

May 18, 2020

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
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**REPORT AND DECISION**

**SUBJECT:** Regional Animal Services of King County file no. **V20010352**

**CECILIA VILLA**

Animal Services Enforcement Appeal

Activity no.: A20001435

Appellant: **Cecilia Villa**

[REDACTED]  
Sammamish, WA 98075

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](mailto:raskcappeals@kingcounty.gov)

**FINDINGS AND CONCLUSIONS:**

**Overview**

1. Animal Services served a Notice of Violation and Order to Comply on Cecilia Villa, related to an altercation involving her dog, Luk. Ex. 5. Ms. Villa timely appealed. Ex. 7. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we overturn the licensing violation, sustain Luk's viciousness designation and prohibition against running off-leash in the County, and reduce the monetary penalty.

**Evidence**

2. Mr. Holz testified that on February 12, as he walked through the Pine Lake QFC parking lot, he saw a woman (Ms. Villa) let her dog (Luk) out of her car. Ms. Villa had her hands full and seemed otherwise occupied. From an initial distance of about 10-12 feet away, Luk started straight for him, though more in a wagging his tail way and not aggressively. Mr. Holz thought Luk seemed friendly enough that he offered his hand to let Luk sniff it. Luk reacted by immediately trying to bite his hand. Mr. Holz pulled his hand back. Luk then bit his leg.
3. Mr. Holz kept walking along the straight line he was on and tried not to show fear. He asked Ms. Villa to control Luk. He had to raise his voice because Ms. Villa had her headphones in. Ms. Villa engaged and tried to pull Luk back. Luk then lunged at Mr. Holz again as he walked by.
4. Mr. Holz was surprised that, despite the strong, reinforced welding pants he was wearing, Luk could break his skin. Ex. 4. at 001. When he showed Ms. Villa his leg, she felt bad and asked what she could do and what the protocol was. He returned to his car and called his supervisor, who instructed him to file a report and go to urgent care. He did both, getting his wound addressed (along with tetanus shots and antibiotics) at urgent care and filing a police report.
5. Ms. Villa testified that their stories were similar. She was coming back with groceries and had Luk on a retractable leash. She saw a man smiling and going down to Luk in a friendly way. She was surprised Luk reacted like he did. She pulled back on the leash and turned back to lock her car.
6. We find the map Ms. Villa map provided of where the players started out and how Mr. Holz was walking to be an accurate depiction. Ex. 9 at 002. Ms. Villa did not dispute that Luk lunged again at Mr. Holz, and she understood why he would yell, but she reasoned that, from Luk's perspective, he would have perceived a loud Mr. Holz as a threat. She assured Mr. Holz at the time that it was not his fault and asked him what she should do to help.
7. Ms. Villa noted that after the Animal Services officer contacted her and informed her about the complaint, she quarantined Luk for ten days, licensed him, and kept him on a leash. She explained that she intended to neuter Luk, but she could not because of the quarantine. She has faced similar quarantine restrictions after returning to her home country of Argentina.
8. Animal Services noted that there is no requirement that Ms. Villa neuter Luk. Ms. Villa does need to keep him on an eight-foot or shorter leash and to fence him if unattended outside the home.
9. Ms. Villa explained that Luk is good with kids and other animals. She was shocked at his reaction, because Luk is shy and friendly and has not done anything like this before. She is very sorry. She travels here from Argentina to visit family and wants to bring him back with her again. Prior to the February 12 incident, Luk had only been in the country since January 19. She wants to continue taking Luk to off-leash dog parks, where she has taken Luk previously without incident.

### Analysis

10. 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. 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.

#### Licensing

11. Luk was unaltered and unlicensed as of February 12. KCC 11.04.030.A requires all dogs eight weeks and older that are “harbored, kept or maintained” in King County be licensed and registered. However, KCC 11.04.030.E exempts “dogs or cats...whose owners are nonresidents temporarily within the county for a period not exceeding thirty days.” Ms. Villa resides in Argentina, and was only visiting the US. Prior to the February 12 incident, Luk had only been in the County since January 19, and she licensed him a few days after the incident. As of the time Luk was licensed, he was thus a dog whose owner was a nonresident in the County for less than 30 days. There was no licensing violation. Ms. Villa should keep his County license up-to-date for future visits.

#### Vicious

12. Animal Services asserts that Luk is “vicious,” which KCC 11.04.020.BB defines 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.

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.”

