

June 14, 2021

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

King County Courthouse
516 Third Avenue Room 1200
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. **V21011873-A21001525**

ALAINA MARGARELLA

Animal Services Enforcement Appeal

Activity no.: A21001525

Appellants: **Alaina Margarella**

[REDACTED]
Issaquah, WA 98029

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 AND CONCLUSIONS:

Overview

1. Alaina Margarella appeals a Regional Animal Services of King County (Animal Services) violation notice and penalty. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we uphold the violation but reduce the penalty.

Background

2. The basic facts here are not in dispute. Ms. Margarella was a dog walker working professionally for Wag! On March 20, she walked Tiffanie Bice's dog, Bruno. While she was walking Bruno on a leash, Bruno broke loose and attacked Juny Liu's dog, injuring it.
3. Animal Services served Ms. Margarella with a notice and order, asserting a violation of KCC 11.04.230.H, which 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," with "vicious" itself defined 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, KCC 11.04.020.BB. Ex. D8.
4. Ms. Margarella timely appealed. She emphatically did not dispute that Bruno attacked another dog on March 20 and qualifies as vicious. In fact, she agreed that Bruno is vicious, is extremely aggressive, and should be muzzled. She even pointed to a March 22 attack Bruno perpetrated on someone else's watch. Ex. D10.
5. Thus, our only questions for hearing were whether Ms. Margarella was responsible for the violation and, if so, whether and by how much to reduce the \$500 penalty.

Analysis

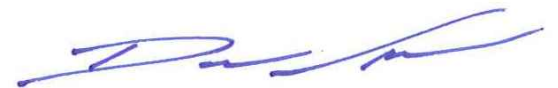
6. The first question is easy. On March 20, Ms. Margarella accepted responsibility for walking Bruno. Bruno was in her—and not Ms. Bice's—care when he broke loose and attacked. Ms. Margarella submitted Wag!'s service terms, that owners like Ms. Bice agree to be "fully responsible for the actions of" Bruno, and that "as between [Ms. Bice] and Wag!, [Ms. Bice] shall be liable for any and all claims, costs, proceedings, demands, losses, damages, and expenses.... arising from or related to the behavior of [Bruno]." Ex. A1 at 19. That says nothing about whether, for example, Ms. Bice would bear any responsibility to Ms. Margarella or to Juny Liu. And that has nothing to do with Animal Services' violation notice. So, Ms. Margarella was the correct party to receive V21011873.
7. The second question is a little more involved.
8. Animal Services asserts that we should sustain the entire \$500 penalty because:
 - Prior to walking Bruno, Ms. Bice explained to her that Bruno was aggressive and advised her to walk Bruno where they would not likely encounter other dogs. Ex. D6 at 004, n.4.
 - As a professional dog walker, Ms. Margarella had a heightened responsibility. Ms. Margarella could have probed Ms. Bice more about Bruno's aggression, asked for a pinch collar or muzzle, or refused to take Bruno out.
 - This was especially important because in an apartment complex and on a trail, there was no way to control what dogs Bruno might come upon.

9. Ms. Margarella asks for a penalty reduction because:
- Dogs on the Wag! have a profile and comments from past walkers, but there was nothing in the Wag! system to indicate a problem with Bruno.
 - Yes, Ms. Bice told her Bruno was aggressive and not good with other dogs, but Ms. Margarella had plenty of experience walking dogs where past owners or other Wag! walkers had said or written similar comments, and nothing like the altercation with Bruno had ever occurred before.
 - While other aggressive/not good with other animal dogs she has walked have barked and snarled (fairly common), she has always been able to control them.
 - Bruno was decidedly different, not just unfriendly but instead going into full-on, police dog-level attack mode.
 - Bruno did not just slip out of her hands; he dragged her 30 yards towards the other dog, before knocking her to the ground and attacking.
10. As we noted in our notice of hearing, we were not sure why this case really needed a hearing and could not be settled. After reviewing all the documents, hearing all the testimony, and entertaining all the argument, we are even less sure.
11. Yes, Ms. Margarella was a professional dog walker, and not just, say, a friend offering to help out. So, we do not reduce the fine as much as we would have were Ms. Margarella just a good Samaritan in over her head. But knowing that a dog has aggression issues does not mean that Ms. Margarella should have reasonably expected that Bruno could go nuts, drag her a good distance, eventually pull her to ground, and attack. That is especially true because she had been able to clearly control other dogs that had been described in terms similar to the ones Ms. Bice used to describe Bruno before Ms. Margarella started the fateful March 20 walk.

DECISION:

We DENY Ms. Margarella's appeal as to the violation but reduce the penalty from \$500 to \$200.

ORDERED June 14, 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 *July 14, 2021*. 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 9, 2021, HEARING IN THE APPEAL OF ALAINA MARGARELLA, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V21011873-A21001525

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Alaina Margarella, and Joanne Dority. 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	Online Complaint form of March 20, 2021 incident by Juny Liu, dated April 5, 2021
Exhibit no. D3	Map of approximate area where attack occurred
Exhibit no. D4	Photographs of the bite wounds
Exhibit no. D5	Veterinary bill, dated March 21, 2021
Exhibit no. D6	RASKC investigation report no. A21001525
Exhibit no. D7	Email from Kaylee with WAG!
Exhibit no. D8	Notice of violation no. V21011873-A21001525, issued April 10, 2021
Exhibit no. D9	Proof of Service
Exhibit no. D10	Appeal, received April 26, 2021

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

Exhibit no. A1	WAG! Legal Terms of Service
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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V21011873-A21001525**

ALAINA MARGARELLA
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 June 14, 2021.



Lauren Olson
Legislative Secretary

Bice, Tiffanie

Eykel, Chelsea

Regional Animal Services of King County

Joanne Dority, Alaina Margarel

Hardcopy

Liu, Junyu

Hardcopy