

November 13, 2020

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

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

SUMMARY ORDER

SUBJECT: Regional Animal Services of King County file no. **V20011083-A20013432**

SEAN AND SHARON STEWART
Animal Services Enforcement Appeal

Activity no.: A20013432

Appellants: **Sean & Sharon Stewart**

[REDACTED]
Kent, WA 98031

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

Regional Animal Services of King County filed a violation notice asserting the Stewarts' rooster was making excessive noise and fining them \$50. The Stewarts timely appealed. On October 5, we sent out notice for our November 5 hearing. We received no response that there were any concerns with the process. There was some back-and-forth around exhibit filing, but those seemed par for the course. And we started our November 5 hearing on time. So good, so far.

Animal Services representative and witnesses introduced themselves. Only when we asked if the Stewarts were on the line did things take a bizarre turn. A gentleman calling from the Stewarts' number (which we could identify from our matching the number on our screen to our party or record list) refused to identify himself, and asked whether our proceeding was legal or lawful. We explained that it was both, but he seemed to think that it had to be one or the other. He said he could not participate in a legal proceeding.

We offered him several more opportunities to participate, before announcing that his other option was for us to simply dismiss the appeal. He chose the latter. We thus dismissed the Stewarts appeal. We explain a little further today.

Our proceedings are both legal and lawful. We are authorized to hear appeals of Animal Services notices and orders. We followed the other steps, such as sending out notice of our hearing at least two weeks (here, a full month) required before the hearing. Had the Stewarts not forfeited their right to participate, we would have put Animal Services to its burden of proof. The Stewarts would have had an opportunity to, for example, question any Animal Services witness, before presenting their own case. After the hearing, we would have made findings of fact (did *X* happen?) and conclusions of laws (did *X* amount to a violation?). However, the Stewarts went a different route.

In the overwhelming majority of our animal proceedings, no attorneys are involved. Animal Services is represented by a layperson, and appellants represent themselves. Our rules specifically state that representation by an attorney is not required for full participation, and even where a person chooses to enlist someone as a representative, that person also need not be an attorney. (For example, in a recent enforcement case, the appellant had his adult son represent him.)

Occasionally, an appellant retains counsel, typically for something like a vicious dog designation or an order to removal an animal from the county, not for a \$50 nuisance violation. When an appellant retains counsel, Animal Services enlists someone from the Prosecuting Attorney's Office, and so those cases take on a more formal flavor. Even there, where both sides are lawyered-up, we still strive to be more user-friendly and informal than a court, including lay-friendly rules for admitting evidence. But again, lawyers are the exception to the rule.

The Stewarts' approach here was interesting. We occasionally see appellants who, despite filing an appeal asking us to reverse an agency order, later refuse to participate in their own appeal. However, such appellants typically submit no exhibits and often fail to appear at all for a proceeding. Here, in contrast, Ms. Stewart put significant effort into recording rooster crowing times and preparing exhibits, and the Stewarts promptly called in. To then just walk away and take a default judgment after all that effort was not at all what we were expecting.

In the end, that is their prerogative. Just because one receiving a violation notice has an *opportunity* to have a hearing and make their case does not mean they need to exercise it. And, of course, this round was relatively small potatoes, with only \$50 at stake. The problem, of course, is that the disputes like these usually do not go away by themselves. Penalties for any future violation would double, and consequences can only ratchet up.

To help the parties adjust their expectations going forward, in general we employ a higher threshold for daytime noise than nighttime noise, but there is still a limit even for daytime noise. And we probe the steps an appellant has taken to control the noise and the steps a complainant has taken to mitigate the noise's impact, including efforts at resolution; so those things matter. We hope the parties can figure out a path forward, but if not, we are always open for business.

We thus DISMISS the Stewarts' appeal, which upholds Animal Services violation notice and the \$50 penalty.

DATED November 13, 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 *December 14, 2020*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

DS/lo

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V20011083-A20013432**

SEAN AND SHARON STEWART
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 November 13, 2020.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Lawless, Michael

Hardcopy

Stewart, Sean/Sharon

Hardcopy