

January 25, 2023

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

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REPORT AND DECISION

SUBJECT: Regional Animal Services of King Co. files **V22013592, V22013663 & V22013692**

MARIE PORRAZZO

Animal Services Enforcement Appeal

Activity nos.: A22005095, A22005471, and A22005697

Appellant: **Marie Porrazzo**

Enumclaw, WA 98022

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King County: Regional Animal Services of King County
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FINDINGS AND CONCLUSIONS:

Overview

1. Marie Porrazzo appeals two noise violations, V22013592 and V22013692. 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 those violations. However, we dismiss without prejudice an intervening violation, V22013663; that dismissal changes the specifics of the V22013692 violation.

Background

2. On September 26, 2022, Animal Services issued violation notice V22013592-A22005059 to Marie Porrazzo for her dog, Matteo, making excessive noise, first violation. Ex. D9. Ms. Porrazzo timely appealed A22005095 on October 13. Ex. D11.
3. On October 18, 2022, Animal Services issued violation notice V22013663-A22005471 to Ms. Porrazzo for her dog, Matteo, making excessive noise, second violation. Ex. D17. Ms. Porrazzo did not appeal.
4. On October 26, 2022, Animal Services issued violation notice V22013692-A22005697 to Ms. Porrazzo for her dog, Matteo, making excessive noise, third violation, and her other dogs, Faith and Violet, making excessive noise, first violation. Ex. D21. Ms. Porrazzo timely appealed on November 4. Ex. D22.
5. We held a prehearing conference on November 3, 2022, and went to hearing on January 4, 2023.
6. At the conclusion of the hearing, we kept the record open for the limited purpose of Animal Services submitting some code language and Ms. Porrazzo submitting some video. Animal Services submitted the codes but also some commentary; we accept the codes but not the commentary. Ex. D27. Ms. Porrazzo then submitted the requested videos, which we accept. Ex. A2. But she also tried to continue her testimony, to which Animal Services responded and Ms. Porrazzo replied; that was all beyond the scope of what we kept the record open for. On January 10 we clarified that we were admitting the codes and the videos, rejecting all post-hearing commentary, and closing the record for good.

Hearing Testimony

Testimony of Daniel Morrow

7. Daniel Morrow testified that ever since when Ms. Porrazzo moved in next door in September 2021, her dogs have made a lot of noise. He spoke with Ms. Porrazzo about her dogs' noise and told her several neighbors were upset about the noise. For the next sixteen months the neighborhood has put up with a cacophony of barking from her dogs. He tried to talk with her many times about the noise, but she would not talk to him. Mr. Morrow started sending complaints and recordings to Animal Services.
8. Once Mr. Morrow heard the barking, he would start recording. Ex. D15. To make those he would start on his back porch and walk around 30 to 40 feet towards Ms. Porrazzo's property. He would put the recorder on the ground and later come back and stop the recording. He gets closer to the fence to get a clear, real-time recording. He does not track decibels. None of the recordings started while he was inside his house. The recordings are muted somewhat because it is a recording, and it is not as intense as hearing in real-time with your ears. Mr. Morrow has never manipulated the recordings; he would not even know how to achieve that.

