

February 1, 2023

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

King County Courthouse
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REPORT AND DECISION

SUBJECT: Animal Services file nos. **V22013301, V22013335, V2213447 and V22013397**

VLADIMIR AND ANNA BEREGOVOY

Animal Services Enforcement Appeal

Activity nos.: A22003351, A22003595, A22004433 and A22003806

Appellants: **Vladimir and Anna Beregovoy**

[REDACTED]
Auburn, WA 98001

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. The Beregovoy's ask us to reverse an order to remove their dogs. After hearing witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we will not intervene. We do extend, until February 15, the safe harbor for the Beregovoy's to remove the dogs, to both avoid the \$1000 penalty and to retain control over where Honey and Bear go. We also reset the timeline for dismissing the additional violations.

Explanation and Scope of Hearing

2. After holding an October 11, 2022, motion hearing, on October 13 we granted Animal Services' motion to dismiss as untimely the Beregovoy's challenge to:
 - V22013256 (regarding a June 14 incident, lack of licensing, and \$700 penalty);
 - V22013377 (regarding a July 24 incident and \$800 penalty);
 - V22013396 (regarding an August 3 incident and \$1600 penalty); and
 - **V22013397** (ordering Bear and Honey removed from King County and \$1000 penalty).¹

3. However, we noted that the penalty associated with a removal order only comes due if the removal order *itself* is violated, and we gave the Beregovoy's until November 14 to find at least a temporary home for the dogs outside of unincorporated King County and the cities which contract with Animal Services. We clarified that our:

decision related to violations V22013256, V22013377, and V22013396, and to removal order V22013397, shall be final and conclusive unless appealed to superior court by November 14, 2022. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

Neither party sought superior court review.

4. That left the three other violations the Beregovoy's had timely appealed,
 - V22013301, regarding an alleged June 29 incident, carrying a \$200 penalty;
 - V22013335, regarding an alleged July 13 incident and continuing lack of a license, carrying a \$900 penalty; and
 - V2213447, regarding an alleged August 18 incident and a \$4000 penalty.

We stated that if, by November 14, the Beregovoy's found new homes for the dogs outside of unincorporated King County and outside the cities that contract with Animal Services and provided the new owner's contact information we would—by the end of 2022—dismiss, without prejudice, those three stayed violation notices and waive the \$1000 penalty associated with the removal order.

5. On November 29, Animal Services emailed that the Beregovoy's had not provided contact information for the new person who has Bear and Honey. Thus, Animal Services asserted that the Beregovoy's had not met the requirements for waiving the \$1000 penalty associated with the removal order or for dismissing the remaining three violations. We

¹ An agency must “receive an appeal within 24 days of the date it issues its decision.” Where “a person fails to timely deliver the appeal statement . . . , the office of the hearing examiner does not have jurisdiction to consider the appeal and the decision of the department . . . becomes final and unreviewable.” KCC 20.22.080.B; KCC 20.22.080.H.

thus set a January 18, 2023, hearing to decide whether or not the Beregovoy's owe some or all of that \$1000, and also whether violations V22013301, V22013335, and V2213447 are valid and, if so, how much of those penalties are due.

6. On January 5, 2023, Animal Services emailed that Ms. Beregovoy had explained that the dogs had not yet been removed and that she no longer intended to remove the dogs but instead wanted a chance to explain her reasoning for not complying. We scaled back the scope of our January 18 hearing to Ms. Beregovoy challenging the removal order, along with discussing how (in the future) to handle the outstanding violations.

Hearing Testimony

Testimony of Anna Beregovoy

7. Anna Beregovoy explained that on October 21, 2022, her daughter, was diagnosed with stage 3-4 embryonal rhabdomyosarcoma, a very fast-spreading and rare cancer. Ex. A1. Prior to the diagnosis, she had been sick, but the Beregovoy's thought it was simply a cold. She became disoriented, so the Beregovoy's kept her home from college to watch her. Due to her rare condition, she is unable to receive treatment in the United States. Ms. Beregovoy must travel with her to Mexico one week a month to receive chemo; they recently returned from Mexico. That treatment costs about \$15,000, not including the travel expenses. For the other three weeks of the month, her body shuts down and remains on Ms. Beregovoy's careful watch.
8. A family friend helped the Beregovoy's build a cage in their backyard so the dogs could stay there, but since the weather became colder, one of the dogs is allowed inside the house and the younger one stays inside the garage. When Ms. Beregovoy is home, she contains them. On occasions when the dogs have been loose, Ms. Beregovoy thinks she most likely was not home. Originally, the Beregovoy's planned to give the dogs to family in eastern Washington; however, they have been preoccupied with their daughter's health.
9. The daughter cannot afford to be stressed, so Ms. Beregovoy requests they be allowed to keep the dogs. The dogs have never bitten anyone, and Ms. Beregovoy has not even heard them growling (she apologizes if the dogs did growl). Ms. Beregovoy's brother is helping her purchase dog collars. The Beregovoy's had plans to install a fence, however due to a water and sewer project with King County, that plan is delayed. Ms. Beregovoy also attempted to tether the dogs outside, however with the ground being soggy, the dogs just pull the tether out.

Testimony of Chelsea Eykel

10. Chelsea Eykel asserted that Ms. Beregovoy has had multiple opportunities to contain the dogs. Sgt. Eykel has given Ms. Beregovoy suggestions on containment, including leashing the dogs when they are outside; this has been suggested by multiple officers.

