

September 30, 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. **V22013257-A22003049**

**BALTEJ SINGH**

Animal Services Enforcement Appeal

Activity no.: A22003049

Appellant: **Baltej Singh**

[REDACTED]  
Kent, WA 98030

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. Baltej Singh appeals a violation notice for his dog, Lotto, excessively barking on June 8, 2022. Because Mr. Singh has already been held responsible for Lotto's barking on nights *other* than June 8, and given that Lotto's third violation within a year would subject Lotto to removal from King County, we find that Lotto's June 8 barking was not, standing alone, sufficient to sustain a violation. We thus grant Mr. Singh's appeal.

### Background

2. On June 15, 2022, Animal Services issued violation notice V22013257-A22003049 to Baltej Singh's dog, Lotto, for a second violation for making excessive noise on June 8. Ex. D6. The notice listed a July 10 appeal deadline; Mr. Singh timely appealed on July 9.
3. We held a pre-hearing conference on August 9. On August 22 Animal Services issued third violation notice V22013463-A22004255 for Lotto making excessive noise. Ex. D11. That violation notice listed a September 16 appeal deadline, but this time Mr. Singh did not appeal. We went to hearing on September 21.

### Hearing Testimony

#### *Testimony of Ion Sajin*

4. Ion Sajin testified that Lotto lives outside most of the time. Lotto barks at everything, like squirrels. Part of the Singh property is heavily wooded, which makes the barking louder. The Singhs moved onto the property about a year ago. Lotto will bark all night. The daytime barking does not bother Mr. Sajin, only barking at night that keeps him from sleeping. The lack of sleep is affecting his ability to function at work.
5. When the barking starts, Mr. Sajin will wait about thirty minutes to see if Lotto will stop barking. If the barking does not stop, he will then take a video. Mr. Sajin took the videos from his patio or from the bedroom window. He recorded exhibit D3 on June 8. He recorded exhibit D10 at 4:30 a.m. on July 26. His videos are only about ten seconds long, because he could not send longer videos to Animal Services via email. Also, his phone does not have memory space for longer videos. When Mr. Sajin gets up at night to take a video of the barking, he has to open the window, which wakes up his family.
6. Lotto's barking has woken Mr. Sajin at two, four, and five in the morning. Mr. Sajin works in construction, and he has muscle and bone pain from his work. It normally takes him thirty minutes to an hour to fall asleep due to the pain. When Lotto is barking it is almost impossible for him to fall asleep. One time when Lotto was barking, it took Mr. Sajin two hours to fall back asleep. He typically wakes up between seven and eight in the morning.
7. When Mr. Sajin first called Animal Services, the barking level did not change. When he called a second time, the barking got a little better. Since this case started and after the August 9 pre-hearing conference, the barking level has improved. Mr. Sajin's only concern is that the barking will not re-start again after the case closes.
8. Mr. Sajin's definition of an unreasonable level of barking is the same as the law; he expects people to follow the rules regarding barking. Mr. Sajin closes the windows to mitigate noise. He has tried to use white noise, but it does not help him fall asleep.
9. Mr. Sajin did not contact Mr. Singh because he works seven days a week and he does not get home until nine or ten at night. He believes that people do not want to be bothered

that late at night. Also, because of his work, he needs to sit down. Finally, he believed that it was rude of Mr. Singh to have his dog barking so late at night.

*Testimony of Baltej Singh*

10. Baltej Singh testified that the issue with Lotto barking started when he moved to his current address. It is difficult for him to control Lotto because the property is so large. Mr. Singh works late, so he did not even know there was an issue until he received the warning from Animal Services. Mr. Singh did not think much of the warning. Then he received the first \$50 fine, which he paid.
11. There were times when Mr. Singh would get home late, and the dog would be out late. Later, he helped his mom build a stronger relationship with Lotto. Now Mr. Singh and his mother have been taking control; they make sure Lotto is inside before ten at night. Mr. Singh lets Lotto out at six in the morning. Mr. Singh believes that since he received the first ticket, his mom and he have been doing a good job of keeping Lotto inside.
12. Mr. Singh did not find the videos persuasive. Mr. Singh said the Animal Services officer told him to keep Lotto in from ten at night to six in the morning.

