

November 2, 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

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V21012409-A2103881**

ALEX PETROV

Animal Services Enforcement Appeal

Activity no.: A21003881

Appellant: **Alex Petrov**

[REDACTED]
Woodinville, WA 98072

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. Regional Animal Services of King County cited Alex Petrov, after his dog trespassed onto a neighbor's yard and attacked the neighbor's dog. Mr. Petrov agreed with the facts and the trespass, but disputed the viciousness violation. After hearing witnesses testimony and observing demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we grant Mr. Petrov's appeal.

Hearing Testimony

Paul Snyder Testimony

2. Paul Snyder testified that on August 7, he was working in his garage and had his labradoodle, Basil, out with him. He was in the driveway, about 50 yards away from the lower edge of his yard. Basil ran towards the lower part of the yard.
3. Mr. Snyder heard screechy, screamy barking. He stepped out of his garage a few feet to see what had happened, which took about five to ten seconds. He saw Alex's son¹ trying to pull the Petrovs' St. Bernard, Mia, out of the Snyder yard. Mia was about 15 feet onto the Snyder property, on the Snyder's side of the roadside swale. The son was having a hard time controlling Mia, because she is a large and powerful dog.
4. Basil trotted back up towards Mr. Snyder, distraught and shaking. Mr. Snyder saw lots of bite marks on her hindquarters and belly. She had several punctures, some very deep. Ex. D3. Mr. Snyder brought Basil to an emergency vet, where she stayed overnight and had surgery to make sure her stomach cavity had not been punctured. The veterinary bill was about \$1,000. Mr. Petrov paid for the vet bill without needing prompting.
5. Mr. Snyder testified that his yard has had an invisible fence since 2018. All three of his dogs have been trained by the invisible fence company to honor the fence. Basil has never broken the fence barrier. When he walks Basil around the neighborhood, he has to physically pick her up and carry her past the invisible fence boundary, because she will not get within 10 to 15 feet of the barrier otherwise.
6. Mr. Snyder testified that Basil still barks at passing dogs from the yard, but she does not go as far down the yard since the incident. He had the invisible fence line moved further into the yard, keeping Basil even closer. Basil is more cautious now, but has physically recovered. Her fur is growing back, though she has brown patches from the scars.
7. Mr. Snyder testified that there were two occasions when Mia was a puppy when Mr. Petrov's daughter had trouble controlling her, because Mia was so strong. However, he has never seen Mia be aggressive. He sees her play with other dogs, and the interactions look normal. He agrees with Alex that August 7 was an unusual set of circumstances. He does not know what set either of the dogs off that day.

Alex Petrov Testimony

8. Alex Petrov did not deny or want to fight over the details, only to explain the context. Mia is an older St. Bernard, who is lazy, gentle, loving, and low energy. He always walked Mia past the Snyders' house. Typically, Basil comes running towards the ditch, stops at her border, barks, and then runs away. Mr. Petrov explained that 99 percent of the time Mia is walked with two leashes on, one to stop her from picking up speed, and the other six to eight feet long. They do own a retractable leash, but they only use it when they travel and are in an open space.

¹ Although the son was referred to by name, we typically avoid naming minors unless the situation demands it.

9. However, on the day of the incident, he and his wife were out of town. His seventeen-year-old son took Mia on a walk, using the retractable leash. His son explained to Mr. Petrov that as he walked the usual route with Mia, Basil came up and did what she usually does (presumably, stop short and bark). His son described a “misunderstanding” and not realizing how to stop Mia from reacting.
10. Mr. Petrov described the incident as a perfect storm of human error and calamity. There was never a doubt that he would take care of the medical bill, and his son has taken full responsibility for what happened. Mr. Snyder asked him to not make the situation any weirder by avoiding their house when walking Mia in the future.
11. Mr. Petrov explained that the compliance terms for a vicious animal were already in place. They keep Mia on a dual, six-foot-or-closer leash. His entire property is fenced, with latches on the gates. The fence and gates are 100 feet away from the road.
12. Mr. Petrov noted that Mia was diagnosed with pyometra, an inflammation of the uterus. Mia was dealing with it, but he was not sure for how long. She might have been dealing with it at the time of the incident, and that might have agitated her. They will get Mia spayed.
13. His son emailed Mr. Snyder and took responsibility. After paying for Basil’s surgery and antibiotics, and needing to pay for Mia’s spay surgery, he is running out of money.

