

May 27, 2020

**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. **V20010470**

THOMAS RUTTINGER
Animal Services Enforcement Appeal

Activity no.: A20001409

Appellant: **Thomas Ruttinger**

Seattle, WA 98133

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. Animal Services asserts that three horses belonging to Thomas Ruttinger were trespassing on a neighbor's property in February. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we uphold the violation notice for two of the horses and overturn it for the third.
2. This case is straightforward. While Animal Services raised a 2017 incident (which we exclude from our record) and discussed its burden dealing with large loose animals, and Appellant countered with some arguments bordering on conspiracy theory and asserted that we should apply a no harm/no foul/no big deal standard, we are tasked with

deciding a simple question: on either February 11 or February 13, did Appellants' horses "enter[] upon a person's property without the permission of that person"?¹ KCC 11.04.230.K. There are other alleged violations that require us to weigh impact, but trespass is not one of them; trespass is a thumbs up or thumbs down call.

3. In deciding that, we do 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. As we have written before, the process an appellant is due, including the right to cross examination, depends in part on the severity of the sanction the appellant is facing.² We apply a more relaxed standard for minor tickets like trespass or running-at-large than for a vicious animal determination, cruelty charge, or removal order.
4. Tim Kovich, who lives a few properties over from Mr. Ruttinger, reported that Mr. Ruttinger's horses were trespassing his property on both February 11 and February 13. Ex. 3 at 006. It was not Mr. Kovich's first interaction with Mr. Ruttinger or his horses. In January, Mr. Kovich had some back-and-forth with Mr. Ruttinger when three horses wound up on the Kovich property. Ex. 6 at 003.
5. Mr. Ruttinger explained that two of the horses are his, thoroughbreds now at the track. The third horse belongs to a neighbor. He discussed his interactions with Mr. Kovich. He did not think his horses were his responsibility because he pays someone else to care for them. He asserts that no one else other than Mr. Kovich or Animal Services has a problem with his horses being loose and it is not a big deal.
6. Animal Services countered that Mr. Ruttinger had never claimed that only two of those were his. There is actually a reference to this in Mr. Kovich's statements from January. While Mr. Kovich found three horses in his front yard, he reported the Mr. Ruttinger was looking to sell "both" of them, implying some sort of distinction. Ex. 6 at 003, n.3. In any event, given the state of the evidentiary record, we overturn the trespass violation against one of the horses.
7. Conversely, as the owner of two of the horses, Mr. Ruttinger is ultimately responsible for them. We find that Animal Services has met its burden of showing a February trespass for his two horses.
8. On a positive note, Animal Services noted that after receiving complaints that the horses were out on January 11, February 11, and February 13, Mr. Ruttinger has been able to contain his horses. There is no indication they have gotten loose since. When his thoroughbreds return from the track, he needs to continue that diligence, lest either

¹ Proof of trespass on either date would be sufficient, because while the violation notice listed two dates Animal Services asserted the three horses were trespassing, it listed only one violation per horse. Ex. 4 at 001.

² See, e.g., https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2016/september%202016/V16005906_Moore.ashx?la=en.

injury befall the horses, or the horses conceivably get impounded or removed. For now, at least, the situation seems stable.

DECISION:

1. We grant Mr. Ruttinger's appeal as to the horse he asserts is not his.
2. We deny Mr. Ruttinger's appeal as to his two horses.

ORDERED May 27, 2020.



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 26, 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 MAY 13, 2020, HEARING IN THE APPEAL OF THOMAS
RUTTINGER, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO.
V20010470**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel and Thomas Ruttinger. 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, *except that paragraphs discussing 2017 interactions are excluded*
- Exhibit no. 2 RASKC investigation report no. A2000148801 part 1
- Exhibit no. 3 RASKC investigation report no. A2000148801 part 2
- Exhibit no. 4 Notice of violation no. V20010470, issued March 12, 2020
- Exhibit no. 5 USPS Tracking no. 70191640000151956191
- Exhibit no. 6 RASKC investigation report no. A2000023301
- Exhibit no. 7 Notice of violation no. V20010471, issued March 12, 2020
- Exhibit no. 8 Shipping tracking tag
- Exhibit no. 9 RASKC investigation report no. A1700862201 – not admitted*
- Exhibit no. 10 Appeal, received April 6, 2020
- Exhibit no. 11 Map of subject area

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CERTIFICATE OF SERVICE

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THOMAS RUTTINGER
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 27, 2020.



Jessica Oscoy
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Kovich, Tim

Hardcopy

Ruttinger, Thomas

Hardcopy