *not* killed the chickens, but *another* animal had earlier killed the chickens, and that Luna had later been moved into the cage.
5. That was not quite the most absurd spin we have entertained in a hearing, but it was close. Either Appellants have been watching too many detective shows or reading too many conspiracy stories, or they assume we have been. In any event, Animal Services easily meets its burden of proving that it is more likely than not that Luna killed the chickens. (Even if we applied the much stricter criminal law standard of proof beyond a reasonable doubt, Animal Services still would have met its burden.)
6. Despite being disappointed with the weak tea Appellants served in our courtroom, our question remains whether Luna meets the code criteria for a viciousness designation. KCC 11.04.020.BB defines “vicious” as:

Having performed the act of, or having the propensity to do any act, endangering the safety of any person, animal or property of another, including, but not limited to, biting a human being or attacking a human being or domesticated animal without provocation,

while KCC 11.04.230.H declares as a nuisance, “Any animal that has exhibited vicious propensities and constitutes a danger to the safety of persons or property off the animal’s premises or lawfully on the animal’s premises.”
7. The code is thus most protective when the victim is a human, and is still protective when the victim is a “domesticated animal.” So his case might seem simple. Luna killed

chickens minding their own business in their own coop. Chickens are a domesticated animal in the common sense of the word, a typical backyard pet even in very urban areas. (In our region, one does not even need a backyard to have chickens: an apartment rooftop will suffice.¹) Case closed. And indeed, that would have been the scenario if Luna had gotten into a cage of rabbits and killed them.

8. However, “domesticated animal” is defined as “a domestic beast, such as any dog, cat, rabbit, horse, mule, ass, bovine animal, lamb, goat, sheep, hog or other animal made to be domestic.” KCC 11.04.020.G. As we have analyzed earlier, chickens do *not* qualify as a “domesticated animal,” and thus are not entitled to the same level of protection.² So the portion of the definition that calls out “attacking a...domesticated animal” as an example of behavior that qualifies as “vicious” is inapplicable. KCC 11.04.020.BB. That still leaves the “endangering the safety of any person, animal or property” and the “constitutes a danger to the safety of persons or property.” But ours is a more nuanced analysis, with the protection level lower than when the victim is a human or domesticated animal.
9. In *V18008733–Rioux* we upheld a viciousness designation for a dog that killed chicken. However, there was more going on in *Rioux* than simply a chicken killing. The extended incident began with appellant’s dog bounding upon the complainant’s young daughters and family puppy. After that complainant chased off appellant’s dog, her girls went into the fenced area with their chickens. The dog returned and snatched a chicken out of the eight-year-old’s hand. The complainant was momentarily able to get the dog to release the chicken, but the dog circled around, re-snatched the chicken from its enclosure, and ran off with it. We ruled that those facts “[t]aken together” warranted a viciousness designation.³ It was chicken killing *plus* other factors that collectively led us to deny the appeal.
10. Here, there is no “plus.” There is no indication that Luna has exhibited other aggressive behavior before, on, or since April 7. As unconvincing as Appellants were in theorizing that Luna was somehow framed for chicken slaughter, they were convincing in showing they are generally responsible owners, and that April 7 was an aberration. They have a full six-foot fence, and have (since the incident) installed locks on the gate to prevent accidental release. They provided the complainant with a half-dozen chicks and a 50-pound bag of feed to compensate for Luna’s action. In the end, we do not find that Animal Services has quite met its burden of proving a viciousness designation is appropriate for what is, as of today, a one-off incident.

¹ <https://www.bizjournals.com/seattle/news/2017/01/18/chickens-are-seattles-hot-apartment-amenity-rental.html>.

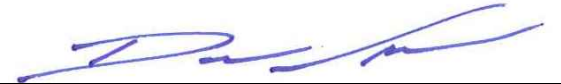
² See https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2018/2018%20may/V18007754_De_Cassis_Updated.ashx?la=en (analyzing a Bellevue definition identical to KCC 11.04.020.G).

³ See https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2019/2019%20jan/V18008733_Rioux.ashx?la=en.

DECISION:

1. We DENY Appellants' appeal with respect to running at large, trespassing, and being on public property not under control. Appellants shall pay the \$150 to Animal Services by **August 30, 2019**.
2. We GRANT Appellants' appeal with respect to the viciousness designation.

ORDERED July 1, 2019.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless appealed to superior court by *July 31, 2019*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

MINUTES OF THE JUNE 19, 2019, HEARING IN THE APPEAL OF NATASHA TEVIS, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V19009311

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Seok Jun Lee, Jesse Tejada, Sara Yi, and Natasha Tevis. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record:

- | | |
|---------------|--|
| Exhibit no. 1 | Regional Animal Services of King County staff report to the Hearing Examiner |
| Exhibit no. 2 | Complaint form by Suk Jun Lee, dated April 7, 2019 |
| Exhibit no. 3 | RASKC investigation report no. A19001572 |
| Exhibit no. 4 | Photograph of Luna in the coop with the deceased chickens |
| Exhibit no. 5 | Notice of violation no. V19009311, issued A19001572 |
| Exhibit no. 6 | NVOC mailing/tracking history |
| Exhibit no. 7 | Map of subject area |
| Exhibit no. 8 | Appeal, received May 7, 2019 |

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V19009311**

NATASHA TEVIS

Animal Services Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED July 1, 2019.



Jessica Oscoy
Legislative Secretary