

October 7, 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. **V2213312-A22003412**

YESENIA VEIT

Animal Services Enforcement Appeal

Activity no.: A22003412

Appellant: **Yesenia Veit**

[REDACTED]
Renton, WA 98059

Telephone: [REDACTED]

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King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
Regional Animal Services of King County
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FINDINGS AND CONCLUSIONS:

Overview

1. Yesenia Veit appeals a Regional Animal Services of King County (Animal Services) violation notice for her dog, Coco, trespassing on private property and qualifying as vicious. 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 uphold Coco's viciousness designation and confinement order. However, because we erroneously failed to list "trespass" in our hearing notice, we dismiss that violation without prejudice. And, although Ms. Veit did herself no favors at hearing, we nonetheless reduce the penalty for the viciousness violation.

Background

2. On July 4, Luisa Amaya filed a complaint for Coco grabbing and attacking her dog, Teo, on June 24. Ex. D3. She described her son, Luis Quintero, witnessing the event and providing a written statement. Ex. D4. Teo was taken to the veterinarian, who ultimately recommended euthanasia due to the severity of the wounds. Ex. D5.
3. On July 6, Animal Services issued Ms. Veit a violation notice for Coco trespassing and qualifying as vicious. Ex. D6. Ms. Veit timely appealed. Ex. D8.
4. We went to hearing on September 26 and provided a Spanish interpreter for Ms. Amaya and Angelica Ramos.

Hearing Testimony

Testimony of Luis Quintero

5. On June 24, Mr. Quintero was inside his home. He let Teo, their yorkie, outside on the front yard, where his mother Ms. Amaya and her friend, Ms. Ramos, were sitting down on the porch. Shortly after, Mr. Quintero came outside to bring Teo back inside, since the family was about to head to the movie theatre.
6. As Mr. Quintero walked around the back of the house to look for Teo, he could see Coco and Teo sniffing and barking at each other from across the property fence line. Mr. Quintero did not think much of it, since there was a fence separating the dogs. As Mr. Quintero got closer, he saw Coco pushing his entire head through a hole under the fence. Coco grabbed Teo's body and pulled him into his side of the yard; the entire fence was shaking during this incident.
7. Mr. Quintero jumped over the fence, got on top of Coco, and grabbed his neck. However, Coco would not let Teo go and kept shaking Teo back and forth. Mr. Quintero yelled for help, and the next-door neighbors came rushing in through a gate attached to Ms. Veit's fence. As soon as the neighbors came, Coco let go of Teo.
8. Teo was bloody and waddling. Mr. Quintero grabbed Teo and passed him across the fence to Ms. Ramos. Mr. Quintero then went inside his house to grab paper towels. He held Teo in his arms, putting pressure on his wound.
9. Ms. Amaya drove them to the nearest veterinarian. However, that vet told them he could not help; he only bandaged Teo's wound. As Mr. Quintero researched another vet, Teo was having trouble breathing. The next vet took Teo in quickly; by then Mr. Quintero was covered with blood. That vet told them that Teo had an open chest wound, that

surgery would cost about \$20,000, and that even with surgery there was a low chance of survival. Ultimately their best option was euthanasia.

10. Mr. Quintero agreed that his family used to have a chicken coop in the approximate area where Coco grabbed Teo. Mr. Quintero also acknowledges that he has seen rats in that area.

Testimony of Luisa Amaya

11. Ms. Amaya testified that she was sitting outside on the porch with her friend, Ms. Ramos, and their other yorkie, Simona. She saw Teo going towards the back of the house. Ms. Amaya called out to Mr. Quintero to grab Teo and put him back inside the house. When Mr. Quintero came outside, Ms. Amaya went inside to brush her teeth before heading out.
12. She then heard Mr. Quintero screaming. She ran outside to see what was happening. When she came outside, she saw Luis and Teo covered in blood. Mr. Quintero told her that Coco had attacked Teo and urged her to drive them to the vet.

Testimony of Angelica Ramos

13. Ms. Ramos did not actually witness the initial sequence of events. However, she observed the neighbors trying to separate Coco and Teo. After the dogs separated, Mr. Quintero passed Teo to Ms. Ramos over the fence, and she noticed a small wound on Teo's chest.
14. When Ms. Amaya came out to see Teo, she fell on the ground in shock. Ms. Ramos helped to calm her and rally her to drive to the vet.

Testimony of Yesenia Veit

15. Ms. Veit testified that at one point Ms. Amaya's family had a chicken coop near the area where the incident occurred. Ms. Veit argues that Coco's head is too large to fit through the gap under the fence, and there was no dog hair on the fence or scratches on Coco. She opines that Teo must have trespassed onto her property and went through the gap first. Coco is protective of the property and occasionally kills the rats that come through that part of the fence. Coco must have grabbed Teo like a rat.
16. Ms. Veit paid for half of Teo's vet bill; however, she kept receiving texts from Ms. Amaya's daughter requesting her to pay the rest of the bill and to purchase a new dog for the family. Ms. Veit put four to ten pegs to pull down the fence, as well as four other metal poles.

Legal Standards

17. Does Coco qualify as vicious, defined as "[h]aving 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 “[a]ny 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?

18. 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

19. The only person to actually witness how the altercation started was Mr. Quintero. We found him credible. We can certainly understand why—at least until she heard Mr. Quintero’s testimony—Ms. Viet would have thought the fence hole was too small for Coco to stick his head through. But that view neglects three things.
- The bottom of the fence was bent *in*, towards Teo’s property. Ex. D8 at 007. That is much more consistent with Coco smashing through it to get at Teo than Teo pushing it back the other direction to get at Coco.
 - Teo was a tiny Yorkie, while Coco is a powerful dog from whose jaws Mr. Quintero could not free Teo, making it far more likely that Coco, not Teo, did the fence bending—bending the fence with enough force that it stayed bent.
 - Even if the hole was not big enough for Coco to easily slip his head through, Coco was hitting the fence with enough force to cause the whole fence to shake and move inward, enlarging the gap size with his thrusts.