9. The recordings varied in length, to avoid extended silence. The recordings he submitted are only a snippet of what was happening over the course of a given day. Mr. Morrow named the recordings based on the date and time he started recording on his phone, and then submitted them to Animal Services.
10. Mr. Morrow does not believe it is his responsibility to use white noise. For the most part, he does not hear the dogs from inside his house, and he does not get the full impact of the barking from inside. His recordings generally start around 6:30 a.m. and the barking does not interrupt his sleep.
11. He heard the dogs early in the morning, around 6:30 a.m. During the summer, Mr. Morrow would go on his back porch to drink his morning coffee. Like clockwork, the dogs would be let out prior to seven in the morning and start barking. Exs. D4, D7. On October 8 at eleven in the morning, and again at five and seven that night, Mr. Morrow heard the dogs screaming and rooster crowing. Ex. D16.
12. Mr. Morrow hears the Hudson and Desprese dogs bark occasionally. Barking from the other neighbor's dogs does not bother him because it is not the constant, high-pitched barking he hears from Ms. Porrazzo's property. Neighbor dogs do not produce a barking that rattles your nerves. The noise from the Porrazzo property is a high-pitched, screaming, yelping, barking that grates on your nerves and does not stop. It is a constant nipping and screaming that is extremely irritating. Mr. Morrow believes a reasonable level of barking is that they do not bark more than the other neighbor's dogs; it should be only occasional, infrequent, and short lived. Mr. Morrow does not have experience with schnauzers.
13. When Mr. Morrow hears silence outside, he has a PTSD feeling waiting for it to start again. When he goes outside, he anticipates that he is going to hear the noise. Since there has been so much barking over the last year, he wonders when it will start again. It has not limited the use of his property.
14. The noise has gotten a bit better since it started to get cold and snowy. The exception is on November 23. The dogs sounded like they were freaking out.
15. Mr. Morrow does not discharge his guns between 10:00 p.m. and 7:00 a.m. He occasionally reloads and test fires his reloads. He does it during the day, either when his neighbors are not home, or he will let them know before he does it. He lives in an open shoot area, and he does this infrequently, less than five times last year. His projectiles are all contained in a ballistic box, and he shoots in a direction away from Ms. Porrazzo's property. Mr. Morrow hunts in eastern Washington; he has not shot a deer on his or Ms. Porrazzo's property. Mr. Morrow has never antagonized her dogs.
16. Mr. Morrow has also heard a rooster on the Porrazzo property crowing as early as 3:30 a.m. and other times at 6:00 a.m. While the dog noise has diminished recently, the rooster noise has not. He is able to hear the rooster inside his house, unlike the dogs.

Testimony of Randy Popp

17. Randy Popp testified that he lives further away compared to the other neighbors on the hearing. He has not filed any complaints, and he has not taken any recordings.
18. Shortly after Ms. Porrazzo moved in, Mr. Popp heard a screaming sound, which to him sounded like a dog being killed by a predator. He walked to Ms. Porrazzo's property and asked if her animals were okay. She said she did not know what he was talking about, and he told her it sounded as if a dog was being killed. Ms. Porrazzo told him that it was just her dogs and that is the noise they make when they are excited.
19. The noise from the Porrazzo property is very disturbing and high-pitched. It is a disturbing sound because it sounds as if something is being killed. When there are numerous dogs barking, it is very loud. While he owns a dog, he is not familiar with the dog breed.
20. Before the enforcement started, Mr. Popp told Ms. Porrazzo that the neighbors were talking about the noise and that it may be helpful if she addressed it. She did not comment.
21. The magnitude of noise has decreased since the enforcement started and since it has gotten colder. In the last thirty days, the noise is less frequent and a shorter duration.
22. The rooster on Ms. Porrazzo's property is the most recent noisemaker. Mr. Popp has experience with roosters; he brought chicks and one ended up being a rooster, which he eventually removed from his flock. Mr. Popp is able to hear Ms. Porrazzo's rooster from inside his house, which is two houses away. He can hear it at any hour of the day; the earliest he has heard it is 4:30 or 5:00 a.m. Mr. Popp knows from experience that young roosters like to hear themselves and they crow all day. There was also a bleating goat on the Porrazzo property.

Testimony of Tim Hudson

23. Tim Hudson testified that he lives across the street from the Porrazzo property. He runs a small family farm, so he spends most of the summer outside. He can hear her dogs from 6:00 a.m. to 10:00 p.m. Ex. D20. He mostly hears the dogs when they are outside. He can hear the dogs inside when his television is off and he is in bed at night. His bedroom faces the street.
24. The sound is a high-pitched, visceral, nails-on-a-chalkboard, noise. It sounds like someone is being killed or hurt; it immediately puts him on edge. With his experience working with cattle, chickens, and goats, he has never heard an animal make a noise like the ones coming from the Porrazzo property. Mr. Hudson does not want to go outside because of the noise. He has only reported the most severe times he has heard the dogs. He hears them continuously.
25. The other neighbor dogs do not bark continuously like Ms. Porrazzo's. He has never made a complaint before, and the neighborhood has never had this type of noise. He

owns a dog and all his neighbors also own dogs. The amount and level of the barking from his and his neighbors' dogs is nothing compared to Ms. Porrazzo's dogs. He believes the barking from the other dogs in the neighborhood is reasonable because it is not constant and high-pitched. There are times when he has heard the Porrazzo dogs bark for over an hour. When there is a crescendo of barking, even Mr. Hudson's dog will tuck his tail and not want to be outside.

