

May 17, 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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V22012914-A22000687**

**VEARA BENHAM**

Animal Services Enforcement Appeal

Activity no.: A22000687

Appellant: **Veara Benham**

[REDACTED]  
Carnation, WA 98014

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. Regional Animal Services of King County (Animal Services) issued Veara Benham a violation notice for her dogs, Asher and Rosie, trespassing on private property, running at large, qualifying as vicious, and needing to be confined. Ms. Benham appealed the viciousness designations. 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 her appeal.

### Background

2. In September 2018, Animal Services issued Ms. Benham a second violation notice (V18008744) for her three dogs, Finny, Lilly, and Quizzy trespassing into her neighbors' (the Costas) yard, attempting to enter their chicken coup, and Quizzy qualifying as vicious and needing to be confined. Ex. D11. (V18008743 was not included in the exhibits; that absence would undercut Animal Services case in a hearing involving Quizzy violating the containment order, but today's dispute involves different Benham dogs. Thus, V18008743 is simply background.) Ms. Benham appealed, but Animal Services and Ms. Benham reached a settlement in that case. Ex. D13. In response, we dismissed her appeal without going to hearing. Ex. D12. The effect of the dismissal meant that Quizzy's viciousness designation remained in place and Ms. Benham had a continuing duty to contain Quizzy.
3. In the present case, Animal Services asserts that, on February 11, two other Benham dogs, Asher and Rosie, trespassed into another neighbors' (the Parrys') chicken pen killing and injuring their chickens. Ex. D8. Daniel Parry and his neighbor, Wanderson Costa, filed complaints and included video footage recorded by Ms. Costa. Exhs. D2-D4. (The second page of Mr. Wanderson's complaint is missing from the exhibits.)
4. Ms. Benham timely appealed. Ex. D10. We went to hearing on May 3 and closed the record on May 4.

### Hearing Testimony

#### *Testimony of Daniel Parry*

5. On February 11, Mr. Parry was in a meeting when he received a call from his neighbors (the Costas), alerting him that his chickens were being attacked. The neighbor, Ms. Costa, started shouting at the dogs to go home. One dog [Asher] went back to Ms. Benham's property, through a hole in his fence.
6. Mr. Parry arrived at his chicken coup and saw lots of feathers and a few chickens on the ground; a dog [Rosie] was still inside the chicken coup. Ex. D5 at 001. He commanded Rosie to sit. He heard Ms. Benham outside, calling for her dog. Ms. Benham came to retrieve Rosie. Ex. D5 at 002. She apologized to Mr. Parry's nine-year old son, Elliott, who was the chickens' caretaker and owner. Photo D5 at 002 depicts Rosie next to one of the dead chickens.

#### *Testimony of Christi Parry*

7. Ms. Parry was at home making breakfast when she noticed she had a couple of missed text messages. Her kids ran inside and alerted her that the neighbor's dogs were attacking her chickens. Ms. Parry ran outside and guarded the chicken coup entry, protecting the rest of the live chickens from Rosie, who was at the end of the run.

8. Three chickens were already deceased, four had to be put down, and one died a week later. Photo D6 depicts the rear ends of the dead chickens, since that was the area of the birds with the teeth marks.
9. Ms. Benham posted on Facebook that a tenant of hers had left her gate open. Ex. D15. Ms. Benham offered to pay the Parrys for the chickens, but Ms. Parry did not hear back from Ms. Benham until after the hearing date was scheduled, about six weeks later.

*Testimony of Abilylene Costa*

10. Ms. Costa testified that after she sent her son to the bus, her son returned and told her that dogs were attacking the Parrys' chickens. Ms. Costa hurried outside.
11. She saw both the Benham dogs in the Parry chicken coop and started recording. Ex. D4a-c. She yelled "stop!" and one dog [Asher], got out of the coop and left the property, as she recorded Asher returning back to the Benham property. Ex. D4a. The other Benham dog, Rosie, remained inside the Parry chicken coup. Exs. D4b & c.

*Testimony of Wanderson Costa*

12. Mr. Costa testified that he has had prior interactions with Ms. Benham and her dogs. In 2018, one of her dogs killed 65 of his chickens, and the second time he found 30 deceased chickens. Ms. Benham denied that it was her dog. He filed complaints and installed cameras around his property. The third time, in 2019, he found 5-10 deceased chickens, but he did not file a complaint that round, trying to be a good neighbor.
13. A couple of weeks prior to the latest incident, one of Ms. Benham's dogs killed his rooster. When he confronted Ms. Benham, she claimed that it was not her dog. He was unaware that she had accused his trucks of damaging her fence; his trucks are insured, and he is a general contractor as well.
14. The Costas' son is now scared of dogs after witnessing the chickens being killed. They have had to buy him a poodle to try and calm him down and have him re-learn not to be scared of dogs.

