

September 24, 2021

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

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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V21012357-A21003592**

**SHERRY MORROW**

Animal Services Enforcement Appeal

Activity no.: A21003592

Appellant: **Sherry Morrow**

[REDACTED]  
Snoqualmie, WA 98065

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)

**FINDINGS AND CONCLUSIONS:**

Overview

1. Shelley and Steve Morrow appeal a Regional Animal Services of King County (Animal Services) violation notice asserting that their cats, Tigger and Boots, were trespassing on July 25. 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 deny the appeal as to Tigger and grant the appeal as to Boots.

### Hearing Testimony

2. Becky and Justin Schoen live adjacent to the Morrows.
3. Ms. Schoen explained that she recognizes the Morrows cats as the Morrows because the Morrows often walk with them (something Ms. Schoen finds “darling”). In addition, when she has shooed off the cats before, she has seen them walk back to the Morrows’ property and go on their porch.
4. Ms. Schoen testified that on July 25 the Morrows’ orange cat [Tigger] was stalking bunnies on the Schoen property. She heard ungodly screeching of a bunny being killed and saw Tigger with the still-alive and screaming bunny in his mouth. That was far from the first time that Tigger had been on her property stalking animals, but it was the tipping point.
5. Ms. Schoen explained that Tigger’s appearance on their property had been an almost daily occurrence. Tigger had previously gotten into fights on the Schoen property that pulled her out of her home. She raised the concern to Steve Morrow, but he dismissed her, telling her that was just what cats did. She made no further efforts to contact the Morrows after that interaction.
6. The Morrow’s black-and-white cat [Boots] had been more an occasional visitor. Ms. Schoen did not actually see Boots on her property on July 25, but she submitted a motion camera shot. Ex. D3 at 002.
7. Ms. Schoen acknowledged that, in the two weeks leading up to the hearing, the Morrows had done a good job containing their cats. She had not observed either of them out and unsupervised. She appreciated the Morrow’s efforts.
8. Justin Schoen testified that it was the killing of the bunny that kicked things over the top to push them to file a complaint.
9. Ms. Morrow testified that Ms. Schoen had never contacted them before going to Animal Services. (Ms. Morrow was apparently unaware that Ms. Schoen had approached, and been dismissed by, her husband.) She explained after their old cats died, they suffered a major rodent infestation, so they got new cats [Tigger and Boots].
10. Mr. Morrow explained that their son lets the cats out at 6:30 AM while leaving for work. Thus, he questioned whether the black and white cat shown in the photo with a 5:50 AM timestamp is Boots. He also questioned why the violation notice did not contain information on how to abate the violation.

### Legal Standard

11. The violation asserted is that both cats trespassed, defined as a “domesticated animal that enters upon a person’s property without the permission of that person.” KCC 11.04.230.K. A “domesticated animal” is defined as 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.

12. We do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. 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.

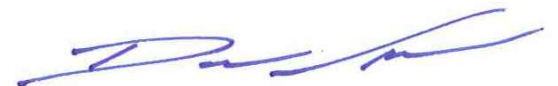
### Analysis

13. Appellants do not really challenge whether Tigger was on the Schoen property on July 25. Indeed, there would be little to dispute. Ms. Schoen was very aware of who Tigger was, from his many appearances on and adjacent to the Schoen property and being on the Morrow property and with the Morrows on their walks. Animal Services easily meets its burden of showing that, more likely than not, on July 25 Tigger was on the Schoen property without the Schoen’s permission.
14. Appellants do challenge whether Boots was trespassing on July 25. The evidence there is thinner. Unlike with Tigger, Ms. Schoen did not actually witness Boots on her property that day. She submitted a motion camera photo, but the shot is undated. Ex. D3 at 002. Moreover, the time stamp says the photo was 5:50 AM, forty minutes before Boots is typically let out and an hour and a half before Tigger was spotted. We do not find that Animal Services has met its burden of showing that, more likely than not, on July 25 Boots was on the Schoen property.
15. KCC 11.04.260.B.4 requires a violation notice to include, “A statement of the action required to be taken to abate the violation.” That is most important for something like a vicious animal determination, where there are specific steps (six-foot solid fence, padlock, microchip, leash length requirement, etc.) that must be met, but Animal Services typically includes a sentence like “contain your animal to prevent future violations” in its notices. We announced that the sanction would be that if we, in the future, upheld the violation related to Tigger’s alleged August 5 trespass (V21-012491, recently appealed), we would treat that as a first violation (\$50) and not second violation (\$100).

### DECISION:

1. We deny the Morrows’ appeal as to Tigger trespassing.
2. We grant the Morrows’ appeal as to Boots trespassing.

ORDERED September 24, 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 *October 25, 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 SEPTEMBER 22, 2021, HEARING IN THE APPEAL OF SHERRY MORROW, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V21012357-A21003592

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Becky Schoen, Justin Schoen, Sherry Morrow, and Steve Morrow. 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 July 25 incident by Becky Schoen, dated July 25, 2021
Exhibit no. D3	Photograph of Boots and Tigger trespassing
Exhibit no. D4	RASKC investigation report no. A21003592
Exhibit no. D5	Notice of violation no. V21012357-A21003592, issued July 27, 2021
Exhibit no. D6	Proof of Service
Exhibit no. D7	Warning Notice V21012174-A21002623
Exhibit no. D8	Appeal, received August 6, 2021
Exhibit no. D9	Map of subject area

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

Exhibit no. A1	Photograph of Invoice
Exhibit no. A2	Photograph of rodents
Exhibit no. A3	Photograph of rodents
Exhibit no. A4	Photograph of rodents
Exhibit no. A5	Photograph of rodents
Exhibit no. A6	Photograph of yard
Exhibit no. A7	Email, dated September 3, 2021
Exhibit no. A8	Email, dated September 2, 2021
Exhibit no. A9	Photograph of shed
Exhibit no. A10	Photograph of shed
Exhibit no. A11	Photograph of shed
Exhibit no. A12	Photograph of house
Exhibit no. A13	Photograph of sidewalk
Exhibit no. A14	Photograph of street
Exhibit no. A15	Photograph of yard
Exhibit no. A16	Photograph of yard

DS/lo

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V21012357-A21003592**

**SHERRY MORROW**  
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 September 24, 2021.



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Lauren Olson  
Legislative Secretary

**Eykel, Chelsea**

Regional Animal Services of King County

**Morrow, Sherry/Steve**

Hardcopy

**Schoen, Becky/Justin**

Hardcopy