26. Mr. Hudson has seen about three people walking the Porrazzo dogs; there were around ten to eleven dogs.

Testimony of Cathy Hudson

27. Cathy Hudson testified that the barking from Ms. Porrazzo's dogs is a disturbing screaming noise; it is not a normal dog noise. It sounds like an animal in trouble. The noise is like nails on a chalkboard. Ms. Hudson has lived in the neighborhood for twenty years. The noise is ruining her quality of life. Ms. Hudson noted that it is difficult to put up with the noise because it is a dog scream. She is not as concerned with the time and tone and mostly concerned with the pitch, which she described as akin to a screaming baby.
28. The other neighborhood dogs do not bark continuously like Ms. Porrazzo's dogs do. They no longer have coffee on the front porch. They cannot be in their vegetable garden.
29. The noise from the Porrazzo dogs started in September or October 2021. The barking can start around 6:30 in the morning. Ex. D25. She has not turned in every time the dogs bark. On January 1, 2023, at 10:15 p.m. she heard the distinctive dog scream from the Porrazzo dogs.
30. Ms. Hudson noticed the barking from the Porrazzo property has slightly decreased since it has gotten colder. Ms. Hudson is not out as much, but when she is out, she hears the barking less.
31. Ms. Hudson saw three people walking dogs from the Porrazzo property, around nine to ten dogs. She saw on a website and social media that Ms. Porrazzo is partnering with someone in Ravensdale to breeding schnauzers.

Testimony of Klint Desprese

32. Klint Desprese testified that shortly after Ms. Porrazzo moved in, he got home around ten or eleven at night and he heard an unbelievable screeching, screaming noise, which sounded like something dying. He ran around his property to see if he could find the source of the noise. He eventually realized the sound was coming from dogs on Ms. Porrazzo's property. Ever since then, nothing in his house has been remotely peaceful.
33. Mr. Desprese acknowledged that the noise is not literally constant. But once one dog starts barking, then it's two dogs, then it's three, and then the whole pack is barking. It

- gets louder and louder. The dogs then start yipping and then screaming. There will be a louder scream, and then it gets quiet for about thirty seconds. Then it starts again.
34. Once Mr. Desprese went to Ms. Porrazzo's to help her out with something. When he stepped into the garage, where the dogs were, the level of noise made him physically wince and bend over, and it hurt his ears.
 35. Mr. Desprese kept a bark log next to their door and marked down the barking between February and March. He and his wife would rank the noise from one to five. They noted that not everything was a five on their scale.
 36. Mr. Desprese worked very hard to build his dream house. Due to this noise situation, he and his wife now talk about moving. Their house has an indoor-outdoor living space, but they can no longer open the door to use that space. He can hear the sound from inside his house. His houseguests ask about the noise. In the summer, he can no longer keep his windows open due to the sound. He and his wife had conversations about the noise every day during the summer. For the past year, the noise situation is all the neighborhood talks about. Mr. Desprese would much rather talk about gardening or anything else.
 37. Mr. Desprese initially tried to give Ms. Porrazzo as much latitude as possible to allow her to make changes. About a week after Ms. Porrazzo moved in, Mr. Desprese introduced himself and asked her about the noise from the dogs. She replied with, "What do you mean?"
 38. Before he filed his complaint, Mr. Desprese and Ms. Porrazzo had brief text conversations, just a few back and forth, where she responded. Ms. Porrazzo offered to put up a fence so her dogs could not be triggered by seeing through the fence. The fence has not been built. Mr. Desprese asked Ms. Porrazzo about the fence, and she asked him if she could hang a tarp on Mr. Desprese fence so the dogs could not see through. While Mr. Desprese did not want a tarp hanging on his fence, he agreed because he wanted the noise to get better. He tried to effectively work with Ms. Porrazzo to improve the situation, but it has not led to anything. The noise is still not even close to reasonable. He is at the point where he has no idea what to do. He believes that the enforcement process has made more of a change than him trying to work with Ms. Porrazzo.
 39. Mr. Desprese filed the first complaint after he spent a day working outside from eight in the morning to five at night and Ms. Porrazzo's dogs were barking the entire time. This made him reach his breaking point. Before he filed the complaint, he texted Ms. Porrazzo to see if she knew that her dogs had been barking all day. He waited a few days and never received a response.
 40. Mr. Desprese agrees that the noise is not at the level it used to be at, but it is still unreasonable and continues to impact his life.
 41. Mr. Desprese tries to give Ms. Porrazzo some privacy, so he does not keep tabs on the number of her dogs. However, he said that a conservative number of dogs typically on her property has been seven or more.

