

May 19, 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. **V2010406**

SAPAN RAI

Animal Services Enforcement Appeal

Activity no.: A20001720

Appellant: Sapan Rai
represented by **Denise Nienaber**
Regional Animal Services of King County
14016 33rd Place S
Tukwila, WA 98168
Telephone: (206) 945-0275
Email: dknienaber7@hotmail.com

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 AND CONCLUSIONS:

Overview

1. Animal Services cited Sapan Rai for her dog being at large and vicious. Ms. Rai 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 but reduce the monetary penalty.

Evidence

2. The facts here are relatively straightforward. On February 24, Keoma Nicholas, a senior citizen, was walking her dog, Haiku, with her friend, Claudia Villegas.
3. Ms. Nicholas noticed what turned out to be Ms. Rai walking Lady some distance off. The next thing Ms. Nicholas knew, she was on the ground and a loose Lady was on top of Haiku, growling. Haiku was “screaming.” Haiku was able to get free and run, but Lady gave chase.
4. A good Samaritan was driving by and took off after the dogs. With some neighbor effort, eventually Ms. Rai was able to get control of Lady. Ms. Nichols discovered that Haiku had a cut on her belly. She treated Haiku at home, and in a couple days the wound cleared up.
5. Ms. Villegas explained how Ms. Nicholas went down. When Lady attacked Haiku, Haiku’s leash got tangled in Ms. Nicholas’ legs. As Lady chased Haiku, Ms. Villegas started to run after them, but then stopped when she remembered that Ms. Nicholas was still on the ground.
6. Ms. Rai, through an interpreter, explained that she had nothing much to add to those accounts.
7. Kenneth Call, Ms. Rai’s significant other, described buying Lady for Ms. Rai in December to protect her. He opines that Lady got excited and wanted to play. He thinks Ms. Rai does not have the arm strength to control Lady. Given Mr. Call’s physical limitations, he has not been able to train Lady. When he walks her, Lady stays by his side and does not go after other dogs. Lady plays well with other dogs, and would not attack. He does not want her labeled vicious.

Analysis

8. Animal Services asserts a violation of TMC 7.20.020, which requires that “while away from the premises, the dog shall at all times be controlled by the owner or some duly authorized and competent person by means of a leash or chain not exceeding eight feet in length, or signal control.” While Ms. Rai started out with Lady on a leash, she failed to control him. We sustain this violation, a minor one.
9. More significantly, Animal Services asserts that Lady is “vicious,” which TMC 7.12.020.29 defines as 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.

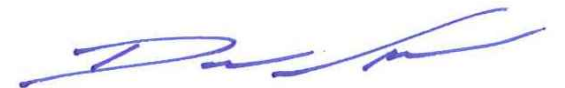
TMC 7.12.230.7 declares as a nuisance, “Any animal that has exhibited vicious propensities and constitutes a danger to the safety of persons or property off the animal’s premises or lawfully on the animal’s premises.”

10. Lady went after Ms. Nicholas’ dog, Haiku, sending Ms. Nicholas to the ground in the process. Lady tackled Haiku, cut her, and chased and terrorized her after she initially got away. Lady may not be a mean dog, but she meets the above code requirements for a viciousness designation.
11. We do reduce the monetary penalty. Although perhaps Ms. Rai (and Mr. Call) should have known better than to send an exuberant, untrained German Shepherd out with a slight-of-frame handler, there is no solid evidence that they should have known Lady would attack another dog and endanger a senior citizen. We reduce the \$500 penalty associated with the viciousness violation.
12. Looking forward, the license Ms. Rai obtained for Lady is invalid, because she purchased a discounted senior citizen dog license in her own name. Ms. Rai is nowhere near senior citizen age. They could obtain a discounted senior license in *Mr. Ball’s* name, as he would qualify, or a regular license for Ms. Rai. We will give them some time to obtain a valid license.
13. Before they license Lady, Mr. Ball and Ms. Rai may want to give some thought to what is theirs and Lady’s best long-run interests. Based on the evidence, an energetic, untrained German Shepherd is too much for the slight Ms. Rai to handle. We agree with Mr. Ball’s assessment that Ms. Rai does not have the arm strength to control Lady. When Lady gets walked in the future, she must be walked by someone capable of handling her. Ex. 5 at 001.
14. Thus, at least until Lady is properly trained, Ms. Rai walking Lady simply by holding onto a leash with her hand is insufficient. She or Mr. Ball could prevent another escape by getting Ms. Rai a leash/harness she could attach to her waist, so she is not relying on her wrist alone to control Lady. That, however, could lead to Ms. Rai (instead of a neighbor like Ms. Nicholas) being pulled down. Another option would be finding a different home for Lady and getting Ms. Rai a dog more in her physical wheelhouse. Those are not orders, only food for thought.

DECISION:

1. We deny Ms. Rai’s appeal as to the violations, but reduce the penalty from \$525 to \$275.
2. If they keep Lady, either Mr. Call or Ms. Rai must obtain a valid license by **June 9, 2020**.

ORDERED May 19, 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 *June 18, 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 MAY 6, 2020, HEARING IN THE APPEAL OF SAPAN RAI, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V2010406

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Keoma Nicholas, Chelsea Eykel, Claudia Villegas, Rai Sapan, and Kenneth Call. 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 | Online Complaint form of February 24, 2020 incident by Keoma Nicholas, dated February 24, 2020 |
| Exhibit no. 3 | RASKC investigation report no. A2000172001 |
| Exhibit no. 4 | Photographs of Lady at Appellant residency |
| Exhibit no. 5 | Notice of violation no. V2010406, issued February 25, 2020 |
| Exhibit no. 6 | Licensing record, dated March 2020 |
| Exhibit no. 7 | Appeal, received March 4, 2020 |
| Exhibit no. 8 | Map of subject area |

DS/jf

May 19, 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

CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V2010406**

SAPANA RAI

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 May 19, 2020.



Jessica Oscoy
Legislative Secretary

Ball, Kenneth

Eykel, Chelsea

Regional Animal Services of King County

Nicholas, Keoma

Hardcopy

Nienaber, Denise

Rai, Sapan

Hardcopy

Villegas, Claudia