

September 8, 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
www.kingcounty.gov/independent/hearing-examiner

ORDER OF DISMISSAL

SUBJECT: Regional Animal Services of King County file no. **V21012202-A21002726**

JD ALBIN

Animal Services Enforcement Appeal

Activity no.: A21002726

Appellant: JD David Albin
represented by **Stephen Smith**
22525 SE 64th Place
Issaquah, WA 98027
Telephone: (425) 557-3610
Email: stephens@sgsmithlaw.com

King County: Regional Animal Services of King County
represented by **Mari Isaacson**
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King County Courthouse
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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. But Kenmore had made the choice to require more work on its end before KCC Title 11 amendments could become effective.

On first blush there seemed a small sliver of hope for an orderly system. KMC 6.05.030 states that, “The city manager or designee, and the regional animal services section of King County, are authorized to enforce the provisions of this title, consistent with the enforcement provisions set forth in Title 11 of the King County Code.” Thus, since Animal Services is authorized to enforce under the provisions set forth in KCC Title 11, and Title 11 channels appeals through the Examiner, would the Examiner have jurisdiction? However, on further reflection, that reading would only work if KMC 6.05.030 were adopted *after* the 2016 KCC Title 11 change to the Examiner. And KMC 6.05.030 was adopted in 2010, six years before the switch to the Examiner, when the Board was the sole appellate body.

The impact is that, until Kenmore updates its code, it has an unworkable system for formal animal enforcement. Animal Services can investigate, talk to and advise parties, and even issue warning notices (as warning notices are not appealable orders). However, if Animal Services (or even the city manager) wished to issue another notice and order, they would be placed in an impossible situation. KCC 11.04.260.B requires notices and orders to advise a recipient to appeal to the Examiner, a requirement inconsistent with the 2010-era of the Title 11 (requiring appeal to the Board) currently in force in Kenmore. Even if Animal Services tried to get creative and issue the notice and order to include language advising an appeal to Board, the Board would reject any appeal for lack of jurisdiction.

We DISMISS WITHOUT PREJUDICE the current appeal. Our dismissal is not a ruling on the merits. While the June 19 notice and order Animal Services served on JD Albin is invalid, and there is thus no outstanding cruelty violation, Animal Services is not barred from re-issuing (after Kenmore updates its code) a notice and order for the same underlying event. Our dismissal simply reflects that we have no jurisdiction over animal appeals arising out of Kenmore until Kenmore amends its code.

DATED September 8, 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 *October 8, 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

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JD ALBIN

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 September 8, 2021.



Lauren Olson
Legislative Secretary

Albin, JD David
Hardcopy

Albin, Karen
Hardcopy

Hanson, Tyler
Hardcopy

Isaacson, Mari
Prosecuting Attorney's Office

Smith, Stephen
Hardcopy