

November 19, 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. **V21012541-A21004697**

SUZETTE MA

Animal Services Enforcement Appeal

Activity no.: A21004697

Appellant: **Suzette Ma**

[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. Suzette Ma appeals a Regional Animal Services of King County (Animal Services) notice asserting that her two dogs, designated as vicious in 2020, ran at large in September 2021. After hearing witness testimony, observing demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we partially grant and partially deny her appeal, as only one of Ms. Ma's dogs ran loose that day.

Background

2. On August 11, 2020, Animal Services issued Suzette Ma violation V20011021-A20013154 for her dogs, Kira and Kato, both being unlicensed, being vicious, and needing to be confined. Ex. D11. Ms. Ma appealed that notice. After the parties agreed to a resolution, on September 17, 2020, we issued an order dismissing her appeal and making the viciousness designation and compliance requirements final. Ex. D14.
3. On September 24, 2021, Animal Services issued Suzette Ma violation notice V21012541-A21004697 for her dogs both qualifying as vicious animals at large. Ex. D6. Ms. Ma filed an appeal on September 23, 2021. Ex. D7. We went to hearing on November 4, 2021.

Hearing Testimony

Lindsey Mouton Testimony

4. Lindsey Mouton testified that she first encountered Ms. Ma and her two Akitas in April 2020. Ms. Mouton was walking her large, female dog, Heidi. When they turned a corner, they saw Ms. Ma and her two dogs. Ms. Ma's dogs were barking and attempting to approach Ms. Mouton. It appeared Ms. Ma was struggling to hold onto them. Ms. Mouton moved in a different direction to avoid the dogs.
5. However, as Ms. Mouton turned a corner on the sidewalk, she again faced Ms. Ma and her dogs. As soon as the Akitas saw them, the first broke free while the second dragged Ms. Ma to the ground. The second dog then broke free as well, and both Akitas pinned Heidi. Ms. Mouton had to remove her dog, and she screamed at Ms. Ma to gain control of her dogs, which took Ms. Ma awhile.
6. Heidi was not physically injured, but she had to be retrained. Heidi was a friendly dog before the incident, but after it Heidi would not approach other dogs at the dog park. Ms. Mouton would later see Ms. Ma walk her dogs, sometimes alone and sometimes with Ms. Ma holding one dog's leash and her partner holding the other.

Ben Armlin Testimony

7. Ben Armlin testified that a few years ago he was walking with his Husky, Raiden, on the sidewalk when he saw Ms. Ma with her dogs. Ms. Ma stepped into the grass about fifteen feet to let Mr. Armlin and his dog pass. Mr. Armlin does not remember any barking. His dog will look at other dogs, and Mr. Armlin will usually then put her on a shorter leash.
8. As Mr. Armlin and Raiden tried to pass by, Ms. Ma's dogs lunged and charged at them. Mr. Armlin does not remember if Ms. Ma dropped her leashes or if Ms. Ma was dragged. In any event, the Ma dogs surrounded Raiden. The larger Akita pinned Raiden down while the smaller Akita mostly ran around in circles. The larger Akita was on Raiden's back. Mr. Armlin pulled that dog off, then shielded Raiden while Ms. Ma regained control of her dogs. Ms. Ma asked if his dog was okay. He replied that Raiden seemed okay, as he saw no blood and she is used to rough play at dog parks. Ms. Ma walked away.

9. The incident overwhelmed Raiden. Since then, Raiden has been more watchful of Akita-like dogs, and Mr. Armlin tries to steer clear of them.

Alexey Razuvaev Testimony

10. Alexey Razuvaev testified that in spring of 2020 he was walking his dog, Chai, when he saw Ms. Ma and another dog owner with two cocker spaniels approach each other. While the dogs were meeting, one of Ms. Ma's dogs got free and the other knocked Ms. Ma over. Both Akitas then jumped on the spaniels. The woman with the spaniels was screaming and the spaniels were screeching and in distress. He did not approach, as his dog was only a year old and he did not think he could control his dog
11. Instead, he stayed a distance away and watched for five to ten minutes. Ms. Ma was able to gain control of her Akitas. It seemed that the other dogs were scared but okay. Mr. Razuvaev did not see the spaniels acting aggressively that day, and he has not seen them pull towards dogs in the past. Mr. Razuvaev would not call the spaniels large, because they appeared to be maybe 50 pounds.
12. Mr. Razuvaev's dog does not like when dogs posture, so he will avoid certain dogs in the neighborhood. His dog used to play with Ms. Ma's dog. However, Ms. Ma's dogs exhibited a predatory drift when they played, meaning the dogs went from play to aggression. Ms. Ma's dogs would pin and jump up and down on his dog too much, so Mr. Razuvaev stopped approaching Ms. Ma's dogs to play.