We find it far—far—more likely that Coco reached his head through the fence, seized Teo, and pulled Teo back, than that Teo trespassed under fence.

20. We note that even if, contrary to logic and the only eyewitness testimony, the altercation started with Teo scrambling under the fence, that would not ultimately change the outcome. A court’s “provocation” inquiry in the animal context “focuses ‘on how an average dog, neither unusually aggressive nor unusually docile, would react to an alleged act of provocation.’”¹ And a key touchstone of courts’ analyses is that “provocation” requires the dog’s reaction be relatively proportional to the victim’s act.² Teo trespassing onto Coco’s property might have been legal provocation for Coco to bite Teo. However, Coco grabbing Teo and shaking the life out of him, even as Mr. Quintero tried to free Teo and until still more neighbors intervened, was grossly disproportionate to any incitement a trespassing Teo would have caused.

¹ *Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108 (2001) (citing *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000)).

² *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792.

21. Any way we analyze it, Coco performed an act endangering Teo's safety, including attacking Teo without provocation, and so meets the definition of "vicious." KCC 11.04.020.BB. That, however, does not end our inquiry. In addition to having exhibited vicious propensities (which Coco emphatically did on June 24) KCC 11.04.230.H also requires that Animal Services prove that Coco constitutes a danger to the safety of persons or property off the animal's premises.
22. An unprovoked attack is *typically* enough to satisfy the danger criteria. After all, what is better evidence that a dog constitutes a danger than proof that, given some set of circumstances not arising to legal provocation, a dog will actually bite or attack a person or a pet? However, we interpret a statute so as not to render a term meaningless. So, there must be some subset of cases where a dog who exhibited vicious behavior will *not* be adjudged to constitute a danger. In select appeals we have found extenuating circumstances such that we have overturned a viciousness designation even after an unprovoked bite or attack. However, today's case is not even close.
23. This was not a minor attack, but a fatal one. And while most dog-on-dog altercations to reach us end in a second or two, Coco kept inflicting serious injury even after Mr. Quintero hopped the fence and tried desperately to save Teo. It took the arrival of additional neighbors to get Coco to stop his onslaught. Ms. Veit's explanation that maybe Coco thought Teo was a rat would, if true, make Coco even *more* dangerous, not less, with Coco being unable to differentiate between a pest and pet. Coco easily satisfies KCC 11.04.230.H. We uphold his viciousness designation and confinement order.
24. Animal Services also cited Coco for trespass. Ex. D6 at 001. However, we erroneously failed to list that in our issues for hearing. The two touchstones of procedural due process are notice reasonably calculated to inform interested parties of an action against them, and a meaningful opportunity to be heard. *Johnson v. City of Seattle*, 184 Wn. App. 8, 18, 335 P.3d 1027, 1033 (2014). Where we mess up and provide an incomplete list of the violations under review, we often dismiss that portion of the violation notice without prejudice (meaning ours is not a decision on the merits). We do that here with the \$50 trespass violation.
25. That leaves only the \$500 penalty for the viciousness violation. At hearing, Ms. Viet showed a lack of compassion or remorse, even while listening to testimony about the bloodshed; maybe it was there and she just was unable to express it, but it was unsettling. Even under her view that Teo started the altercation by coming through the fence voluntarily, Coco did not just bite a trespassing Teo, but essentially shook out Teo's life, even as Mr. Quintero tried desperately to save his dog.
26. However, setting aside our disappointment with Ms. Veit's demeanor, 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 have reduced the otherwise applicable penalty. Both of those pieces are applicable here. Coco fatally wounded Teo on June 24, but not because Coco was running loose or was otherwise being inappropriately contained. Until Coco thrust his jaws through the fence and seized Teo, even *Mr. Quintero* saw nothing concerning about

Teo and Coco barking at each other through a fence that seemed to him secure. And after the attack, Ms. Veit timely fixed the fence in a way Animal Services' found sufficient to prevent a repeat. And while she did not pay the entire vet bill, she did cover a portion. We thus reduce the penalty.

DECISION:

1. We deny Ms. Viet's appeal as to Coco's viciousness designation and confinement order.
2. Due to examiner error, we dismiss without prejudice the trespass violation and the \$50 penalty.
3. We reduce the \$500 penalty associated with the viciousness violation to \$250.

ORDERED October 7, 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 *November 7, 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 26, 2022, HEARING IN THE APPEAL OF
YESENIA VEIT, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V2213312-A22003412**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Luisa Amaya, Chelsea Eykel, Luis Quintero, Angelica Ramos, and Yesenia Veit. 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. A22003412
Exhibit no. D3	Online Complaint form of June 24, 2022, incident by Luisa Amaya, dated July 4, 2022
Exhibit no. D4	Luis Quintero Witness Statement, dated July 4, 2022
Exhibit no. D5	Veterinary Bill, dated June 24, 2022
Exhibit no. D6	Notice of violation no. V2213312-A22003412, issued July 6, 2022
Exhibit no. D7	NVOC mailing/tracking history
Exhibit no. D8	Appeal, received July 27, 2022
Exhibit no. D9	Map of subject area

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V2213312-A22003412**

YESENIA VEIT

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 October 7, 2022.



Jessica Oscoy
Office Manager

Eykel, Chelsea

Regional Animal Services of King County

Luis Quintero/Angelica Ra, Luisa Fernanda

Hardcopy

Veit, Yesenia Ms.

Hardcopy