13. Mr. Holz extending his hand to an approaching dog is nowhere close to the level of incitement courts require before deeming a bite “provoked.” *See, e.g., Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108, 113 (2001) (“provocation” inquiry “focuses ‘on how an average dog, neither unusually aggressive nor unusually docile, would react to an alleged act of provocation’”) (*citing Kirkeham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000)). Luk bit hard enough to break through reinforced welding pants. Ex. 4. at 001. And then Luk returned to try to get at Mr. Holz a second time; this was not the “over in a split-second” scenario we typically review. Luk bit Mr. Holz without provocation and constitutes a danger to the safety of persons off Luk’s property.

### Confinement

14. Ms. Villa asks us to overturn Animal Services' confinement term that would prohibit her from taking Luk to off-leash parks the next time she is back in the County. Ex. 5 at 001 ("Restrain your animal using a leash with a collar or harness when taking off your property"). We have overturned that prohibition in some past cases, but we find that Animal Services has met its burden here. We based that on a combination of:
- Luk's grossly disproportionate response to the type of behavior another dog owner would be expected to do in the future dog park scenario—walking by in close proximity and occasionally extending a friendly hand to a dog;
  - Luk biting hard enough through reinforced welding pants to cause that wound;
  - Luk then trying to get at Mr. Holz again, as Ms. Villa actively attempted to restrain him; and
  - Because Luk is only an intermittent visitor to King County, and not a full-time resident, the no-off-leash-in-King-County restriction is not dooming him to a lifetime of no off-leash parks, but only during those periods Ms. Villa brings Luk here on vacation.

### Monetary Penalty

15. The \$250 penalty associated with the licensing violation disappears because we overturn that portion of the NVOOC.
16. That leaves the \$500 penalty associated with the viciousness violation. There is no indication in the record that Luk had exhibited aggressive tendencies prior to February 12 that would have put Ms. Villa on notice that Luk might have a grossly disproportionate reaction to a friendly passerby and thus that she needed to keep a close eye on Luk. Even if she had been paying better attention to Luk at the beginning of the altercation, that likely would not have prevented the attack. Presumably, Ms. Villa would have observed exactly what Mr. Holz described, Luk walking up to Mr. Holz in a friendly enough manner that Mr. Holz felt comfortable extending his hand for a sniff.
17. After Luk's initial bite, she kept Luk from being able to get at Mr. Holz again. She engaged with Mr. Holz and asked him what she could do to help. Only after Mr. Holz walked off did she continue with her errands.
18. We find a significant penalty reduction in order. We reduce the \$500 penalty by 3/5.
19. Note, Ms. Villa will need to keep an especially careful eye on Luk anytime he is in the County between now and the two-year anniversary of his February 12 bite. The code contains a provision regarding removing from the County a dog that bites people twice within a two-year period. KCC 11.04.290.B.2. That would be very unfortunate indeed.

## DECISION:

1. We overturn the licensing violation and its associated \$250 penalty.
2. We sustain Luk’s viciousness designation and compliance terms. Ms. Villa will need to follow those requirements. *See* Ex. 5 at 001.
3. We reduce the \$500 penalty associated with the viciousness violation to \$200.

ORDERED May 18, 2020.




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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 *June 17, 2020*. 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 APRIL 29, 2020, HEARING IN THE APPEAL OF CECILIA VILLA, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V20010352**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Gary Holz, and Cecilia Villa. 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 February 12, 2020 incident by Gary Holz, dated February 12, 2020 |
| Exhibit no. 3 | RASKC investigation report no. A2000143501  |
| Exhibit no. 4 | Photograph of leg bite  |
| Exhibit no. 5 | Notice of violation no. V20010352, issued February 13, 2020                               |
| Exhibit no. 6 | Animal Quarantine Notice issued February 12, 2020   |
| Exhibit no. 7 | Email from appellant to the hearing examiner dated March 7, 2020                          |
| Exhibit no. 8 | Map of subject area   |

The following exhibits were offered and entered into the record on May 4, 2020:

- |                |  |
|----------------|--|
| Exhibit no. 9  | Email and map from Appellant, submitted April 30, 2020 |
| Exhibit no. 10 | Email from RASKC, submitted May 1, 2020                |

May 18, 2020

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V20010352**

**CECILIA VILLA**

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 May 18, 2020.



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Jessica Oscoy  
Legislative Secretary

**Eykel, Chelsea**

Regional Animal Services of King County

**Holz, Gary**

Hardcopy

**Villa, Cecilia**

Hardcopy