Cathy Anderson Testimony

13. Cathy Anderson testified that the August 2020 altercation that resulted in the Akitas' viciousness designations (exhibits D11-D13) had a huge impact on her dog, Bailey. In addition to the physical wounds, the vet confirmed that Bailey had PTSD.
14. Ms. Ma was aware that her dogs had injured Bailey, and Ms. Ma paid the vet bill. Ms. Anderson wrote three emails to Ms. Ma, asking her to stay away from the Anderson home and garage. Recently, Ms. Ma and her partner, Miles, walked past her front door. Miles gave the leash to Ms. Ma and started texting. On another occasion, Ms. Anderson ran into Ms. Ma and her dogs at the parkette near her home.
15. It has been stressful for Ms. Anderson and has lessened her quality of life. She has seen Ms. Ma walking alone with her two dogs. Before the incident, Bailey was a typical golden retriever and would go on long walks. After the incident, Bailey's personality changed, and she would not walk past the parkette. About a week before our hearing, she saw Ms. Ma walking both dogs alone yet again.

Robert Anderson Testimony

16. Robert Anderson testified that the day after the [August 5, 2020] attack on Bailey, he stopped by Ms. Ma's house. She said she was going to order collars and get a trainer. Mr. Anderson gathered five other incidents in the neighborhood involving Ms. Ma's dogs.

Ms. Ma told him that she would not walk her dogs simultaneously. Mr. Anderson followed up by text with Ms. Ma in January.

17. On October 18, 2021, Mr. Anderson was in front of his house when he saw Ms. Ma being pulled by her dogs; the dogs were not under control.

Sunil Tilokani Testimony

18. Sunil Tilokani testified that on the day in question [September 16, 2021, the date of the violation currently under appeal], he and his wife were with their small dog, Enzo. Ms. Ma was approaching with both of her dogs. Since he knows Ms. Ma's dogs' aggressive tendencies, he tries to avoid them. He attempted to do the same that day, by pulling Enzo's leash close and starting to leave.
19. He then heard Ms. Sillers' door (which opens right up against the park) open. The Sillers' dog, Chance, came out, unleashed. Mr. Tilokani said hello to Ms. Sillers and Chance. Ms. Ma and her dogs had come to the sidewalk at the edge of the park and stopped in front of 1255. Ex. D8 at 001. Chance barked once or twice and took a few steps towards the edge of the park, but remained in the park. Chance was about seven feet away from Ms. Ma's dogs.
20. Ms. Ma's dogs then started barking and lunging. Ms. Ma could not control one of her dogs, who was able to break free and run into the park toward Mr. Tilokani and Chance. Mr. Tilokani picked up Enzo and Chance started to run towards his home. Chance and the loose Ma dog got into a scuffle outside the Sillers house. Ms. Sillers' husband came out of the house and started yelling; this distracted the dogs and gave Chance the opportunity to get back inside his house. Ms. Ma and her other dog had run around the park and toward the Sillers' house.
21. Ms. Ma's dog was loose for a minute or two before she regained control. Within five minutes of the incident Mr. Tilokani saw Ms. Ma walking alone with both dogs, and he took a picture. Ex. D4-001. On September 26 he saw Ms. Ma walking both dogs alone, and he took pictures. Ex. D4-002-003. Mr. Tilokani filed a complaint with Animal Services. Ex. D2.

Jean Sillers Testimony

22. The Sillers front door opens out to the park. Jean Sillers testified that her standard poodle, Chance, will sit by the window and watch outside to see if his dog friends are visiting the greenspace directly outside. On September 16, Ms. Sillers let Chance outside so he could play with his friend, Enzo, who was in the middle greenspace. Ms. Sillers followed him. Chance was in the middle of the yard, right by Enzo. Ms. Sillers was close to Enzo and Chance, but she was not close enough to Chance to grab his collar.
23. Chance's attention was then caught by the Akitas, who were on the other side of the bushes on the sidewalk. Chance took a step in the Akitas direction and started barking. Chance was about six feet away from the bushes. The Akitas went ballistic and started jumping and barking. One of the Akitas ran through the bushes and had Chance pinned

to the ground. As soon as Chance was able to get away, the Akita would pin him down again.

