

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
www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V22013363-A22003788**

TINA AND ROBERT DINSE
Animal Services Enforcement Appeal

Activity no.: A22003788

Appellants: **Tina and Robert Dinse**

[REDACTED]
Shoreline, WA 98155

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

FINDINGS AND CONCLUSIONS:

Overview

1. Tina and Robert Dinse appeal a Regional Animal Services of King County (Animal Services) violation notice for their dog, Crown, qualifying as vicious and needing to be confined. 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 the appeal but significantly reduce the penalty.

Background

2. On July 23 Alexander Morrison filed a complaint for Crown attacking his wife, Stephanie Morrison, the previous day. Ex. D3. Crown bit Ms. Morrison's left thigh and left hand. Ex. D4; Ms. Morrison was treated at the emergency center. Ex. D5.
3. Animal Services issued Tina Dinse a violation notice. Ex. D6. Tina and Robert Dinse timely appealed. Ex. D9.
4. We went to hearing on September 19. During the hearing it became clear that the Dinses were not contesting the viciousness violation, only the fencing requirement in the confinement order and the penalty amount. Thus, the testimony was somewhat truncated.

Hearing Testimony

Testimony of Alexander Morrison

5. Mr. Morrison testified that on the night of July 22, he and his wife were walking their dog in the neighborhood. They encountered Ms. Dinse and her son walking Crown on a leash. Crown was in front, leading the way. The Morrisons saw them from afar and kept on walking towards them; they did not see any aggressive behavior from Crown that would make them feel a need for caution. They often encounter neighbors walking their dog on their evening walks, and they have never had an incident.
6. Ms. Morrison and Ms. Dinse greeted each other as they got closer. Seconds later Crown latched onto Ms. Dinse's left femur, though Mr. Morrison did not actually see the bite. Mr. Morrison saw that Crown had bitten through her shorts, and he could clearly see eight visible teeth marks. The Morrisons went to the emergency room for treatment. They were advised to allow the bite to drain. Staff took x-rays to check for any teeth fragments that could have broken off.

Testimony of Stephanie Morrison

7. Ms. Morrison testified about the severity of the bite. She had to be on multiple antibiotics for weeks, which made her nauseous. She also had weekly follow-ups from her primary care physician to ensure the bite was draining. She still has a bright purple scar and bruising on her left thigh, and she lost feeling on a small part of her thigh. She was left with scars on her left hand, visible enough that people often ask her how that occurred.
8. Ms. Morrison is also left with emotional scars. She loves dogs, but after the incident she can no longer be near dogs. She walks on opposite sides of the street when she sees a dog from afar.

Testimony of Tina Dinse

9. Ms. Dinse is shocked that Crown bit Ms. Morrison. Crown spins around when he sees cars and pulls on his leash; other than that, he had not previously shown any other abnormal tendencies. On the night of July 22, Crown was walking with his tail wagging, which gave Ms. Dinse no warning. After the incident, Ms. Dinse began walking Crown with a muzzle and only during the nighttime (when most people are inside); she no longer leaves the neighborhood with Crown.

Testimony of Robert Dinse

10. The Dinses have lived in their home for thirty-eight years and have always owned rescued Dobermans. Crown is the first dog that they have had issues with. They had no idea that Crown had any aggressive tendencies towards people. Mr. Dinse was aware of Crown having fights with other dogs before they got him. The only incident on the Dinses' watch was when another dog attacked Crown and Crown defended himself.
11. Mr. Dinse described a trainer Crown had before the Dinses took Crown. In Mr. Dinse's view, that trainer abused Crown with shock training. When they got Crown, Crown would pee anytime a bug zapper went off. Ms. Morrison resembles that trainer. Mr. Dinse opines that their resemblance might have led Crown to bite Ms. Morrison.
12. Crown is never unattended when he is outside. The Dinses realize that Crown may need to be muzzled for life. They have liability insurance as well. Though the Dinses' property is not fenced, the neighbors' is fenced. Mr. Dinse is seeking professional guidance from a trainer.
13. The Dinses are seeking to drop the fencing requirement in the confinement order, as well as a reduction in fines.

Analysis

14. 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. Here, the Dinses do not challenge the violation, only the remedy (both the monetary penalty and the confinement term). We do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.
15. Although the Dinses are not challenging Crown's viciousness designation, we note that even if they had, that would not have gotten them very far. Even assuming that Crown targeted Ms. Morrison for her similarity to an abusive trainer, that itself is not legal provocation. One court specifically addressed the hypothetical of a dog biting a bald-headed man walking down the apartment hallway because that dog had developed a fear of men without hair; the court noted that this would not amount to legal provocation. *Robinson v. Meadows*, 203 Ill. App. 3d 706, 710-11, 561 N.E.2d 111, 808 (1990).

16. As to the fencing issue, there really is no dispute. The Dinses were concerned that they would have to build a fence or run afoul of the confinement order. However, the relevant requirement is to:

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.


Ex. D6 at 001 (emphasis added). The Dinses testified that they never have Crown outside without one of them present, and with a muzzle on Crown. In that scenario, the above requirement is inapplicable.

17. That leaves only the penalty amount. Where an owner shows that the animal did something despite (not due to a lack of) the owner's responsible behavior and/or where the owner took steps after the violation to avoid a recurrence, we typically reduce the penalty. Here, all the factors favor the Dinses. Crown was being walked on a leash, not running amok, when he attacked Ms. Morrison. There is nothing in our record showing a history of Crown exhibiting aggression to people that should have made the Dinses wary ahead of time, and all eyewitnesses agreed that Crown showed no signs of distress before he launched at Ms. Morrison. And since July 22, the Dinses have been even more cautionary, including muzzling Crown. A substantial penalty reduction is in order.

DECISION:

We deny the Dinses' appeal, except that we reduce the penalty to \$100.

ORDERED September 30, 2022.



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.

**MINUTES OF THE SEPTEMBER 19, 2022, HEARING IN THE APPEAL OF TINA
AND ROBERT DINSE, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V22013363-A22003788**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Tina and Robert Dinse, Chelsea Eykel, and Stephanie and Alexander Morrison. 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. A22003788
Exhibit no. D3	Online Complaint form of July 22, 2022, incident by Alexander Morrison, dated July 23, 2022
Exhibit no. D4	Photograph of injuries
Exhibit no. D5	Medical report, dated July 23, 2022
Exhibit no. D6	Notice of violation no. V22013363-A22003788, issued July 23, 2022
Exhibit no. D7	NVOC mailing tracking
Exhibit no. D8	Current photograph of scars on Mrs. Morrison
Exhibit no. D9	Appeal, received August 1, 2022
Exhibit no. D10	Photograph of area where the attack happened
Exhibit no. D11	Map of subject area

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V22013363-A22003788**

TINA AND ROBERT DINSE
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 September 30, 2022.



Jessica Oscoy
Office Manager

Eykel, Chelsea

Regional Animal Services of King County

Morrison, Stephanie

Hardcopy

Tinse, Tina/Robert

Hardcopy