

June 17, 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. **V20101524**

KAPPIE AYERS

Animal Services Enforcement Appeal

Activity no.: A20009645

Appellant: **Kappie Ayers**

[REDACTED]
Duvall, WA 98019

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by Shelby Russell
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 Kappie Ayers' dog, Boyd, was trespassing on March 18. Ms. Ayers appealed. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny the appeal. We do offer some thoughts on a future resolution.

2. Our question is whether, on March 18, Boyd trespassed into the Gilmartin property, defined as a “domesticated animal that enters upon a person’s property without the permission of that person,” KCC 11.04.230.K. 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.
3. The basic facts relevant to deciding that issue are not really in dispute.
4. Erika Gilmartin explained that she was sitting in her living room on March 18, looking through the sliding glass door. She saw her neighbor’s dog on the hillside in the backyard. She chased the dog out of the backyard into the front, where it returned to the Ayers’ property. Ms. Ayers was engaged in a conversation with someone in the front yard, and Ms. Gilmartin did not want to interrupt.
5. William Gilmartin was also sitting in the living room. When his wife called his attention to the matter, he looked over and saw the dog in the backyard. He observed his wife chase the dog out of the backyard. He stayed in the living room, and so he did not see anything past that.
6. Kathy Ayers stated that she could not be certain what happened on March 18. The family and guests were playing darts, and Boyd was laying on the left-hand side the driveway, next to the Gilmartin property. As to whether Boyd got up, she cannot speak to that.
7. Joseph Ayers testified briefly about a conversation on a different day. He did not witness the March 18 events and so he could not comment on those.
8. There is no real question that Boyd entered the Gilmartin property on March 18, and that he did so without the Gilmartins’ permission. We sustain the violation. However, the important issue for Ms. Gilmartin and Ms. Ayers goes well beyond March 18.
9. Ms. Gilmartin explained that the Ayers’ dog had been running in her backyard constantly. This especially upsets her because she wants to keep rabbits in her backyard. She had originally put up wire to close the fence gap created when a tree fell across the pre-existing fence several years ago. But the dog still trespasses.
10. Ms. Ayers main point in appealing the violation notice was to try to get into mediation and try to find a broader solution. That is reflected in her initial discussion with the responding officer and in her appeal statement. Ex. 3; Ex. 4 at 002 n.1. She gets that the situation is frustrating for the Gilmartins, but when she only gets a call from Animal Services several days after the event, she cannot retroactively figure out how Boyd got loose that day or how to prevent that in the future. She thinks it would be much more effective if the Gilmartins told her at the time. Going forward she wants to find a more hospitable way to communicate.

11. We noted at the end of the hearing that we could probably arrange for no-cost mediation, if that would help. We announced that we were stopping the recording and hanging up, but we would keep the line open, to allow the Gilmartins and Ayers and Animal Services to stay and discuss things off the record.
12. We did not receive any later word that the parties wanted mediation. Still, we later called the County’s alternative dispute resolution coordinator and confirmed that mediation would be available here. It takes two to tango, but if both the Gilmartins and Ayers are interested in mediation, let us know, and we can arrange it. And given that, unlike say a dog bite on a stranger (where the parties’ relationship is more a one-off), the Gilmartins and Ayers will presumably be continuing to live next door to each other. An occasional dog running at large citation is not really geared to bringing much domestic tranquility.

DECISION:

1. We DENY Ayers’ appeal as to Boyd trespassing on March 18.

ORDERED June 17, 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 *July 17, 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 JUNE 3, 2020, HEARING IN THE APPEAL OF KAPPIE AYERS, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V20101524

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Shelby Russell, Erika Gilmartin, William Gilmartin, and Kappie and Joseph Ayers. 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 |
| Exhibit no. 2 | Notice of violation no. V20101524, issued March 24, 2020 |
| Exhibit no. 3 | Appeal, received April 18, 2020 |
| Exhibit no. 4 | RASKC investigation report no. A20-009645-01 |
| Exhibit no. 5 | Complaint form of April 18, 2020 incident by Erika Gilmartin, dated March 19, 2020 |
| Exhibit no. 6 | Map of subject area |

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V20101524**

KAPPIE AYERS

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 June 17, 2020.



Jessica Oscoy
Legislative Secretary

Ayers, Kappie/Joseph
Hardcopy

Gilmartin, Erika/William
Hardcopy

Russell, Shelby
Regional Animal Services of King County