

July 22, 2021

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

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V21012033-A21002152**

**HONG HUYNH**

Animal Services Enforcement Appeal

Activity no.: A21002152

Appellant: **Hong Huynh**

[REDACTED]  
Shoreline, WA 98133

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  
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**FINDINGS AND CONCLUSIONS:**

1. Hong Huynh (Hong) appeals a Regional Animal Services of King County (Animal Services) violation notice related to animal licensing, running at large, and behaving viciously. 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 reduce the penalty as to licensing, reduce the penalty for the running at large violation, and overturn the viciousness designation.

2. Substantively, this case is straightforward. On May 10 Hong Huynh was walking her and her husband Le's Husky and Rottweiler (Scooby) by their house, but not on a leash.<sup>1</sup> Neighbor Robert Baum was walking his Boston terrier, Brody, on a leash, in the park downhill and behind the houses and out of sight. Mr. Baum testified that out of nowhere Scooby came over the crest of the hill, first approaching slowly as Mr. Braun screamed, but then running faster.
3. Scooby came up and seized Brody's head. Scooby did not really shake or pick up Brody, but had his head over Brody's neck and head area. Mr. Baum was able to get in between the dogs. After Mr. Baum separated the dogs and picked up Brody, Scooby snapped and nipped his finger, causing a puncture wound. There are no pictures of either bite, but Mr. Baum dressed the finger wound himself. He described Brody as having little bumps on his head, but nothing major.
4. The case took a bizarre twist, however, towards the end of Animal Services' case. We had been puzzled a little earlier that Hong did not seem to grasp what we were asking with some initial, procedural questions. Then Le explained that Hong does not speak much English. Nothing in the Hong's written appeal gave any indication of a language barrier, although in hindsight that was not surprising, because Le's English is just fine. Le was able to do a fine job cross-examining Mr. Baum, but we noted that we had serious concerns proceeding without a certified court interpreter, both so that Ms. Hong—who was the eyewitness on May 10 and the one to whom the violation notice was directed—could fully grasp the testimony Mr. Baum offered and so that she could effectively offer her own testimony, especially in a scenario where precise words (like what is an “attack”) really matter.
5. Discovering for the first time only at hearing that a party or witness needs and interpreter is not ideal, but not unprecedented. It arises occasionally, despite the agency's and our best efforts to identify interpreter needs well in advance of a scheduled hearing. It is a problem we deal with simply by pausing the proceedings until we can arrange for a certified interpreter. So, at our hearing we tentatively set a supplemental date and time, one that worked for Animal Services, Hong, Le and Mr. Baum. But just as we were about to wrap up the day's proceeding, things turned truly bizarre.
6. Mr. Baum expressed surprise that the case was not closed by now. That itself was a yellow flag, because a person charged with a violation has every right to appeal, and is entitled to a hearing at which Animal Services bears the burden to prove its case. We gave Mr. Baum a chance to back off, stating that, while he was free to feel outraged, we were going to ensure the due process was met. Mr. Baum could not quit while he was only partially behind, turning a yellow flag into a red flag when he said that we were “catering to these people using their excuse that they can't speak English.” That was jaw-droppingly ridiculous.
7. County law is clear that the justice system must provide equitable access and fair treatment, especially for people with limited English proficiency. Ord. 16948. We

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<sup>1</sup> Le stated that Le and Hong were the names we should refer to them by.

immediately announced the sanction for Mr. Baum’s completely unacceptable statements was tossing out the viciousness violation. We do not countenance conduct such as Mr. Baum’s, nor will we waste public funds holding another hearing where he can spew that garbage. The next time Mr. Baum considers trying to squelch someone’s equitable access to justice, he may want to think twice, lest he reap what he sow.

