

October 1, 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

SUMMARY ORDER

SUBJECT: Regional Animal Services of King County file no. **V20010957-A20012907**

NATHAN WHITE

Animal Services Enforcement Appeal

Activity no.: A20012907

Appellant: **Nathan White**

[REDACTED]
Renton, WA 98059

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

On September 8, we mailed and emailed notice of yesterday's 2:30 telephonic hearing, with instructions for how to dial in. A few hours before the hearing, we confirmed with Appellant via email the time of the hearing and dialing instructions. At 2:30, Animal Services and the complainant called in, but Appellant did not. We waited 10+ minutes before dismissing the appeal for Appellant's failure to appear. However, in doing so we announced one alteration.

The violations under appeal involve Appellant's four dogs running at large on July 23. Chiko and Logan each received the normal, \$50 "running at large" charge. However, because Animal Services had declared Groot and Dozer vicious back in June, the violation for them running at large in July was \$500 each. Ex. D9.

Those viciousness determinations stemmed from a June 3 altercation. On June 16 Animal Services mailed, by certified mail, a notice and order declaring Dozer and Groot vicious. That satisfied the code's requirement for service. KCC 11.04.260.D.2. The Postal Service left notice at Appellant's address on June 18; the Postal Service sent it back to Animal Services as unclaimed three weeks later. Exs. D9 at 002 & D10 at 001, 003.

Appellant asserts a lack of knowledge about Dozer and Groot's June viciousness designations. Ex. D12. That does not change the binding-ness of those designations. Our supreme court has addressed the question of what happens when a document the statute requires be served by certified mail, return receipt requested, is returned as "unclaimed." *In re Marriage of McLean*, 132 Wn.2d 301, 303, 937 P.2d 602 (1997). The court ruled that such service satisfied the statute and due process, even if the party did not actually see the document. The court reasoned that if the legislature "had intended to require evidence of actual delivery, it could have said so expressly." *Id.* at 306–07.

So, Dozer and Groot's viciousness designations are past the point of debate now. Appellant must be very careful to follow those June 16 compliance terms, especially to: "Secure [Dozer and Groot] in a fenced area suitable for [their size w]hen unattended and outside your home. Lock all passages with a padlock to prevent accidental release," and to "Restrain [Dozer and Groot] using a leash with a collar or harness when taking [them] off your property. Your lease can extend no longer than 8' in length. A competent and capable person must handle the animal at all times when attended outside." Ex. D9 at 001. Running off the property, unleashed, in the future could lead to another \$500 vicious-dog-at-large penalty or perhaps even to their removal from the County. Appellant will want to double down on containment protocols.

However, in interpreting the vicious-dog-at-large nuisance, KCC 11.04.230.I, we have previously noted that the intent of setting that penalty at 10 times the rate of a normal dog-at-large penalty must be that the owner or caretaker knew the dog had been declared vicious and required containment, yet failed to do so. There is some dispute about what Appellant knew—the field notes indicate that Ofc. Wilcox "informed [Appellant] of vicious NOV and we could ask for removal at two incidents. He doesn't want that..." Ex. D8 at 002. However, there is no dispute that Appellant did not actually receive the document with the containment terms until after the July 23 incident. We will give Appellant the benefit of the doubt and reduce the penalties for Dozer and Groot from \$500 each to \$50 each. Moving forward, Appellant certainly *now* knows the requirements and possible consequences for failing to meet those requirements.

We thus DISMISS Appellant’s appeal, upholding the violations and fines for Chiko and Logan and the violations for Dozer and Groot, but we REDUCE the fines for Dozer and Groot. The penalty Appellant owes to Animal Services is **\$200**, not \$1100.

DATED October 1, 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 *November 2, 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 SEPTEMBER 30, 2020, HEARING IN THE APPEAL OF NATHAN WHITE, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V20010957-A20012907

David Spohr was the Hearing Examiner in this matter. Participating in the truncated hearing were Chelsea Eykel and Xavier Noblat. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

The following exhibits were submitted by Animal Services and entered into the record:

Exhibit no. D1	Regional Animal Services of King County staff report to the Hearing Examiner
Exhibit no. D2	Online Complaint form of incident by Xavier Noblat, dated July 23, 2020
Exhibit no. D3	Photograph of dogs
Exhibit no. D4	RASKC investigation report no. A20012907
Exhibit no. D5	Notice of violation no. V20010957-A20012907, issued July 28, 2020
Exhibit no. D6	NVOC mailing/tracking history
Exhibit no. D7	Online Complaint form of June 3, 2020 incident by Keith Parsons, dated June 3, 2020
Exhibit no. D8	RASKC investigation report no. A20012075
Exhibit no. D9	Notice of violation no. V20010804-A20012075, issued June 16, 2020
Exhibit no. D10	NVOC mailing/tracking history
Exhibit no. D11	Photograph of 4 dogs with Animal ID numbers
Exhibit no. D12	Appeal, received August 10, 2020
Exhibit no. D13	Map of subject area

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V20010957-A20012907**

NATHAN WHITE
Animal Services Enforcement Appeal

I, Lauren Olson, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **SUMMARY ORDER** 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 October 1, 2020.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Noblat, Xavier

Hardcopy

White, Nathan

Hardcopy