

April 19, 2022

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

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V22012956-A22000954**

**JASON JOHNSON**

Animal Services Enforcement Appeal

Activity no.: A22000954

Appellant: **Jason Johnson**

[REDACTED]  
Kenmore, WA 98028

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)

**FINDINGS AND CONCLUSIONS:**

Overview

1. Jason Johnson appeals a Regional Animal Services of King County (Animal Services) violation for his unleashed dog, Maximus (Max), running at large. Because the complainant-eyewitness failed to appear at hearing, and because Animal Services cited a harder-to-prove running at large violation, instead of a simpler leash law violation, we grant Mr. Johnson's appeal. To avoid future liability, Max needs to be walked on a leash.

### Background

2. In February 2021, Animal Services issued violation notice V21011702-A21000955 to Mr. Johnson for Max running at large. Ex. D11. Mr. Johnson did not appeal.
3. In March 2021, Animal Services issued violation notice V21011771-A21001183 to Mr. Johnson for Max again running at large. Ex. D14. In April, Animal Services issued violation notice V21011793-A21001188 to Jason Johnson for Max violating the leash law and trespassing on private property. Ex. D17. Mr. Johnson appealed. Due to a flaw in Kenmore’s code impacting examiner jurisdiction, in May we dismissed violation V21011771 and V21011793 without prejudice Ex. D21.
4. In July 2021, Animal Services issued violation notice V21012324-A21003537 to Mr. Johnson for Max violating the leash law for a second time and trespassing again on private property for a second time. Ex. D20. Mr. Johnson did not appeal.
5. In November 2021, Kenmore amended its ordinance to remove the jurisdictional anomaly. Ord. 21-0534 § 2.
6. In February 2022, Animal Services issued violation notice V22012956-A22000954 to Mr. Johnson for Max again running at large on February 23. Ex. D6. Mr. Johnson appealed in March. Ex. D8. We went to hearing on April 6.

### Hearing Testimony

7. Animal Services’ representative, Rebecca Smokoska, and Mr. Johnson participated in our hearing. The complainant who (along with Mr. Johnson) actually witnessed the February 23 incident did not.
8. Mr. Johnson testified that on February 23, he was walking Max off-leash but under voice control. Max did not approach anyone. While walking, Max was about ten to fifteen feet ahead of Mr. Johnson. Max steps on people’s driveways, but he does not run into people’s yards.
9. Sgt. Smokoska explained that the complainant had said he would appear at hearing, but for some unknown reason elected not to. She explained why, based on the pattern of Mr. Johnson allowing Max to go off-leash and not be under control, she concluded that Max was probably at it again on February 23. When asked why Animal Services had asserted a running at large violation, instead of a much-simpler-to-prove leash law violation, she opined that the investigating officer may have been unfamiliar with Kenmore’s variation to the normal standards that apply in most Animal Services jurisdictions.

### Legal Standards

10. “Running at large,” means “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” itself meaning “the animal is 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.

11. 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

12. Eyewitness testimony from a complainant is not always necessary for Animal Services to prove a running-at-large violation. For example, sometimes a dog is loose, and a good Samaritan corrals the dog until Animal Services arrives. Other times a neighbor submits video showing dogs running loose in the street, without an owner anywhere in sight, and the appellant does not dispute the dog is theirs. Those are easy cases. But where the owner was present—and there is no question Mr. Johnson was actively walking his dogs at the time—the analysis is more nuanced, and gets into the nitty-gritty of exactly how far a dog was from his owner, what level of “control” the owner was actually asserting (as opposed to theoretically being able to assert), who approached who, etc.
13. Here the complainant undercut Animal Services’ case when he failed to appear at hearing and offer testimony. Animal Services has not proven that Max was not under control on February 23. We grant Mr. Johnson’s appeal.
14. We note that Animal Services increased its degree of difficulty here. While there is no default leash law in King County (the “under control” standard including competent voice and signal control), Kenmore does have a leash law. Kenmore makes it illegal for owners to allow their dogs to be at large, and (unlike King County) Kenmore limits “at large” to “off the premises of the owner and not under the control of the owner by leash; provided, that an animal within an automobile or other vehicle of its owner shall be deemed to be upon the owner’s premises.” K(enmore)CC 6.10.020.A, .030.
15. There is no question that Max was off his property and not in his vehicle on February 23, yet he was not being walked on a leash. Had Animal Services cited Mr. Johnson for a leash violation, we would easily have sustained it. And Mr. Johnson now knows, going forward that, every time that Max is off his property but within Kenmore city limits and not in Mr. Johnson’s vehicle, or possibly inside the fenced enclosure of an official off-leash dog park,<sup>1</sup> Max needs to be on a leash. Otherwise, it is a violation, at least of the