Legal Standards

13. Animal Services bears the burden of proving that, more likely than not, Appellant's dog makes noise "to an unreasonable degree, in such a manner as to disturb a person or neighborhood." KCC 11.04.230.J. 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.
14. We draw a stark distinction between nighttime barking and daytime barking, construing section .230.J consistently with the general County noise code, which makes numerous daytime v. nighttime distinctions.<sup>1</sup> That the *timing* of a noise matters significantly is not controversial, nor new. For example, as one pre-Civil War noise case described it, "The peace of Sunday may be disturbed by acts which, on other days, cannot be complained of." *Commonwealth v. Jendell*, 2 Grant 506, 509 (Pa. 1859). Replace "Sunday" with "midnight" and "on other days" with "noon," and that proposition remains true 163 years later.
15. This day/night distinction is especially true when it comes to how long (duration-wise) barking must occur for us to find it to an "unreasonable degree, in such a manner as to

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<sup>1</sup> KCC 11.04.230.J and KCC chapter 12.86 were jointly amended by Ordinance 18000 in 2015. The noise code lists numerous sounds exempt from noise code limitations between 7:00 a.m. (9:00 a.m. on weekends) and 10:00 p.m. KCC 12.86.510. In that same ordinance, the Council amended the law to explicitly add that, "The hour of the day at which the sound occurs may be a factor in determining reasonableness." Ord. 18000 at § 72 (codified at KCC 12.86.410.A.). Although decibels are not determinative, from 10 p.m. and 7:00 a.m. (9:00 a.m. on weekends) the maximum permissible sound levels are reduced by ten decibels. KCC 12.86.120.A. Ten decibels may not seem like much; however, reducing the decibel level by 10 dBs halves the perceived loudness. <http://www.siue.edu/~gengel/ece476WebStuff/SPL.pdf>.

disturb a person or neighborhood.” At night, whether a dog barks six seconds or sixty seconds or six minutes or sixty minutes is somewhat irrelevant. If the barking is enough to repeatedly wake someone up from sleep, even quickly quieting the dog down after each episode is a bit like locking the barn door after the horse is gone—the damage for a given night is already done. Conversely, during the day, a dog barking for ten minutes while and after a driver drops off a delivery is barely worth mentioning.

16. Thus, Animal Services’ burden on appeals involving nighttime noise (meaning after 10:00 p.m. each evening and before 7:00 a.m. on weekdays and 9:00 a.m. on weekends) is significantly lower than for daytime barking scenarios.

### Analysis

17. Lotto’s first and third violation notices were not appealed, so they are fixed facts for us. KCC 20.22.080.H. Thus, our question is not whether Lotto is an animal that barks to an unreasonable degree, so as to disturb a person or neighborhood—which has already been established—but whether, during the specific time frame covered in the second violation notice currently under appeal (V22013257), Lotto also barked to an unreasonable degree so as to disturb a person or neighborhood.
18. There is no question that the recording from June 8 matches the barking in the recordings from March 23 and April 9 (covered by the first violation notice) and July 26 (covered by the third violation notice). Exs. D2, D14, D13 & D10. It is the same dog in all of them. So, while Mr. Singh seems in an advanced state of denial, Lotto was barking in the middle of the night on June 8. Whether Mr. Singh was home the night of June 8 and neglected to bring Lotto in, or whether he was gone and it was his mom who forgot, Lotto was barking enough to wake up Mr. Sajin and keep him up. But what are the *implications* of that fact?
19. Although Animal Services did not submit any pre-June 8 complaints or the first violation notice as exhibits, it appears that the spring barking was included in that first violation notice. And while Lotto did bark again on multiple nights in July, those were covered by V22013463, a violation which became final on September 16, when Mr. Singh failed to appeal that. So, Lotto and Mr. Singh have *already* been held accountable for those other late-night barking episodes. The complaint in A22003049 referenced only the June 8 barking. Ex. D2. And the notice and order under appeal, V22013257, related solely to that June 8 barking. Ex. D6.
20. In our dozens of noise cases, we cannot recall a single appeal where we ruled, one way or the other, whether barking on a single calendar day could qualify, all by itself, as “unreasonable.” As in today’s case (with Lotto’s rich history of excessive barking) Animal Services only issues a notice and order after an owner has been counseled on what they need to do and after multiple incidents. However, the twist here, one that seems unique in all our noise cases, is that the specific violation on appeal only covered a single day (here, the night of June 8).
21. We do not rule today that barking on a single day/night can never qualify, all by itself, as a violation. But we are especially reticent to find a violation here because that would put