Legal Standards

14. Animal Services asserts that on August 7 Mia trespassed, defined as a “domesticated animal that enters upon a person’s property without the permission of that person,” KCC 11.04.230.K. Mr. Petrov does not dispute this.
15. Animal Services asserts that Mia qualifies as “vicious,” defined as, “performing the act of... 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,” with “[a]ny 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” qualifying as a nuisance. KCC 11.04.020.BB; KCC 11.04.230.H. Mr. Petrov does dispute this.
16. 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

17. Mr. Petrov’s son was the only eyewitness to precisely see how things started, and he was not available to testify. Yet we have Mr. Petrov’s and Mr. Snyder’s testimonies about how Mia and Basil’s interactions typically play out: Basil runs to the edge of the electric

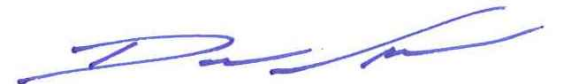
fence, a spot well inside the Snyders' property, barks, and does not go further. And Mr. Snyder saw the immediate aftermath, with Mia 15 feet or so onto the Snyder property, on the Snyder's side of the roadside swale. Under the facts we find most likely, Basil did not legally provoke Mia.

18. And this was no minor altercation. Mia bit Basil multiple times, puncturing her deeply enough to require surgery and observation to ensure her stomach cavity had not been punctured. Exs. D3-D4. It was an "attack." Thus, on August 7 Mia performed an act endangering the safety of Mr. Snyder's dog, attacking without provocation, which meets the "vicious" definition in KCC 11.04.020.BB.
19. However, the violation criteria in KCC 11.04.230.H contains both a past-tense, "exhibited" vicious behavior requirement (which Mia satisfied on August 7), and also a present-tense, "constitutes a danger" requirement. An unprovoked bite is *typically* enough to satisfy .230.H. After all, what is better evidence that a dog constitutes a danger than evidence that, given some set of circumstances not arising to legal provocation, a dog will actually bite or attack a person or pet? However, in select appeals we have found extenuating circumstances such that we have overturned a viciousness designation even after an unprovoked bite or attack.
20. Mr. Snyder agreed that the altercation occurred under an unusual set of circumstances. Animal Services is correct to emphasize public safety, and a complainant's opinion (in either direction) does not control our analysis. Yet in analyzing whether Mia "constitutes" a danger, we cannot ignore that the complainant—the owner of the dog that got attacked and the person who, as a neighbor, could bear the brunt of any future Mia aggression—feels unthreatened enough to encourage the Petrovs to continue walking Mia past his house.
21. Moreover, the Petrovs already set up the conditions required to contain a vicious dog. The entire property is fenced, with latches on gates, and the fence and gates are themselves 100 feet away from the road. It was a mistake for the son to walk Mia on a retractable leash that day, but she is typically outfitted with two better containment systems and will be in the future.
22. In sum, while Mia performed a vicious act, we do not find that Mia constitutes a danger.

DECISION:

1. We sustain the trespass violation.
2. We grant the appeal as to viciousness.

ORDERED November 2, 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 *December 2, 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 OCTOBER 20, 2021, HEARING IN THE APPEAL OF ALEX PETROV, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V21012409-A2103881

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Paul Snyder, and Alex Petrov. 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 August 7, 2021 incident by Paul Snyder, dated August 8, 2021
Exhibit no. D3	Photograph of Basil’s injuries
Exhibit no. D4	Veterinary bills
Exhibit no. D5	RASKC investigation report no. A21003881
Exhibit no. D6	Notice of violation no. V21012409-A2103881, issued August 9, 2021
Exhibit no. D7	Appeal, received August 24, 2021
Exhibit no. D8	Map of subject area

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CERTIFICATE OF SERVICE

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ALEX PETROV

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 November 2, 2021.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Petrov, Alex

Hardcopy

Snyder, Paul

Hardcopy