*Testimony of Veara Benham*

15. Ms. Benham asserted that she did not have the mental capacity to fight against her dog Quizzy's viciousness designation in 2018, because she was dealing with her son's medical issues. She is frustrated that now Rosie and Asher are being labeled vicious. Ms. Benham claims that the Costas have their chickens trespassing into her yard and her dogs pick up their scent and try to pursue them.
16. Ms. Benham testified that on February 11 she went into the shower and brought her dogs into the bathroom with her. When she got out she noticed that Asher was in the yard, but Rosie was missing. She acknowledges that Rosie trespassed into the Parry chicken coup and killed chickens, but that she is not violent or aggressive.

17. Ms. Benham has a preschool on her property. Her dogs are around school children, her kittens, and other animals, never doing anything aggressive. She believes it was “developmentally appropriate” for them to kill the chickens. She cannot continue to have her dogs labeled vicious while trying to run a preschool.
18. Ms. Benham learned that it was her autistic tenant who left her gate open. She explained that she needs to have a hinged gate in the front (which has a carabiner), instead of padlocked gate, because she needs to allow emergency vehicle access for the preschool, in case there is a problem with one of the kids.

#### Legal Standards

19. On February 11 did Asher and/or Rosie trespass, defined as a “domesticated animal that enters upon a person’s property without the permission of that person,” KCC 11.04.230.K?
20. On February 11 did Asher and/or Rosie run at large, defined as “off the premises of the owner and not under the control of the owner, or competent person authorized by the owner, either by leash, verbal voice or signal control,” with “under control” defined as “either under competent voice control or competent signal control, or both, so as to be restrained from approaching any bystander or other animal and from causing or being the cause of physical property damage when off a leash or off the premises of the owner,” KCC 11.04.020.W, .AA; .230.B?
21. Do Asher and/or Rosie qualify as vicious, defined as “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,” with the violation itself framed as, “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,” KCC 11.04.020.BB; .230.H?
22. 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

23. Ms. Benham started chipping away at her own credibility right from the start.
24. Ms. Benham told the investigating officer on February 11 that she was aware of the situation and that the renter that she has on the property must have left the gate open. Ex. D7-003. All well and good. However, by the time of her March 10 appeal, she shifted into full-blown conspiracy mode, claiming that the neighbor she was having difficulties with (the Costas) opened her gate and let her dogs out. Ex. D10. Then, by the

- time of the hearing she reverted to her original acknowledgment that her tenant had left the gate open.
25. Similarly, Ms. Benham acknowledged to the investigating officer that two dogs that had got out. In her March 10 appeal, she agreed that the event happened, and that her “puppies” had gotten out (though at that point she had switched to accusing the Costas of purposefully letting them out). Ex. D10 at 001. Yet, in a prehearing filing she then disputed that Asher had gone to the Parrys, exhibit A1, before shifting back to an acknowledgment at hearing that it was Asher seen running from the Parrys’ coup.
  26. Ms. Benham did not stop there. She tried to shift the blame for her dogs attacking the Parrys’ penned-in chickens on the Parry property for the Costas letting *the Costa* chickens mill about on the *Costa property*. She seemed to accuse the Parrys of removing the chickens’ heads, even though some of the heads are clearly visible in the photo of the dead chickens’ hindquarters, and Ms. Parry confirmed that they did not further mutilate the chickens after the dogs had gotten through with them. Exs. A1, D6.
  27. Ms. Benham seemed eager to blame everyone but herself and her dogs. She is in a serious state of denial. We do not find her at all credible. Conversely, we found the three eyewitnesses to the February 11 incident (both Parrys and Ms. Costa) credible. (Mr. Costa did not have first-hand knowledge of the February 11 events.)
  28. We find, more likely than not, that on February 11 Rosie and Asher ran at large off the Benham property when Ms. Benham’s tenant left the gate open—the gate that was supposed to be padlocked after Quizzy’s 2018 viciousness determination—trespassed onto the Parry property, and killed eight Parry chickens, in the Parry pen.
  29. Turning to the viciousness criteria, quoted above, we note that the code contains no elements or inquiry related to whether the animal did something with malicious moments. However, the KCC 11.04.020.BB analysis is a little more nuanced in scenarios where the victims are chickens, because chickens do not—as counterintuitive as it seems—qualify as a “domesticated animal” under the current version of the code.<sup>1</sup> So, even though the Costas letting their chickens out was in no sense provocation for Rosie and Asher killing the Parrys penned chickens, technically Rosie and Asher were not attacking a “domesticated animal” during their rampage.
  30. However, attacking a domesticated animal is only an example (“including, but not limited”) of behavior “endangering the safety of any person, animal or property of another.” Rosie and Asher did more than endanger the safety of the Parry chickens—they killed eight of them. The chickens were not just animals to the Parrys, they were their son’s pets. And Mr. Costa’s son is traumatized after seeing the deceased chickens, and he now fears dogs. The act of killing the chickens and having children witness the

