

April 11, 2022

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
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**ORDER OF DISMISSAL**

SUBJECT: Regional Animal Services of King County file no. **V22012897-A22000565**

**DENNIS LITVINENKO**

Animal Services Enforcement Appeal

Activity no.: A22000565

Appellant: **Dennis Litvinenko**

[REDACTED]  
Kent, WA 98031

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](mailto:raskcappeals@kingcounty.gov)

On February 8, 2022 Regional Animal Services of King County (Animal Services) issued a notice and order, which Mr. Litvinenko received on February 10. As that document stated, any appeal had to be received by Regional Animal Services of King County by March 5, or else the notice and order would become a final determination. That was consistent with KCC 20.22.080.B, which requires appeals to be received within 24 days of the date the agency determination is issued.

Mr. Litvinenko drafted his appeal two days later, but then he was candid that he forgot to mail it before leaving for vacation. The postmark shows it made it to the post office on March 16 and was received by Animal Services on March 18, both well after the appeal window closed.

In many scenarios, an examiner has a fair amount of discretion and flexibility. For example, if an appeal is timely but inadequate in content, an examiner “may” dismiss the appeal, but alternatively “may” allow a party to clarify the appeal issues. KCC 20.22.090.B. Requiring clarification, instead of dismissal, is almost always the approach we choose in such a scenario. We would do so here if *content* were the shortcoming in this appeal.

However, untimely appeal statements are decidedly different. The examiner “shall” (not “may”) dismiss an untimely appeal. KCC 20.22.090.A. As KCC 20.22.080.H. states, where:

a person fails to timely deliver the appeal statement[, the] examiner does not have jurisdiction to consider the appeal and the decision of the department ... becomes final and unreviewable.

Accordingly we DISMISS Mr. Litvinenko’s appeal. The \$50 penalty remains due to Animal Services.

Future-looking, Mr. Litvinenko does not like it that the trespass violation does not contain a carveout for owners that let their *cats* wander onto other people’s property. (The violation is for a “domesticated animal that enters upon a person’s property without the permission of that person,” and a “domesticated animal” is defined as explicitly including cats.) We are not aware of any local jurisdictions that have a cat-specific carveout. Seattle’s, in fact, is stricter, broadening the application of “trespass” to include not just *domesticated* animals but “any animal” which enters upon the property of another person without the authorization of the lawful occupant. SMC 9.25.023.F.

We did misspeak on one piece. We said that if Mr. Litvinenko is interested in changing the law, he should speak to his *County* councilmember. However, re-looking at the file, it appears Mr. Litvinenko resides within Kent’s borders. If true, then he may want to turn his attention to his *Kent* councilmember. Kent adopts most of King County’s animal code (including the trespass definition). K(ent)CC 8.03.020.A.1. However, Kent, and any other city, is free to amend the city code to modify the County code. Kent has done that, albeit, in a way that makes the code *stricter*, not more lenient: in King County there are no requirements that a dog be leashed, while Kent has adopted leash requirements. K(ent)CC 8.03.040. In fact, the only cities we are aware of that have amended the County’s animal code have made things stricter, not more lenient.<sup>1</sup> But Mr. Litvinenko is free to petition his *city* councilmember to amend *Kent’s* code to create a cat exception to the trespass violation.


In the interim, Mr. Litvinenko needs to follow the law. He claims his neighbor harassed him by filing the complaint and asked what he could do about that. That is not our area of legal

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<sup>1</sup> Bellevue, for example, expands the County violation a dog-running-at-large to include, “A dog or other domesticated animal running at large within the city,” meaning that violation is applicable to cats as well as dogs within Bellevue city limits.

expertise, but the only time we have ever heard of the court entering a protective order was when someone was repeatedly filing *false* claims. Because Mr. Litvinenko did not timely appeal today's violation, the complaint about Jaggie trespassing on January 28 is, by definition, a *valid* claim. If there is a future complaint and violation notice for a *future* trespass, and that gets timely appealed, it will be Animal Services' burden to show that, more likely than not, it was Jaggie on the complainant's property on the day in question.

DATED April 11, 2022.



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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 *May 11, 2022*. 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**

SUBJECT: Regional Animal Services of King County file no. **V22012897-A22000565**

**DENNIS LITVINENKO**  
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 April 11, 2022.



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Lauren Olson  
Legislative Secretary

**Litvinenko, Dennis**

Hardcopy

**Smokoska, Rebecca**

Regional Animal Services of King County

**Wedlake, Linda**

Hardcopy