24. Ms. Sillers screamed, and her husband came out of the house and hollered for Chance. Chance ran to his front door, and the Sillers followed. They checked Chance over, and he was not hurt. A few minutes later, Ms. Ma came to the door to ask if Chance was okay.
25. The greenspace is frequently used by dogs and the community. Ms. Sillers has seen Ms. Ma walking with the dogs with her partner. When the dogs are under control, they are wonderful. Ms. Sillers saw Ms. Ma walking with both dogs alone a few days after the incident.

Suzette Ma Testimony

26. Suzette Ma testified that she does not remember the incident with Mr. Armlin [date not specified, but described as “a few years ago”] and his dog or a husky. If Kira lunges, Ms. Ma will put herself between Kira and the other dog. Kira and Kato are most likely the only Akitas in the neighborhood.
27. Ms. Ma agreed that what Ms. Mouton testified to [April 2020] was true, and Ms. Ma apologized. Ms. Ma has gone through leash training with Kira, who was the dog who charged at Heidi. Kira broke free first, then Kato got loose. Kato will follow Kira out of excitement.
28. Ms. Ma testified that for the incident with the spaniels [spring 2020], she was walking on a narrow, single lane path, when her neighbor with two spaniels approached. There was posturing between two of the dogs. To try to avoid the dogs, Ms. Ma stepped into the trees. The lady let her dogs come up to Ms. Ma’s dogs. The dogs were circling and getting tangled, so the lady let go of her leash. Kira then pulled out of Ms. Ma’s hand. Ms. Ma later realized that Kira was posturing toward the woman’s female dogs.
29. Ms. Ma stayed with the woman to make sure she and her dogs were okay. Ms. Ma remembered Mr. Razuvaev from the day he described, but she did not see him until after the commotion. She did get dragged that day by Kira, but one of the spaniels got loose first. Ms. Ma disputes that her dogs ever pinned down Mr. Razuvaev’s dog.
30. Ms. Ma testified that she and Ms. Anderson have not communicated since the [August 2020] altercation. Ms. Ma was only in communication with Mr. Anderson. She never received Ms. Anderson’s emails. Ms. Ma is not trying to antagonize the Andersons. The Mas and Andersons live on the same street.
31. Ms. Ma believes the recent [September 2021] incident is unrelated to the other incidents referenced at the hearing. Since the [August 2020] incident with the Andersons, Ms. Ma has had control of her dogs every time, until this recent incident. Ms. Ma hired a dog trainer that specializes in working dog breeds. Ms. Ma also purchased Herm Sprenger collars that the trainer recommended.