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<sup>1</sup> Although a chicken is a domesticated animal in the common sense of the word, a not unusual backyard pet even in very urban areas, KCC 11.04.020.G defines a “domesticated animal” 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.” We have analyzed, at great length, why, under the canons of statutory construction, that definition was not written in a way to cover chickens. [https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2022/Feb%202022/V22013090\\_Lu.ashx?la=en](https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2022/Feb%202022/V22013090_Lu.ashx?la=en)

aftermath qualifies as acts endangering the safety of people, their animals, and their property. Rosie and Asher pose a significant danger to the safety of the neighbors' property, i.e., their chickens. We uphold the viciousness designations.

31. Ms. Benham worries that, with the viciousness designation, she will not be allowed to have Asher and Rosie on her property. It is up to her what she wants to tell her school, but we clarify that we uphold the violations because they pose a lethal threat to neighbors' animals, not because they pose any threat to any humans. Indeed, the facts here seems quite the contrary. Beyond Ms. Benham's testimony and her supportive letters (exhibit A1 at 004-09), Asher ran off at the first approach of Ms. Costa, and Rosie allowed the neighbors to contain her peacefully, even though they got between Rosie and her prey. There is zero evidence that Asher or Rosie are vicious as it relates to people. Again, that is not the standard for upholding a viciousness designation, but it may impact the calculus as it relates to their continuing presence in a school setting.
32. Although Ms. Benham had a requirement from 2018 onward to secure Quizzy (and from today onward to secure Asher and Rosie) in a fenced area when unattended and outside the home, with all passages padlocked to prevent accidental release, she did not do so, and thus Asher and Rosie were able to escape via an unlocked gate on February 11. However, Ms. Benham made a persuasive case for why, when there are students on her property, she can only secure the gate with a carabiner, not a padlock, in case emergency personnel need to enter quickly.
33. We clarify that, by its terms, the padlock requirement only kicks in for vicious animals left "unattended" and outside the home. So, if she keeps Quizzy, Asher, and Rosie inside during school hours and locks the doggy door (so they cannot get outside), the carabiner is fine. And if those three dogs need a bathroom break during school hours, if Ms. Benham goes outside and can actively attend Quizzy, Asher, and Rosie during the entire time they are outside, they are free to run around in a fenced area without a padlock. It is only when she allows Quizzy, Asher, and Rosie access to the yard (i.e. through the doggy door), that she either needs to be outside with them and actively attending them, or have the gate padlocked to prevent accidental release (like what happened on February 11).

DECISION:

We DENY Ms. Benhams' appeal.

ORDERED May 17, 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 *June 16, 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 MAY 3, 2022, HEARING IN THE APPEAL OF VEARA BENHAM, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V22012914-A22000687

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Veara Benham, Chelsea Eykel, Ahil and Wanderson Costa, and Daniel and Christi Parry. 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 February 11, 2022, incident by Daniel Parry, dated February 11, 2022
Exhibit no. D3	Online Complaint form of incident by Wanderson Costa, dated February 11, 2022
Exhibit no. D4	Videos D4a, D4b, D4c
Exhibit no. D5	Photograph of Rosie in Coop
Exhibit no. D6	Photograph of dead chickens
Exhibit no. D7	RASKC investigation report no. A22000687
Exhibit no. D8	Notice of violation no. V22012914-A22000687, issued February 14, 2022
Exhibit no. D9	NVOC mailing/tracking history
Exhibit no. D10	Appeal, received March 10, 2022
Exhibit no. D11	Notice of violation no. V18008744-A18004992
Exhibit no. D12	Hearing Examiner Order of Dismissal, dated December 17, 2018
Exhibit no. D13	Settlement of Violation V18008744
Exhibit no. D14	Receipt R19-809833, dated January 28, 2019
Exhibit no. D15	Text Messages from Ms. Benham to Ms. Parry
Exhibit no. D16	Licensing report
Exhibit no. D17	Text Messages showing puppies from 2021
Exhibit no. D18	Map of subject area
Exhibit no. D19	Rebuttal to Closing Statement, submitted May 4, 2022

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

Exhibit no. A1	Appeal and supplemental material
Exhibit no. A2	Statement from expert witness
Exhibit no. A3	Closing Statement, submitted May 3, 2022

May 17, 2022

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V22012914-A22000687**

**VEARA BENHAM**

Animal Services Enforcement Appeal

I, Jessica Oscoy, 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 17, 2022.



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Jessica Oscoy  
Office Manager



**Benham, Veara Susan**

Hardcopy

**Costa, Wanderson/Ahil**

Hardcopy

**Eykel, Chelsea**

Regional Animal Services of King County

**Parry, Daniel/Christi**

Hardcopy