

July 26, 2019

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
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www.kingcounty.gov/independent/hearing-examiner

ORDER ON MOTION FOR RECONSIDERATION

SUBJECT: Regional Animal Services of King County file no. **V19009456**

OLEKSANDRA TCHERNIAKHOVSKA

Animal Services Enforcement Appeal

Activity no.: A19002487

Appellant: **Oleksandra Tcherniakhovska**

[REDACTED]
Sammamish, WA 98074

Telephone: [REDACTED]

Email: [REDACTED]

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

On July 2, Regional Animal Services of King County (Animal Services) withdrew, without prejudice, its order that Oleksandra Tcherniakhovska remove her dog from the County. The following day, we dismissed, also without prejudice, Ms. Tcherniakhovska's appeal of that removal order. On July 21, Sachin Jha, the bite victim's father, emailed us expressing his dissatisfaction with the outcome and his desire to appeal.

As a complainant, Mr. Jha is not a legally-recognized party in our case and therefore lacks standing to file a motion for reconsideration. However, we are also a father of young children,

and grasp the seriousness—horror, really—of this matter. No one disputes that the dog seriously injured Mr. Rai’s son. A multiple hour surgery and months long recovery is traumatic for a child and for a parent. In fact, had it been our child so injured, we would probably not have been able to hold it together as well as Mr. Jha has; we would be demanding not removal but instead euthanasia. However, “parent” is not the seat we have on this particular bus; we are sitting as a neutral decision-maker. From that seat we offer some explanation and some forward-looking thoughts.

The severity of the injury a dog caused is not dispositive of whether removal of that dog from the County is warranted. That is true even if we were operating under the state’s default system, which has a category of “dangerous dog.” While a County “vicious” designation is triggered by simply “biting a human being,” without any specific injury required, a state “dangerous” designation is reserved for a dog “inflict[ing] *severe* injury on a human being” with “severe injury” itself defined as “broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.” *Compare* KCC 11.04.020.BB *with* RCW 16.08.070(2)(3).

Even assuming that the facts here would be sufficient to warrant a “dangerous” designation (if the County used the default state system), the default protocol is not to euthanize or remove the dog. Instead, an owner is typically allowed to keep a dangerous dog, contingent on meeting requirements like obtaining a dangerous dog registration, maintaining a proper confinement enclosure, posting warning signs to inform children of the presence of a dangerous dog, and obtaining a surety bond or liability insurance of at least \$250,000. RCW 16.08.070(2) & (3). That is to say, removal—even for disfiguring lacerations requiring cosmetic surgery—is not the standard remedy even for a more violent category of animal than “vicious.”

Under the County system, there are *mandatory* bases for removal based on repeated events: an animal receiving a viciousness declaration and then later committing a violation, an animal receiving three violation notices in a one-year period, or an animal biting a person and then biting a person again within the next two years. KCC 11.04.290.A.3, B.1 & B.2. Conversely, removing an animal based on a first-time event is *discretionary*. KCC 11.04.290.A.2.e. It would have been an uphill fight for Animal Services to prove why removal—instead of the Tcherniakhovska’s proposal to muzzle their dog when off their property and to avoid areas where children are known to gather—was the proper remedy for a first-time incident here. And we are very exacting on Animal Services in removal cases. In any event, love it or hate it, dismissal without prejudice is our final ruling on this matter.

Looking towards the future, we offer three parting thoughts.

First, Animal Services’ dismissal—and our order confirming that dismissal—were “without prejudice.” There is no bar to Animal Services re-bringing a removal action if future conditions warrant it—say, if the Tcherniakhovskas do not keep their dog contained on their property or muzzled off it.

Second, nothing we have written is meant to impact any civil claim the Jhas have made or might make related to their son’s injuries. Our jurisdiction is limited to the enforcement action.

Third and finally, Mr. Jha states that he wants to appeal. It does not appear he has standing to appeal the results of an enforcement action, when the enforcement action was against someone else. However, that is a court's call to make. As to how he would go about appealing, the hearing guide we provide to participants explains:

Examiner decisions end with general information for how to appeal. The examiner can offer no additional instruction beyond that written information. It is an appellant's responsibility to determine and meet the exact requirements for filing an appeal.

We will, however treat today's order as our final word on the matter and the County's final decision. This means that the deadline, should Mr. Rai wish to apply for a writ of review in superior court in accordance with chapter 7.16 RCW, is extended to **August 26, 2019**.

DATED July 26, 2019.



David Spohr
Hearing Examiner

August 26, 2019
DS/vsm

July 26, 2019

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V19009456**

OLEKSANDRA TCHERNIAKHOVSKA

Animal Services Enforcement Appeal

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **ORDER ON MOTION FOR RECONSIDERATION** 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

DATED July 26, 2019.

Vonetta Mangaoang

Vonetta Mangaoang
Senior Administrator

Jha, Sachin
Hardcopy

Lindquist, Michael
Regional Animal Services of King County

Tcherniakhovska, Oleksandra
Hardcopy