

August 22, 2019

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

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

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V19009488**

TRAVIS GROOME

Animal Services Enforcement Appeals

Activity no.: A19002428

Appellant: **Travis Groome**

[REDACTED]
Clyde Hill, WA 98004

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

FINDINGS AND CONCLUSIONS:

1. Animal Services designated both of Travis Groome's dogs, Scout and Murphy, as vicious. Mr. Groome disputes the designation for both dogs. 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 viciousness designation for Scout, reverse it for Murphy, and amend Murphy's compliance terms to allow him to continue using off-leash dog parks.

2. On June 10, Dean Rohla was visiting a neighboring property to drop off some papers. Mr. Rohla heard a loud bark, but did not turn around. As he started walking up the porch, one of the dogs bit his glute. He turned around to find the whitish/blackish dog next to him, and he swatted at this dog. The more tannish dog remained a few feet off. Ex. 7 at 003 (pictures). Both dogs blocked his escape route, and he felt cornered and trapped. Both dogs were behaving aggressively to him. We found Mr. Rohla credible, and we find it more probable than not that Scout bit Mr. Rohla, without legal provocation.
3. Mr. Groome testified that there was a one-foot gap in his shrubbery wall, and he thinks this is where the dogs escaped from that day. He has since fenced this area. Ex. 7 at 003 (bottom right picture). He has an invisible fence. He thinks the dogs did not have their buzzer collar on at the time of the incident because they had just been walked on a leash. (This meshes with John Greenwood’s testimony that he saw a person(s) walking the dogs just before the incident.) Both dogs are good with children and with visitors. They both run almost daily at the Marymore off-leash park. They interact positively with random strangers on a daily basis. They have never had any previous incidents. We also found Mr. Groome credible.
4. 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. Ours is a true *de novo* hearing. For those matters or issues raised in an appeal statement, Animal Services bears “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.
5. The code 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,

and 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.” KCC 11.04.020.BB; .230.
6. We decide cases based on the actual facts of an event. This cuts both ways. On the one hand, despite the “having the propensity to do any act” in the viciousness definition—which seems to offer an alternative avenue for Animal Services to prove viciousness (i.e. divining that a dog that has not actually done anything violent nonetheless has an *inclination* to do something violent)—we have always required proof that an animal actually performed a qualifying act. On the other hand, all the testimony and supportive letters from people not present on the date of an incident about how friendly and well-behaved a dog generally is have not trumped actual evidence about a specific day.
7. Animal Services argues that Murphy’s actions show he has a vicious “propensity,” i.e. a propensity to endanger the safety of any person, including biting a human being. But that

is not what the evidence actually shows. Murphy stayed a few feet away and barked aggressively at Mr. Rohla. That indicates that Murphy has a propensity to...approach a person and bark aggressively. We have overturned numerous vicious dog designations where the dog behaved aggressively but did not actually make a move to get at the person. We have not required an actual bite, but have typically required the dog to make some move, such as a lunge, to get at the person. Animal Services has not proven its case for Murphy.

8. Conversely, Mr. Groome asserts that Scout is not a vicious dog because Scout has not had previous incidents, is good with kids and visitors, is fine at the off-leash park, interacts positively with random strangers, etc. However, on June 10, Scout bit a person without legal provocation and constitutes a danger to the safety of persons off the animal's premises. It can be hard to accept that an animal who normal behaves so well can, outside the owner's presence, show a different side. In any event Animal Services has proven its case as to Scout.
9. That does not mean that we accept all of Animal Services' requested confinement order. Mr. Groome testified that Scout has played in the Marymore off-leash area almost daily, without incident. There is nothing inconsistent with finding that Scout, outside of his owners' or caregivers' presence, attacked Mr. Rohla, and yet allowing Scout to continue to run in an off-leash park, provided his owners or caregivers oversee him.

DECISION

1. We GRANT Mr. Groome's appeal as to Murphy's viciousness designation and associated \$500 penalty and DENY it as to Scout's.
2. Animal Services' June 11, 2019, compliance order is MODIFIED as follows (A. through D. being substantively unchanged, and E. being new):
 - A. Secure Scout in a fenced area suitable for his size when unattended and outside the home. Lock all passages with a padlock to prevent accidental release.
 - B. Restrain Scout using a leash no more than eight feet long, with a collar or harness, when taking Scout off your property. A competent and capable person must handle Scout at all times when attended outside.
 - C. If not already completed, microchip Scout and provide the microchip number to the King County Animal Licensing Office, (206) 296–2712, by **September 22, 2019**.
 - D. Keep Scout current on his rabies vaccination.
 - E. Scout is allowed to run in sanctioned off-leash dog parks, provided an owner or frequent caregiver is present, and provided Scout is leashed at all times on such trips when not in the car or in the fenced, off-leash area.

ORDERED August 22, 2019.



David Spohr
King County 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 *September 23, 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 AUGUST 14, 2019, HEARING IN THE APPEAL OF TRAVIS GROOME, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V19009488

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were John Greenwood, Travis Groome, Michael Lindquist, and Dean Rhola. 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 | Online Complaint form of June 10, 2019 incident by Dean Rhola, dated June 10, 2019 |
| Exhibit no. 3 | RASKC investigation report no. A19002728 |
| Exhibit no. 4 | Photograph of bruise |
| Exhibit no. 5 | Email, from John Greenwood, dated July 26, 2019 |
| Exhibit no. 6 | Notice of violation no. V19009488, issued A19002428 |
| Exhibit no. 7 | Appeal, received June 20, 2019 |
| Exhibit no. 8 | Map of subject area |

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V19009488**

TRAVIS GROOME

Animal Services Enforcement Appeals

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 August 22, 2019.

Green, John

Groome, Travis

Hardcopy

Lindquist, Michael

Regional Animal Services of King County

Rhola, Dean

Hardcopy