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<sup>1</sup> It is not clear if Kenmore has any officially-sanctioned off-leash dog parks within city limits. The best source we are aware of finding legal dog parks, BringFido.com, lists four within five miles of Kenmore, but none actually in Kenmore. <https://www.bringfido.com/attraction/parks/city/kenmore-wa-us/?distance=5>. A park where owners informally let their dogs roam is *not* the equivalent of a legally-sanctioned off-leash area.

civil code and potentially of the criminal code as well.<sup>2</sup> If Mr. Johnson was not aware before, he is now.

DECISION:

We grant Mr. Johnson's appeal.

ORDERED April 19, 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 19, 2022*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

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<sup>2</sup> Kenmore declares it a misdemeanor for anyone to violate the dog leash chapter. K(enmore)CC 6.10.040.

**MINUTES OF THE APRIL 6, 2022, HEARING IN THE APPEAL OF JASON  
JOHNSON, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO.  
V22012956-A22000954**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Rebecca Smokoska, and Jason Johnson. 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	RASKC investigation report no. A22000954
Exhibit no. D3	Online Complaint form of February 23, 2022 incident by Mike West, dated February 23, 2022
Exhibit no. D4	RASKC investigation report no. A22000973
Exhibit no. D5	Online Complaint form of February 23, 2022 incident by John Gomes, dated February 25, 2022
Exhibit no. D6	Notice of violation no. V22012956-A22000954, issued February 28, 2022
Exhibit no. D7	NVOC mailing/tracking history
Exhibit no. D8	Appeal, received March 4, 2022
Exhibit no. D9	RASKC investigation report no. A21000955
Exhibit no. D10	Online Complaint form of January 20 and February 26, 2021 incident by Mike West, dated February 26, 2021
Exhibit no. D11	Notice of violation no. V21011702-A21000955, issued February 28, 2021
Exhibit no. D12	RASKC investigation report no. A21001183
Exhibit no. D13	Online Complaint form of March 14, 2020 incident by John Gomes, dated March 14, 2021
Exhibit no. D14	Notice of violation no. V21011771-A21001183, issued March 19, 2021
Exhibit no. D15	RASKC investigation report no. A21001188
Exhibit no. D16	Online Complaint form of March 14, 2021 incident by Mike West, dated March 14, 2021
Exhibit no. D17	Notice of violation no. V21011793-A21001188, issued April 2, 2021
Exhibit no. D18	RASKC investigation report no. A21003537
Exhibit no. D19	Online Complaint form of July 14, 2021 incident by Mike West, dated July 21, 2021
Exhibit no. D20	Notice of violation no. V21012324-A21003537, issued July 21, 2021
Exhibit no. D21	Order of Dismissal for V21011771 and V21011793, dated May 3, 2021
Exhibit no. D22	Map of subject area

DS/lo

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V22012956-A22000954**

**JASON JOHNSON**  
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 April 19, 2022.



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Lauren Olson  
Legislative Secretary

**Johnson, Jason**  
Hardcopy

**Smokoska, Rebecca**  
Regional Animal Services of King County

**West, Michael**  
Hardcopy