Testimony of Colleen Shostad

11. Colleen Shostad testified that about a month before our hearing there were three days in a row when both Beregovoy dogs came onto her property. Ms. Shostad texted Ms. Beregovoy to come retrieve them, and Ms. Beregovoy explained her daughter's situation. Ms. Shostad was empathetic and gave Ms. Shostad another chance; she did not call Animal Services, though she did tell Ms. Beregovoy that if the dogs came to her property again that she would call Animal Services.
12. Since then, Ms. Shostad has seen the dogs on the road, but not on her property. When the dogs come to her property, they bite Ms. Shostad's dogs through the fence.

Analysis

13. 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. It is not clear that we have an authority to reverse the removal order now. Where “a person fails to timely deliver the appeal statement..., the office of the hearing examiner does not have jurisdiction to consider the appeal and the decision of the department...becomes final and unreviewable.” KCC 20.22.080.H. The removal order (V22013397) was issued August 4, 2022, and needed be appealed by August 29—all before the daughter fell ill. And on October 11, we listened to arguments for and against allowing a late challenge to the removal order. We dismissed the appeal in our October 13 decision, making removal order “final and conclusive unless appealed to superior court by November 14, 2022.” And no appeal was filed.
15. However, we need not definitively determine the extreme bounds of an examiner's jurisdiction. Even assuming we have the authority to revisit the removal order, we will not intervene here. The Beregovoy's have consistently proven incapable of controlling Bear and Honey. There were six violation notices leading up to the removal order; three of those have not become final violations but we note that for none of them did the Beregovoy's contest that the dogs ran at large, only offering an explanation.
16. Even *after* we upheld the removal order in October, the dogs repeatedly got out. The Beregovoy's have had chance, after chance, after chance, and still could not contain their dogs. Honey and Bear need to go to another home with someone that can consistently contain them.
17. We understand Ms. Beregovoy's concern for her daughter and why the family does not want to rehome the dogs. And today we are not commanding her or Animal Service to do anything. Rather, we are declining to intervene, putting the ball back in Ms. Beregovoy's and Animal Services' courts.
18. KCC 11.04.290.B.1 states that:

If the animal is found to be within the confines of King County after ninety-six hours have elapsed from the notice...., the same shall be abated and removed by the manager of the regional animal services section.

That language sounds mandatory (“shall be abated and removed” by Animal Services). But ultimately it will be up to Animal Services to decide how to proceed.

19. If Animal Services seizes the dogs, the Beregovoy's will lose their ability to choose where (outside of King County) Honey and Bear go, and the Beregovoy's would thereafter have no continuing relationship with Honey or Bear. So, the Beregovoy's should figure that into their calculus in deciding what to do next. We will give the Beregovoy's one final extension of two weeks (to February 15) to rehome the dogs and still have that count as compliance with the terms of V22013397, thus eliminating the \$1000 penalty.
20. Accordingly, Animal Services should wait until *after* February 15 to impound and rehome Honey or Bear.

DECISION:

1. We DENY Ms. Beregovoy request to overturn the removal order (V22013397).
2. However, we MODIFY the removal order as follows. By **February 15, 2023**, the Beregovoy's shall either:
 - A. Find a potential new owner(s) or caretaker(s) outside of unincorporated King County and outside the cities that contract with Animal Services,² disclose to that person(s) that Bear and Honey were ordered removed as a nuisance, actually get Bear and Honey out, and provide Animal Services the new person(s) contact information; or
 - B. Surrender Bear and Honey to Animal Services, who will then rehome them.
3. If the Beregovoy's successfully meet 2.A. or 2.B. and thereafter do not bring Bear or Honey back to unincorporated King County or the contract cities, the \$1000 penalty attached to the removal order is waived.

² In addition to unincorporated King County, the contract cities where the same legal standard applies are currently:

| | | | | | |
|----|--------------------|----|---------------|----|------------------|
| A. | Beaux Arts Village | B. | Bellevue | C. | Black Diamond |
| D. | Carnation | E. | Clyde Hill | F. | Covington |
| G. | Duvall | H. | Enumclaw | I. | Issaquah |
| J. | Kenmore | K. | Kent | L. | Lake Forest Park |
| M. | Maple Valley | N. | Mercer Island | O. | Newcastle |
| P. | North Bend | Q. | Redmond | R. | Sammamish |
| S. | SeaTac | T. | Shoreline | U. | Snoqualmie |
| V. | Tukwila | W. | Woodinville | X. | Yarrow Point |

4. Unless Animal Services notifies us by **December 27, 2023**, that it would like to proceed with violations V22013301, V22013335, and V2213447, we DISMISS those WITHOUT PREJUDICE as of December 29, 2023.

ORDERED February 1, 2023.



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. The portion of today’s decision on V22013397 shall be final and conclusive unless appealed to superior court by *March 3, 2023*. The portion of today’s decision dismissing (as of December 29, 2023) violations V22013301, V22013335, and V2213447 shall be final and conclusive unless appealed to superior court by January 29, 2024. 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 JANUARY 18, 2023, HEARING IN THE APPEAL OF VLADIMIR AND ANNA BEREGOVOY, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS. V22013301, V22013335, V2213447, AND V22013397

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Anna Beregovoy, Chelsea Eykel, and Coleen Shostad. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

The following exhibits were offered and entered into the record:

| | |
|----------------|--|
| Exhibit no. A1 | Summary of motion for reconsideration, including doctor letter, dated January 10, 2023 |
|----------------|--|

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CERTIFICATE OF SERVICE

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VLADIMIR AND ANNA BEREGOVOY

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 February 1, 2023.



Jessica Oscoy
Office Manager

Beregovoy, Vladimir/Anna

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Shostad, Coleen

Hardcopy