32. Ms. Ma explained that Kira has a history of displaying aggression towards other female dogs; Chance and Enzo are both male dogs. In the past, Ms. Ma was much more naive and less equipped to handle her dogs. In the last year, she has had the dogs under control. Her fiancé will help with walking the dogs, but once in a while Ms. Ma will take the dogs out on her own. The confinement order [from the August 2020 attack] does not specifically say she cannot walk both dogs. Ms. Ma and Kira have made great progress.
33. Ms. Ma testified that the testimony about the [September 2021] incident was falsified. Ms. Ma and her dogs were on a walk to get to the Sunset Trail pond. They have to pass by the public space to get there. Ms. Ma and her fiancé will avoid the area because the “doodle club,” including Enzo and Chance, run loose in the park. Years ago, Chance had tried to pin Kato down.
34. As Ms. Ma was walking, she saw Mr. Tilokani with Enzo at the far edge of the park, between the grassy mound and the road. Ms. Ma decided to take the quickest route to get to the pond, because her dogs do not have issues with Enzo. Ms. Ma was adjacent to house 1255 on the far sidewalk.
35. Ms. Ma testified that Chance came out his door and came towards Kato and Kira, to the edge of the grass. Her dogs are guarded by nature, as they are Akitas. But in that moment Kira did not approach Chance. Every time Ms. Ma and her dogs pass by the Sillers, Chance viciously barks at them.
36. There was a delay of time between when Chance came out and when Ms. Sillers came out of the house. Chance popped through the bush, as the bushes do not completely line the sidewalk, and was right in front of the Akitas. Enzo was on the far side of the park, in the middle. Mr. Tilokani had picked up Enzo before Chance was in the picture. Kira put herself in front of Ms. Ma to stand her ground and protect Ms. Ma, who dropped Kira’s leash.
37. There was a lot of screaming and shouting. Ms. Ma chased Kira through the park. She denied that Kira pinned Chance. Chance ran to the edge of the park on the left. Kira postured, and Ms. Ma grabbed her leash. Then Mr. Sillers came out and called for Chance. Mr. Tilokani and Enzo were on the far side and were not part of the mix. Ms. Ma lost hold of Kira’s leash for only a brief moment.
38. Since the [August 2020] incident, Ms. Ma has done everything in her power to control her dogs. Ms. Ma believes that the most recent incident would not have happened if Chance had not displayed aggression. There have been no incidents of her dogs being out of control since that incident with the Andersons. Ms. Ma’s dogs had no interest in the other dogs until Chance approached. Ms. Ma tries to have her fiancé walk with her and the dogs. However, after the rigorous training she has done, she feels confident walking both dogs under most circumstances. This most recent incident is not typical.
39. Ms. Ma testified that the only contact she has had with the Andersons since the event was for them to complain about her walking past their house. The greenspace is a public area, and it is the quickest way to the trail. Ms. Ma felt confident walking this path because she observed no unpredictable factors, that is, until Ms. Sillers opened her door

to let Chance out. This was a specific circumstance that caused Ms. Ma to temporarily lose control of her dog. The dogs just chased each other until Ms. Ma had Kira back in her hand.

Legal Standard

40. Animal Services asserts that on September 16, Ms. Ma's dogs violated KCC 11.04.230.I, which defines as a nuisance, "Any vicious animal or animal with vicious propensities that runs at large at any time it is off the owner's premises and not securely leashed on a line or confined and in the control of a person of suitable age and discretion to control or restrain the animal."
41. 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

42. All the witnesses agree that only one Akita, whom Ms. Ma identified as Kira, got loose on September 16. Animal Services has removed the violation regarding Kato.
43. There is no question that Kira ran loose on September 16, but Ms. Ma asserts that Chance provoked Kira, and thus that excused her losing control. Provocation is critical in an appeal of a viciousness designation, because a vicious act includes "biting a human being or attacking a human being or domesticated animal *without provocation*." KCC 11.04.020.BB (*italics added*). We often perform a lengthy factual and legal analysis of "provocation," drawing from many states' jurisprudence that hones the precise edges of that term in the animal context. However, the violation Animal Services cited Ms. Ma for was not a second viciousness count or anything involving aggression, only that a dog previously declared vicious was loose again. So "provocation" is not the issue it would be if we were analyzing a fresh viciousness designation.
44. Still, we assume there is some set of facts where we would excuse Kira breaking loose. Ours are not nearly those facts. As to Chance's actions and whereabouts before Kira lunged, broke loose, and pursued Chance, we find Mr. Tilokani's testimony (that Chance barked and took a few steps towards the edge of the park, but remained in the park, about seven feet away from Ms. Ma's dogs) and Ms. Sillers' (Chance took a step in the Akitas' direction and started barking, but was about six feet away from the bushes) more credible than Ms. Ma's (Chance popped through the bushes onto the sidewalk and got right in front of the Akitas, before Ms. Ma dropped Kira's leash). And under those facts, there was no defense to Ms. Ma losing control. We uphold the violation for Kira.
45. However, even under *Ms. Ma's version*, we would still uphold the violation. The incident as she described it did not present some perfect storm of events, like say it was dark, and the pavement was ice-slicked, and Chance jumped into the fray and got tangled up in the Akita's leashes, and a leash snapped or something, that we would find sufficient to read

in a justifiable loss of control. Instead, the fact scenario she described is extremely common in our jurisprudence, not some bizarre confluence of completely unpredictable factors.

