

May 4, 2022

**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. **V22012876-A22000459**

MICHELLE BURTIS

Animal Services Enforcement Appeal

Activity no.: A22000459

Appellant: **Michelle Burtis**

[REDACTED]
Duvall, WA 98019

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by **Rebecca Smokoska**
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 issued a Notice of Violation and Order to Comply, which Michelle Burtis appealed. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the law, we uphold the Notice of Violation and Order to Comply.

Background

2. On January 28, 2022, Animal Services issued notice of violation V22012876-A22000459 to Michelle Burtis for her dog, Deuce, running at large, trespassing on private property, qualifying as vicious, and needing to be confined. Ex. D2. Ms. Burtis appealed on February 22, 2022. Ex. D10. At the request of Ms. Burtis, we held a pre-hearing conference on April 8. We went to hearing on April 20.

Hearing Testimony

Testimony of Robert Neale

3. Robert Neale testified that on January 25, 2022, at approximately 6:30 p.m. he heard barking coming from his barn. His barn, which is where his two goats live in a paddock, is about seventy to eighty yards from his house. The barking did not sound like his dog's bark; his dog was twelve years old at the time and could barely make a barking sound. Mr. Neale quickly ran to the barn and started yelling.
4. Mr. Neale saw a brownish dog, which did not have a tail, running down the cul-de-sac. The dog was running down 172nd street, which is toward Ms. Burtis' house.
5. Mr. Neale ran back to the paddock and saw that both of his goats were dead, five feet away from each other. Mr. Neale saw little blood.
6. Mr. Neale's suspicion was that it was one of Ms. Burtis' dogs because of past interactions with her dogs. Mr. Neale emailed Ms. Burtis to ask if her dogs were out, and she confirmed that they were. Ex. D7. Mr. Neale has also dealt with Ms. Burtis regarding other matters.
7. In May 2021, both of Ms. Burtis' dogs came onto his property and Mr. Neale found her dogs attacking his barn dog. They can jump over his paddock fences. Periodically, Ms. Burtis' dogs have been on his property, and she has had to come and retrieve them.
8. Mr. Neale has not had issues with other dogs or wildlife jumping his fence and getting into the barn. His barn dog also helps with that.

Testimony of Michelle Burtis

9. Michelle Burtis testified that her dog was out, and she was looking for him the night of the incident. One of her neighbors, Ms. Martin, was helping her look for the dog.
10. There were emails between Ms. Burtis and Mr. Neale. Ex. A2. Ms. Burtis also noted that her exhibits include emails documenting dogs that have gotten loose in the neighborhood. Ms. Burtis included an email where someone believes they spotted her dog out loose on a different day. Ex. A10. Ms. Burtis stated that her dog was in the house that evening.
11. Ms. Burtis stated there are a lot of animals in the area, others have been loose, and Deuce was not responsible for the death of the goats.

Testimony of Kylie Martin

12. Kylie Martin testified that on the evening of January 25 she helped Ms. Burtis search for her lost dogs. They found Deuce shortly after the email exchange. They looked him over and saw no blood on him. Ms. Martin also noted there was a cougar spotted in the area the week of the incident.

Legal Standards

13. 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

14. King County Regional Animal Services issued a Notice of Violation and Order to Comply. Ex. D2. Officer Wilcox determined that Ms. Burtis' dog, Deuce, violated these King County animal care and control laws:

- Notice and Order for Confinement, KCC 11.04.290, \$0
- Running at Large, 1st Offense, KCC 11.04.230(B), \$50
- Animal Trespassing on Private Property, 1st Violation, KCC 11.04.230(K), \$50
- Vicious Animal, 1st Offense. KCC 11.04.230(H), \$500

The Notice of Violation and Order to Comply imposed these conditions:

- Secure your animals in a fenced area suitable for the size of the animal when your animal is unattended and outside your home. Lock all passages with a padlock to prevent accidental release. KCC 11.04.230(I), 11.04.290.
- Restrain your animal using a leash with a collar or harness when taking it off your property. Your leash can extend no longer than 8' in length. A competent and capable person must handle the animal at all times when attended outside. KCC 11.04.230(C), 11.04.290.
- Microchip your animal and provide the microchip number to the King County Animal Licensing Office (206-296-2712) within 14 days. KCC 11.04.290(A)(2).
- Vaccinate your animal for rabies, if not current. ... KCC 11.04.290(A)(2), KCC 11.04.520.

