

July 22, 2020

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

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file nos. **V20010625 and V20010630**

**CHELSEA TJADEN**

Animal Services Enforcement Appeal

Activity no.: A20011190

Appellant: **Chelsea Tjaden**

[REDACTED]  
SeaTac, WA 98198

Telephone: [REDACTED]

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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  
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Email: [raskcappeals@kingcounty.gov](mailto:raskcappeals@kingcounty.gov)

**FINDINGS AND CONCLUSIONS:**

Overview

1. Animal Services asserts that Chelsea Tjaden's dog, Solvino, was running at large on April 20. Being the third violation within a year, Animal Services ordered Solvino to be removed from the County. Ms. Tjaden timely appealed. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny her appeal as to the running at large violation

but stay the removal order for now and set requirements for keeping Solvino in the County.

### Background

2. On July 2019, Solvino ran loose on International Boulevard, a busy thoroughfare. Ms. Tjaden was cited for Solvino running at large and for not having Solvino licensed. Ex. D8. On February 2020, Solvino got loose again, and was brought to Animal Services by a good Samaritan. Ex. D10 at 001. Ms. Tjaden was again cited for Solvino running at large. Ex. D11.
3. On April 20, 2020, Solvino got loose again and was impounded. Ms. Tjaden retrieved Solvino, and Animal Services served a violation notice for running at large. Ex. D3. Animal Services left a message with Ms. Tjaden, asking for a callback to discuss solutions for keeping Solvino from getting out, given that Solvino met the criteria for removal (three violation notices within a year). After Ms. Tjaden failed to return the call, Animal Services issued a removal order. Exs. D2 at 003 n.2 & D5.
4. Ms. Tjaden timely appealed both the third violation notice and the removal order. Exs. D13 & D14. We went to hearing on July 8.

### Legal Standards

5. Our first inquiry is whether, on April 20, Solvino was “running at large,” meaning “off the premises of the owner and not under the control of the owner, or competent person authorized by the owner, either by leash, verbal voice or signal control,” with “under control” itself including “restrained from approaching any bystander or other animal” when “off the premises of the owner.” KCC 11.04.020.W, .AA; .230.B.
6. Our second inquiry is whether Solvino should be removed from the County under KCC 11.04.290.B.1, which states that:
 

Any animal constituting a public nuisance as provided in this chapter shall be abated and removed from the county...upon the receipt of three notices and orders of violation by the owner in any one-year period.... Where...no finding was entered showing that the owner will be able to provide reasonable restraints to protect the public from repetitions of violations, the manager of the regional animal services section shall notify and direct the owner of the animal to abate or remove the same from the county within ninety-six hours from the notice....
7. In answering those, 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.

### Analysis

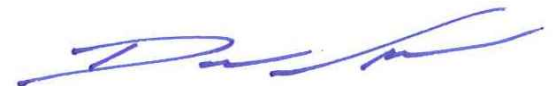
8. Ms. Tjaden does not dispute that Solvino was running at large on April 20; indeed, Solvino was impounded after he wandered into a store, whose owner called Animal Services. Ms. Tjaden instead states that she was out of town and had left him in her sister's care. Ultimately, Ms. Tjaden is responsible for Solvino's care. And April 20 was not the first time she left someone in charge of Solvino who was not able contain him. Ms. Tjaden herself said that the previous running at large incident occurred when Solvino was being dog sat. So, April 20 was not some out of the blue occurrence. Ex. D13. We uphold the April 25 violation notice, the third in less than a year.
9. With three confirmed violations between July 2019 and April 2020, Solvino "shall be abated and removed from the county." KCC 11.04.290.B.1. Unlike the discretionary "may," the drafters chose the mandatory "shall." However, the drafters also put in a caveat: removal is mandatory where "no finding was entered showing that the owner will be able to provide reasonable restraints to protect the public from repetitions of violations." *Id.* Thus, the code drafters elected to include an escape hatch, and affirmative defense where an owner can demonstrate that the public will be protected from future violations.
10. Ms. Tjaden testified that while she was home the first time Solvino got out, the other two times she was not. She has roommates with kids. For the February 2020 incident, the roommate was there. For the current violation her sister was there. Ms. Tjaden has recently bought a kennel, in which she locks Solvino up while she is at work. Her son is allowed to take Solvino out of the kennel only when on a leash, to go potty. She has asked her dad to install an outdoor runner that she can use to secure Solvino on the premises. She can install a roller on top of the fence. She will build a kennel in the backyard.
11. Animal Services countered that staff had previously talked to Ms. Tjaden about the need to contain Solvino, and at other times left unreturned messages for her, trying to find a solution. Living right off the arterial International Boulevard, not only is there risk to Solvino, but a very serious risk to drivers. And the three escapes that resulted in violation notices were not Solvino's only escapes. Ms. Tjaden had a year to work on a solution and could not. Animal Services has no real confidence that Ms. Tjaden will solve the problem now. Animal Services cautioned that a runner would have to be short enough to prevent Solvino from hopping a fence and hanging himself.
12. There is no great outcome here. Some past scenarios involving multiple violations within a year have been minor nuisances, for example, a dog that repeatedly trespasses onto the neighbor's property—more annoyances than safety risks. We agree with Animal Services here that being a block away from a busy arterial which Solvino has repeatedly accessed creates not only a threat to Solvino's health but a threat to the public. And Ms. Tjaden was still making excuses at hearing that she cannot control what other people do (i.e., housemates letting Solvino out when Ms. Tjaden is not home). That actually *supports* Animal Services' lack of confidence that Ms. Tjaden will be able to put in place measures to keep Solvino from getting out again and creating another safety risk.