8. Animal Services expressed public safety concerns with dismissing the viciousness violation and containment order, regardless of Mr. Baum. That is well taken. And Animal Services does not get to choose the character of the witnesses it brings to hearing. But the case against Scooby is not overwhelming.
9. SMC 6.30.010.A.7 defines vicious 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.” SMC 6.05.020.KK. Yes, Scooby performed acts endangering the safety of a person and animal on May 10, but not to the degree we see in case after case. While Scooby had Brody’s head in his mouth, he left only minor bumps. That is not what we would expect from a Rottweiler “attacking” another, much smaller dog.
10. Similarly, Mr. Baum accurately described Scooby’s bite that just broke the skin on his finger as a “nip.” That is not the type of grievous injury we would expect from a Rottweiler in attack mode. Thus, it is not at all clear that, even had Mr. Baum conducted himself with the decorum appropriate for a quasi-judicial setting, after hearing the Huynhs’ testimony and argument we would have found that Animal Services met its burden of showing that Scooby “constitutes a danger” moving forward, a requirement of SMC 6.30.010.A.7.<sup>2</sup>
11. As to the licensing violation, SMC 6.10.010.A, neither dog was licensed as of May 10. Where an animal is unlicensed at the time of the violation, but licensed prior to our hearing, we typically reduce the penalty. After the incident, the Huynhs licensed the Husky. However, they returned Scooby to the owner they got him from, meaning they cannot license him. We reduce the licensing penalty from \$250 each dog to a total of \$250 for both dogs.
12. As to the running at large violation, the general rule in unincorporated King County, and in many jurisdictions we oversee, is that merely having a dog off its property without a leash is not *automatically* a violation, but becomes so only if the dog is not “under control” by sufficient voice or signal control to be prevented from approaching bystanders. KCC 11.04.020.W, .AA; .230.B. Many jurisdictions generally adopt the County’s regulatory scheme, including running at large, but add in their own separate leash law. *See, e.g.,* Duvall’s 6.14.050 and 6.14.070. However, Shoreline approaches it differently.

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<sup>2</sup> 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.B. We do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.

13. In Shoreline, the running at large violation is: “Any dog at large not accompanied by its owner, whether licensed or not, within the city of Shoreline.” SMC 6.30.010.A.2 (emphasis added). That itself does not sound noteworthy, but Shoreline defines “at large” not in terms of effective control, as most jurisdictions do, but as an animal being “off the premises of the owner and not under the control of the owner by leash; provided, that an animal within an automobile or other vehicle of its owner shall be deemed to be upon the owner’s premises.” SMC 6.05.020.G (underscore added). Shoreline’s leash law, SMC 6.30.050, loops right back to the same “at large” definition:

It is unlawful for any person to allow any animal under their custody or control to be at large; provided, that this section shall not apply to spayed/neutered cats, police dogs while being used in the performance of any lawful duty, dogs engaged in obedience training, lawful dog competition sanctioned by a nationally recognized body or a local chapter thereof, lawful training in preparation for such dog competition, working dogs engaged in sanctioned search and rescue activities, and dogs within a city designated off leash area.

14. The implications of the above is twofold. Forward-looking, the Huynhs may not allow their dog(s) off their property, within the city of Shoreline, except while on a leash, no matter how much control they might be exercising. Backward-looking, Shoreline sets the penalty for a leash law violation at \$25, with a catchall “all other violations” penalty of \$50. SMC 6.40.060.A.3 & .6. Given that the leash law (SMC 6.30.050) and the running at large violation (SMC 6.30.010.A.2) are both pegged to the identical “at large” definition of not being leashed (SMC 6.05.020.G), the \$25 leash law penalty seems the more specific, and thus more appropriate, monetary penalty here.

DECISION:

1. We GRANT the appeal as to the viciousness violation and \$500 penalty.
2. We DENY the appeal as to the licensing violation, but we REDUCE the total licensing penalty to \$250.
3. We DENY the appeal as to running at large, but we REDUCE the penalty because, in Shoreline, the monetary penalty for what is effectively a leash law violation is set at \$25, not \$50.

ORDERED July 22, 2021.



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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 *August 23, 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 JULY 14, 2021, HEARING IN THE APPEAL OF HONG HUYNH, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V21012033-A21002152**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Robert Baum, Hong Huynh, and Le Huynh. 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 May 10, 2021 incident by Robert Baum, dated May 11, 2021
Exhibit no. D3	RASKC investigation report no. A21002152
Exhibit no. D4	Notice of violation no. V21012033-A21002152, issued May 12, 2021
Exhibit no. D5	Appeal, received May 19, 2021
Exhibit no. D6	Map of subject area

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V21012033-A21002152**

**HONG HUYNH**

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 July 22, 2021.



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Lauren Olson  
Legislative Secretary

**Baum, Robert**  
Hardcopy

**Eykel, Chelsea**  
Regional Animal Services of King County

**Huynh, Hong**  
Hardcopy