Ms. Burtis challenged all the cited violations, except for running at large.

15. The Running at Large violation was not contested and the conditions associated with the Notice and Order of Confinement are warranted given Deuce’s history of not staying on his property.

16. A civil “vicious animal” citation may issue for:

Any 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.¹

“Vicious” means 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.²

The term “vicious” is a legal term. Under King County Code, it does not mean a dog is vicious all the time, or that the dog’s owner does not take good care of the dog. It simply means that the animal has exhibited certain propensities which present a danger to the safety of people and/or domesticated animals.

17. Sufficient evidence was presented to demonstrate that Deuce entered private property the night of the incident without invitation and was seen running from the site immediately after the goats were killed. He has a history of entering this property, and has engaged in threatening behavior against the dog on this property. While the evidence would not meet a standard requiring a showing that it is beyond a reasonable doubt he killed the two goats, the evidence does meet a preponderance of the evidence standard to demonstrate his responsibility for their death and that Deuce presents a danger to domesticated animals.

DECISION:

The Citation is upheld.

ORDERED May 4, 2022.



Susan Drummond
King County Hearing Examiner *pro tem*

¹ KCC 11.04.230(H).

² KCC 11.04.020(BB).

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 *June 3, 2022*. 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 APRIL 20, 2022, HEARING IN THE APPEAL OF MICHELLE
BURTIS, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO.
V22012876-A22000459**

Susan Drummond was the Hearing Examiner pro tem in this matter. Participating in the hearing were Rebecca Smokoska, Robert Neale, Michelle Burtis, and Kylie Martin. 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	Notice of violation no. V22012876-A22000459, issued January 28, 2022
Exhibit no. D3	RASKC investigation report no. A22000459
Exhibit no. D4	RASKC investigation report no. A22000497
Exhibit no. D5	Online Complaint form of January 25, 2022, incident by Robert Neale, dated January 25, 2022
Exhibit no. D6	Online Complaint form of January 19, 2022, incident by Taylor Carter, dated January 26, 2022
Exhibit no. D7	Messages between R. Neale and S. Burtis, dated January 25, 2022
Exhibit no. D8	Message from Amanda Williams regarding a loose Boxer, dated January 25, 2022
Exhibit no. D9	Message from R. Neale to S. Burtis, dated May 14, 2021
Exhibit no. D10	Appeal, received February 22, 2022
Exhibit no. D11	Photographs of the deceased goats
Exhibit no. D12	Photograph of R. Neale’s Goat Pen
Exhibit no. D13	Photographs of R. Neale’s Driveway
Exhibit no. D14	Photograph of 172 nd St.
Exhibit no. D15	Google Map of subject area (Overview)
Exhibit no. D16	Google Map of subject area (Annotated)

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

Exhibit no. A1	Burtis Summary
Exhibit no. A2	R. Neal email, dated January 25, 2022
Exhibit no. A3	Regional Animal Services of King County Brochure
Exhibit no. A4	Wandering Dog email
Exhibit no. A5	Dog email
Exhibit no. A6	Wandering Dog #2 email
Exhibit no. A7	Lost Dog? email
Exhibit no. A8	Loose Dog email
Exhibit no. A9	Hound email
Exhibit no. A10	Boxer email (Seth Pemble response)
Exhibit no. A11	Kylie Martin Letter

SD/lo

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V22012876-A22000459**

MICHELLE BURTIS

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 May 4, 2022.



Lauren Olson
Legislative Secretary

Anderson, Tim

Regional Animal Services of King County

Burtis, Michelle

Hardcopy

Martin, Kylie

Hardcopy

Neale, Robert

Hardcopy

Smokoska, Rebecca

Regional Animal Services of King County