

May 4, 2021

**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. **V21011787-A21001291**

ANNA WEST

Animal Services Enforcement Appeal

Activity no.: A21001291

Appellant: **Anna West**

[REDACTED]
Lake Forest Park, WA 98155

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

Animal Services served a violation notice asserting that Ms. West's chickens were trespassing on a neighbor's (Mr. Kaleas's) property. Ms. West timely appealed. Even if the factual allegations are true (and Ms. West's chickens escaped onto Mr. Kaleas's property), because of the way the code is written, that does not qualify as trespass. We thus grant Ms. West's appeal, but offer some informal thoughts on how the neighbors might be able to use a third-party neutral to help diffuse what sounds like a very tense and unpleasant living situation.

The code section which sets forth nuisances, has one very peculiar distinction. Some of the violations are written in terms of “any animal” or “animals,” while some are written in terms of “any *domesticated* animal.” KCC 11.04.230. We are not clear why the code drafters made that distinction, but it was made.

The nuisance Animal Services cited Ms. West for, KCC 11.04.230.K, covers “Any domesticated animal that enters upon a person’s property without the permission of that person.” Chickens seem to be a textbook example of an animal made to be domesticated, given their prevalence as backyard—even apartment rooftop—companions in cities.¹ However, that is not how the code defines the term. Instead, a “Domesticated animal” means a domestic beast, such as any dog, cat, rabbit, horse, mule, ass, bovine animal, lamb, goat, sheep, hog or other animal made to be domestic.” KCC 11.04.020.G.

As we explained in some detail in interpreting the same definition in Bellevue’s code, all 11 animal examples listed in the definition are in the four-footed mammalian camp. And “general terms appearing in any statute in connection with specific terms are to be given meaning and effect only to the extent that the general terms suggest items similar to those designated by the specific terms.” *Condit v. Lewis Refrigeration Co.*, 101 Wn.2d 106, 111, 676 P.2d 466 (1984) (emphasis added). A chicken is not a mammal, does not have four feet, and is not similar to any of those other animals listed in the definition. We thus granted appellant’s motion in that Bellevue case, and we do so today with Ms. West’s appeal.²

That outcome might seem odd. If, for example Ms. West’s *rabbit* was trespassing on Mr. Kaleas’ property, that could be a violation of KCC 11.04.230.K, as a rabbit is a “domesticated animal.” However, given the way the code is currently written, a chicken simply does not qualify. And when we decide cases, we interpret the codes “as they are written, and not as we would like them to be written.” *Brown v. State*, 155 Wn.2d 254, 268, 119 P.3d 341 (2005).

We thus GRANT Ms. West’s appeal.

That outcome may also seem empty, because it appears there is significant bad blood between the neighbors. All we have to go on is the appeal statement, but if we are interpreting that correctly, Ms. West feels Mr. Kaleas is harassing her, when its not even her chicken trespassing, and Mr. Kaleas believes it is indeed her chicken causing damage to his property. That sounds ugly. If it gets too bad, Ms. West can seek a restraining order against Mr. Kaleas, and Mr. Kaleas can file a damages action against Ms. West.

However, there may be a better and less resource-intensive solution. Mediation can offer an avenue for the parties to have a trained third-party neutral try help them reach a more comprehensive solution, especially since neighbors have to continue living together. It is up to Ms. West and Mr. Kaleas, but one or both of them may want to contact the County’s Office of

¹ See, e.g., <https://www.king5.com/article/entertainment/television/programs/evening/rooftop-chicken-coop-is-the-hottest-amenity-at-wallingford-apartment-community/281-401244522>.

² See https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2018/2018%20may/V18007754_De_Cassis_Updated.ashx?la=en.

Dispute Resolution, <https://kingcounty.gov/depts/alternative-dispute-resolution.aspx>. If not, good luck.

If for some reason we have misunderstood the situation, by **June 3, 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 May 4, 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 *June 3, 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

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V21011787-A21001291**

ANNA WEST

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 May 4, 2021.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Kaleas, Jack

Hardcopy

West, Anna

Hardcopy