46. And unlike a typical dog running-at-large violation, since the 2020 confinement order, Ms. Ma had a heightened duty to keep her vicious dogs under control. She was warned by Animal Services in August 2020 that she should only walk one dog at a time from then on. Ex. D10-003, n.3. Yes, the September 2020 confinement order did not call her out by name and explicitly bar her from walking both dogs at the same time—something Animal Services later noted (exhibit D15, n.3)—but the order required that “a competent and capable person must handle the animal at all times when attended outside.” Ex. D11 at 001. Ms. Ma had assured the Andersons she would not walk both dogs at the same time. Yet Ms. Ma set herself up for failure by taking out both Akitas on September 16—Akitas that had on at least four other occasions broken loose from her grasp—and, surprisingly only perhaps to her, she could not control both of them.
47. We want to give Ms. Ma the benefit of the doubt that, with the additional training she had put in since the August 2020 attack, it was not delusional for her to assume that, even after the slew of incidents where she lost control of one or both dogs she had in fact gained the competency and capability to control both dogs at once. Under that generous perspective, what seems like extreme indifference and obliviousness—that after multiple incidents of losing control, one of which resulted in physical injury and three in psychological injury, she continued walking both dogs at once—might be viewed more benignly. Yet even after she lost control in September of this year, she was spotted on two separate occasions walking both dogs at once. It is hard to not see reckless disregard for her neighbors and their pets.
48. Again, September 16 was not some perfect storm of events, but—even under her version—a garden-variety scenario of another dog approaching hers and barking. And yet she was not able to control both dogs, despite all the training she said she had done since 2020. To avoid any confusion moving forward, we find that Ms. Ma holding both her dogs leashes at the same time does not qualify as either dog being handled by a competent and capable person at all times when attended outside, a requirement for vicious dogs to remain in King County. Ex. D11 at 001. If Ms. Ma is again off her property handling both dogs at the same time, even momentarily, that will trigger the potential for the dogs being ordered removed from King County.¹ Ms. Ma clearly loves her dogs, so it is to no one’s benefit to put her dogs in that box again.

¹ Where a person fails to comply with any requirement set forth in the notice and order declaring the dog vicious, the animal are not to be kept in King County. KCC 11.04.290.A.1 & 3.

DECISION:

1. We overturn Kato’s violation and sustain Kira’s. The penalty owed is thus not \$1000 but \$500.
2. Ms. Ma is not competent or capable to handle both Kato and Kira at the same time.

ORDERED November 19, 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 20, 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 NOVEMBER 4, 2021, HEARING IN THE APPEAL OF
SUZETTE MA, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO.
V21012541-A21004697**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Lindsey Mouton, Ben Armlin, Alexey Razuvaev, Cathy Anderson, Robert Anderson, Sunil Tilokani, Jean Sillers, and Suzette Ma. 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 September 16, 2021 incident by Sunil Tilokani, dated September 17, 2021 |
| Exhibit no. D3 | Photograph showing the greenspace in front of 1181 Hickory Lane |
| Exhibit no. D4 | Photograph of Ms. Ma walking both dogs at once |
| Exhibit no. D5 | RASKC investigation report no. A21004697 |
| Exhibit no. D6 | Notice of violation no. V21012541-A21004697, issued September 24, 2021 |
| Exhibit no. D7 | Appeal, received September 23, 2021 |
| Exhibit no. D8 | Map of subject area |
| Exhibit no. D9 | Complaint form of August 5, 2020 incident by Cathy Anderson, dated August 6, 2020 |

Exhibit no. D10	RASKC investigation report no. A20013154
Exhibit no. D11	Notice of violation no. V20011021-A20013154
Exhibit no. D12	Photograph of Ms. Anderson's dog's injury
Exhibit no. D13	Veterinary Bill, dated August 6, 2020
Exhibit no. D14	Hearing Examiner Order of Dismissal V20011021-A0013154, dated September 17, 2020
Exhibit no. D15	RASKC investigation report no. A20014607
Exhibit no. D16	Map of subject area

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

Exhibit no. A1	Email, dated October 20, 2021
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November 19, 2021

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KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V21012541-A21004697**

SUZETTE MA

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 19, 2021.



Lauren Olson
Legislative Secretary

Anderson, Cathy/Robert

Hardcopy

Armlin, Ben

Eykel, Chelsea

Regional Animal Services of King County

Ma, Suzette

Hardcopy

Mouton, Lindsey

Razuvaev, Alexey

Sillers, Jean

Tilokani, Sunil

Hardcopy