

November 13, 2020

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

King County Courthouse
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Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V20011171-A20013842**

RYAN KANG AND TARYN YANG

Animal Services Enforcement Appeal

Activity no.: A20013842

Appellants: **Ryan Kang and Taryn Yang**

Woodinville, WA 98072

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 OF FACT:

1. **Hearing.** A telephonic hearing was held November 4, 2020. Appellants Ryan Kang and Taryn Yang, appeared, as did Sergeant Eykel, Code Enforcement Officer for King County Regional Animal Services.

2. **Exhibits.** The exhibits listed in the minutes below were admitted without objection. Appellants requested admission of A-1 in closing argument. The document had been in Animal Service's file and there was no objection, so it was admitted.
3. **Witnesses.** Sworn testimony was received from Mr. Kang, Ms. Yang, and Ms. Maxwell.
4. **Notice of Violation.** King County Regional Animal Services issued a Notice of Violation and Order to Comply. Office Goldstone determined that Ryan Kang's dog, named Diesel, violated these King County animal care and control laws:

Vicious Animal, 1st Violation. KCC 11.04.230(H), \$500¹

Notice and Order for Confinement. KCC 11.04.290, \$0

5. **Conditions.** The Notice of Violation and Order to Comply imposed these conditions:

- Secure your animals in a fenced area suitable for the size of the animal when your animal is unattended and outside your home. Lock all passages with a padlock to prevent accidental release.
- Restrain your animal using a leash with a collar or harness when taking it off your property. Your leash can extend no longer than 8' in length. A competent and capable person must handle the animal at all times when attended outside.
- Microchip your animal and provide the microchip number to the King County Animal Licensing Office (206-296-2712) within 14 days.
- Vaccinate your animal for rabies, if not current. ...²

6. **Incident – September 5, 2020, about Noon.** Ms. Maxwell was walking along a paved path in Snoqualmie Point Park at 37580 SE Winery Road, Snoqualmie, Washington. She noticed a man sitting on a bench with two dogs. She nodded and briefly said hello, remarking on the dogs' cute appearance. She did not stop to talk and maintained a minimum 15-foot distance, moving onto the grass and further away to social distance. After she passed the bench, one of the dogs, described as looking like a large pit bull, attacked her. She pushed him away and he came at her again, glomming onto her arm and biting through her clothing. She tried to knock him off, without success. The owner, Mr. Kang, yelled and tried to gain control of his dog by pulling the dog off her. Although wearing a long-sleeved shirt and pile jacket, her arm was bleeding and bruised. Mr. Kang apologized, gave her his information and offered to pay her medical bills. He offered transport, but Ms. Maxwell drove herself to the hospital. She suffered a laceration and puncture to her left arm. She was treated there, and received a health care bill of \$1,345.58, which her insurance covered. She testified that she still has scarring, but is no longer in pain and can use her arm.

¹ KCC 11.04.035(C)(2)(a).

² Dept. Exhibit D-2 Notice of Violation and Order to Comply.

7. **Dog Owner Testimony and Cross Examination** Mr. Kang and Ms. Yang adopted Diesel when he was four years old. He was a rescue, and they were told he was “reactive,” so they put him in training. He has to be properly introduced to strangers. They believe Ms. Maxwell’s brief greeting from the 15-foot distance spooked him while he was eating a dog treat, causing him to lunge at her. In the three years they have had Diesel, this is the first time he has bit anyone. They were surprised by the incident, apologized, and regret what occurred. It happened so suddenly, that though Mr. Kang had his feet on the dog’s leash, Diesel instantly broke away. Mr. Kang and Ms. Yang requested that Diesel not be “labeled” a vicious dog and that the penalties be reversed. They did not object to the conditions, which they are following. Their concern is with the labeling of Diesel as a vicious dog.