Lotto at three confirmed nuisance violations within a 12-month period, meaning Animal Services could now serve Mr. Singh with an order removing Lotto from King County. *See* KCC 11.04.290.B.1 (three violations in a one-year period can trigger a removal action). So, while Lotto's wee hours June 8 barking could figure into the mix for a *future* noise violation (if there is more nighttime barking), we find it insufficient, standing alone, to sustain violation V22013257.

22. Mr. Singh is thus catching a break here. He should not squander it. Whether the incidents in June and July were on his watch (meaning he was home) and he did not have Lotto sleeping with him, or whether those were nights he was gone and his mom did not understand the gravity of the situation and left Lotto out, there is still a problem. He should reconnect with his mom to ensure that somebody brings Lotto in by 9:59 p.m. and keeps him inside until at least 7 a.m. (not 6 a.m.). Because if Lotto gets another noise violation before the spring of 2023, he would be subject to removal from the County.<sup>2</sup>
23. The implication of us overturning V22013257 (related to Lotto's June 8 barking) is that V22013463 (for the July barking) downgrades to a second (not third) violation notice, caring a \$100 penalty (not a \$200 penalty).

#### DECISION:

1. We grant Mr. Singh's appeal in V22013257.
2. Because V22013463 thus becomes only the *second* violation in a one-year period, the penalty for V22013463 is \$100, not \$200.

ORDERED September 30, 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 *October 31, 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> Because the first violation is not in our record, we do not know when exactly the 12-month period started. But if, for example, the first violation was issued April 15, 2022, then, adding in the July 2022 violation, if Lotto received another violation before April 15, 2023, that would put him at three violations in a given year and again put Lotto at risk for removal from the County.

**MINUTES OF THE SEPTEMBER 21, 2022, HEARING IN THE APPEAL OF  
BALTEJ SINGH, REGIONAL ANIMAL SERVICES OF KING COUNTY  
FILE NO. V22013257-A22003049**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Ion Sajin, and Baltej Singh. 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 Noise Complaint form from June 8, 2022, incident by Ion Sajin, Chris Lopez and Loc Dao, dated June 8, 2022
Exhibit no. D3	Video of Barking on June 8
Exhibit no. D4	Sunrise chart for June 2022 in the PNW
Exhibit no. D5	RASKC investigation report no. A22003049
Exhibit no. D6	Notice of violation no. V22013257-A22003049, issued June 15, 2022
Exhibit no. D7	NVOC mailing/tracking history
Exhibit no. D8	RASKC investigation report no. A22004255
Exhibit no. D9	Online Noise Complaint form from July 26 to August 9, 2022, incident by Ion Sajin, dated August 9, 2022
Exhibit no. D10	Video of Barking at 4:30 on July 26
Exhibit no. D11	Notice of violation no. V22013463-A22004255, issued August 22, 2022
Exhibit no. D12	NVOC mailing/tracking history
Exhibit no. D13	Video of Lotto barking on April 9
Exhibit no. D14	Video of Lotto barking on March 23
Exhibit no. D15	Appeal, received July 9, 2022
Exhibit no. D16	Map of subject area

DS/lo

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V22013257-A22003049**

**BALTEJ SINGH**

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 September 30, 2022.



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Lauren Olson  
Legislative Secretary

**Eykel, Chelsea**

Regional Animal Services of King County

**Sajin, Ion**

Hardcopy

**Singh, Baltej**

Hardcopy