13. On the other hand, while Ms. Tjaden dragged her feet in recognizing the problem, she finally seems to get it. Her breakdown at hearing shows she is now, finally, internalizing the consequences. Removal for a non-violent dog is a harsh remedy—necessary perhaps, but harsh nonetheless. And while Ms. Tjaden should have already put precautions in place, the actual code criteria is not whether the owner *has provided* reasonable restraints to protect the public from repetitions—she has not—but whether she *will be able to provide* such restraints.
14. History may show us to be naïve, but her commitment to “do whatever it takes” to keep Solvino, along with her specific suggestions for how to accomplish that, pushes us to find, just slightly more probably than not, that she will be able to provide reasonable restraints to protect the public from repetitions of violations. And to avoid those being empty promises, we will memorialize those into conditions for Solvino’s continued residence in the County.

DECISION:

1. We deny Ms. Tjaden’s appeal as to V20010625, the running at large violation.
2. We partially grant Ms. Tjaden’s appeal as to V20010630, staying the removal order, provided:
  - A. Until an outdoor containment system is constructed, whenever Ms. Tjaden is not personally attending Solvino, Solvino is kept in his crate, with the exception that he can be walked on a leash and then put immediately back into his crate.
  - B. By **August 21, 2020**, a runner and/or outdoor kennel is installed. Whenever Ms. Tjaden is not personally attending Solvino, Solvino is kept either in his crate, on the runner, in the kennel, or on a leash.

ORDERED July 22, 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 *August 21, 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 JULY 8, 2020, HEARING IN THE APPEAL OF CHELSEA  
TJADEN, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS.  
V20010625 AND V20010630**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel and Chelsea Tjaden. 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. D1	Regional Animal Services of King County staff report to the Hearing Examiner
Exhibit no. D2	RASKC investigation report no. A2001119001
Exhibit no. D3	Notice of violation no. V20010625, issued April 25, 2020
Exhibit no. D4	NVOC mailing/tracking history
Exhibit no. D5	Notice and order for removal no. V20010630, issued May 9, 2020
Exhibit no. D6	NVOC mailing/tracking history
Exhibit no. D7	RASKC investigation report no. A1900424901
Exhibit no. D8	Notice of violation no. V19009623, issued July 20, 2019
Exhibit no. D9	NVOC mailing/tracking history
Exhibit no. D10	RASKC investigation report no. A2000158001
Exhibit no. D11	Notice of violation no. V20010382, issued February 19, 2020
Exhibit no. D12	NVOC mailing/tracking history
Exhibit no. D13	Appeal, received May 11, 2020
Exhibit no. D14	Appeal, received April 20, 2020
Exhibit no. D15	Map of subject area

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**CERTIFICATE OF SERVICE**

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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 22, 2020.



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Jessica Oscoy  
Office Manager

**Eykel, Chelsea**

Regional Animal Services of King County

**Fowler, Diana**

**King County Sherriff Dispatch**

**Tjaden, Chelsea**

Hardcopy