

April 19, 2021

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**ORDER OF DISMISSAL**

SUBJECT: Regional Animal Services of King County file no. **V21011780 and V21011862**

**JON-MICHAEL SMITH**  
Animal Services Enforcement Appeal

Activity no.: A21001251 and A21001425

Appellant: **Jon-Michael Smith**

[REDACTED]  
Kenmore, WA 98028

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](mailto:raskcappeals@kingcounty.gov)

Kenmore, and most other cities in King County, have long contracted with the County for animal-related services. Historically, the County’s Board of Appeals (Board) was the sole administrative tribunal with authority to hear appeals of Animal Services’ enforcement actions.

Not surprisingly, when cities such as Kenmore crafted their pertinent city animal code sections, they adopted County code sections referencing the Board as the appropriate appellate body. Most jurisdictions adopted a streamlined animal code, employing a section along the lines of “the City adopts by reference Title 11, Animal Control, of the King County Code, as presently constituted or hereinafter amended, as the animal control regulations of the City,” and then making a few discrete changes (such as to leash laws or to the definition of “running at large”). *See, e.g.*, Black Diamond 6.04.010; Covington 6.05.010; Duvall 6.14.050; Enumclaw 7.01.010; Kent 8.03.020; Lake Forest Park 6.08.020; Maple Valley 6.05.010; North Bend 6.04.010; Redmond 7.04.005; Sammamish 11.05.010; and Seatac 6.05.030.

However, in Kenmore’s 2010 ordinance that became KMC 6.05.010, it adopted most of KCC Title 11 but explicitly stated that, “Except as provided in KMC 6.05.020 (license fees and penalties), future amendments to Title 11 of the King County Code shall not automatically be adopted, but shall require city council approval by way of an ordinance to become effective within the City.”

In 2016, KCC Title 11 changed, making the Examiner the sole County administrative tribunal with jurisdiction to hear Animal Services-related appeals, replacing the Board. Any appeal filed with the Board thereafter would have been a dead end, as the Board no longer had authority to hear any animal-related matters. For jurisdictions adopting KCC Title 11 “as hereinafter amended,” the switch to the Examiner was automatic. For cities such as Bellevue, Tukwila, and Kenmore, which still listed the Board (Bellevue and Tukwila) or which pointed to a pre-2016 version of KCC Title 11 and explicitly stated that amendments to KCC Title 11 were not automatic (Kenmore), the analysis was more complex.

Because in 2017 the cities utilizing Animal Services executed amended interlocal agreements with King County that recognized the Examiner as the administrative tribunal for animal-related cases and required the to update its codes to reflect the change, we interpreted that as proof of a city’s intent to have the Examiner hear animal cases. The alternative would have been to plunge would-be complainants, appellants, and Animal Services into an unworkable and uncertain enforcement system.

However, in late 2020, in a matter arising out of Bellevue, a superior court went the other way, ruling that because Bellevue’s animal code still referenced the Board, the Examiner had no jurisdiction over Bellevue cases. We thus dismissed all our pending Bellevue appeals. When we received our first new Tukwila appeal, we dismissed that as well. Bellevue and Tukwila have since amended their codes to clarify that the Examiner is the proper appeal tribunal for animal cases. We are once again hearing appeals out of Tukwila and Bellevue.

Today’s is the first Kenmore case to reach us since the superior court’s ruling in the Bellevue case. Under the court’s pronouncements there, we DISMISS WITHOUT PREJUDICE the current appeal. Our dismissal is not a ruling on the merits, and it does not preclude later Animal

Services enforcement regarding the same underlying facts. It simply reflects that the Examiner has no jurisdiction over animal appeals arising out of Kenmore until Kenmore amends its code.

We note that the code section under which Animal Services sought (and in the future might re-see) removal, KCC 11.04.290.B.1, has a built in escape hatch, allowing an owner to demonstrate that reasonable restraints are in place to protect the public from future violations. It sounds from his appeal statement that Mr. Smith has made recent efforts on this score. If successful, those might either persuade Animal Services not to re-issue a removal order in the future or, if a future removal order is issued, provide Mr. Smith with a strong counterargument.

If for some reason we have misunderstood the situation, by **May 19, 2021**, either party is free to file, with the examiner, a motion for reconsideration explaining why the examiner should not be dismissing this appeal. Filing a timely motion for reconsideration postpones the deadline (described below the signature line) for lodging an appeal.

DATED April 19, 2021.



---

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 *May 19, 2021*. 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

April 19, 2021

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V21011780 and V21011862**

**JON-MICHAEL SMITH**  
Animal Services Enforcement Appeal

I, Lauren Olson, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **ORDER OF DISMISSAL** 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 April 19, 2021.



---

Lauren Olson  
Legislative Secretary

**Eykel, Chelsea**

Regional Animal Services of King County

**Short, Todd**

Hardcopy

**Smith, Jon-Michael**

Hardcopy