CONCLUSIONS OF LAW:

1. **Jurisdiction.** The Examiner has jurisdiction over appeals of King County Regional Animal Services civil citations.³ In defending the appeal of these citations, it has the burden of proof.
2. **Vicious Animal and Order for Confinement.** A civil “vicious animal” citation may issue for:

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.⁴

“Vicious” means 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.⁵

The term “vicious” is a legal term. Under King County Code, it does not mean a dog is vicious all the time, or that the dog’s owners do not take good care of the dog. It simply means that the animal has exhibited certain propensities which present a danger to others.

The facts are largely undisputed. Diesel attacked Ms. Maxwell, biting and inflicting wounds requiring medical care. He was not provoked in any way. Ms. Maxwell was at least 15-feet away. The brief acknowledgement of a dog and its owner from 15-feet away does not constitute provocation for attacking and biting a person. A reasonable person would not expect to be attacked for saying hello while passing another on a walk, even if the separation distance is only a foot or two. Diesel attacked, was knocked away, and then latched onto Ms. Maxwell’s arm, causing a laceration and puncture wound, despite

³ KCC 11.04.270.

⁴ KCC 11.04.230(H).

⁵ KCC 11.04.020(BB).

her thick clothing. Had Mr. Kang not pulled Diesel off, more serious injuries were likely, as Ms. Maxwell was unable to remove him. Diesel has demonstrated a propensity to endanger a person's safety, as he endangered Ms. Maxwell's safety with his attack.

Mr. Kang and Ms. Yang are complying with the conditions Animal Services imposed, regret the incident, and offered to pay for medical expenses. There is no evidence of an earlier incident, and Diesel has been in training to address his reactivity. While these are positive factors, and indicate that Mr. Kang and Ms. Yang care responsibly for Diesel, they do not change the fact that an unprovoked attack occurred.

3. **Penalty.** The \$500 penalty for a vicious animal citation is provided for by code.⁶ There is discretion to reduce this penalty amount if the situation is unlikely to repeat.⁷ Mr. Kang and Ms. Yang have testified they are complying with all conditions to restrain Diesel, and do not wish the incident to repeat.⁸ There is a reasonable likelihood added precautions will now be taken to ensure Diesel is under stricter control in the future, so he will not be able to attack and injure another person again. A modest reduction of \$100 is reasonable.

DECISION

The appeal is DENIED. The vicious animal citation and penalty is upheld, but with the penalty amount reduced from \$500 to \$400.

ORDERED November 13, 2020.



Susan Drummond
Hearing Examiner pro tem

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.

⁶ KCC 11.04.035(C)(2)(a).

⁷ KCC 11.04.335(B)(2).

⁸ See also Exhibit A-1, addressing observed steps taken to control Diesel in the past.

**MINUTES OF THE NOVEMBER 4, 2020, HEARING IN THE APPEAL OF RYAN KANG AND TARYN YANG, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V20011171-A20013842**

Susan Drummond was the pro tem Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Judith Maxwell, Ryan Kang, and Taryn Yang. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

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

- Exhibit no. D1 Regional Animal Services of King County staff report to the Hearing Examiner
- Exhibit no. D2 Notice of violation no. V20011171-A20013842, issued September 15, 2020
- Exhibit no. D3 Appeal, received September 24, 2020
- Exhibit no. D4 RASKC investigation report no. A20013842
- Exhibit no. D5 Complaint from of September 5, 2020 incident by Judith Maxwell, dated September 5, 2020
- Exhibit no. D6 Photograph of dog bite wounds
- Exhibit no. D7 Map of subject area

The following exhibits were offered and entered into the record by the Appellants:

- Exhibit no. A1 Email correspondence from Andrea King, dated October 26, 2020

SD/lo

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V20011171-A20013842**

RYAN KANG AND TARYN YANG
Animal Services Enforcement Appeal

I, Lauren Olson, 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 November 13, 2020.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Maxwell, Judith

Hardcopy

Taryn Yang, Ryan Kang

Hardcopy