42. Ms. Porrazzo also has chickens, a cow, and goats. He is now extra sensitive to every noise coming from that property. He feels he is living next to a mini barn yard.

Testimony of Marie Porrazzo

43. Marie Porrazzo testified that she believes the language the neighbors have used has shut down communication between them. Ms. Porrazzo has found meat in a wrapper and also an apple that was thrown into her dog kennel. She believes these items came from the Morrow property, because it happened after she put the kennel closer to his property. Also, one night Ms. Porrazzo heard someone outside say, “Is she home?” The next day, her measuring cups were moved to a different area outside. Another day, she was outside, and she heard Mr. Morrow say to someone on his property that he is messing with his neighbor. She believes that Mr. Morrow is trespassing on her property. Everything escalated after she reported the shot deer. Ms. Porrazzo also thinks the shooting from Mr. Morrow is too close to her kennel.
44. She said her dogs occasionally bark and have a high-pitched bark. Schnauzers are guard dogs, and they hunt rodents. If they hear something on the street, they will bark. That is just what they do. They bark, they do not scream. She believes it is not the dogs’ fault for having a high-pitched bark.
45. Ms. Porrazzo blacked out the kennel so the dogs cannot see out. Her back yard is not fully fenced; the front yard is fenced. She is installing a wood fence and she has already paid for it and has the supplies. The fencing was originally for the dogs. Her house is for sale, but the market is slow. She already has another place. She is moving because she is on pins and needles.
46. Ms. Porrazzo has tried several bark collars. However, when one dog barks, the other dogs then bark. Dogs that are not barking but are close to the barker also get vibrations and beeps from their collar. She does not want to use shock collars because she does not want to damage their necks. She has another bark collar that tracks the barking, but she has not tried it yet. She has also used a spray water bottle, which has worked.
47. Ms. Porrazzo started keeping the dogs inside more in September. She now only takes one adult dog out at a time, and the dogs have a bigger kennel. She watches the dogs when they go outside to potty, and then has them come back in right after. They spend most of their time inside because of the complaints. Her dogs’ quality of life has been affected by this.
48. Ms. Porrazzo filed a complaint about other dogs in the neighborhood barking at night. She has also heard barking from Mr. Morrow’s dog, although it is not much. Since she heard barking from other dogs in the neighborhood, she thought her dogs barking was not a big deal.
49. Her litter of puppies was taking longer to be placed due to the economy, so she stopped breeding. Her last litter was born in August, and she still has two puppies from that litter. She is looking at donating the puppies to a nonprofit, because they are getting older and louder. The litter before that was born in December 2020. Ms. Porrazzo is going to wait

until she moves to start breeding again. The other dogs have been retired into homes. One of the mother dogs that was in a guardian home would come and visit the puppies. Ms. Porrazzo does not have ten dogs and she has never walked ten dogs at one time. She currently has three adult dogs and two puppies.

50. During the October 6:30 a.m. complaint, the dogs were inside; they were not out until 7:30 a.m.
51. Ms. Porrazzo did not receive the second violation. She does not have mail delivered to her house but to a PO Box.
52. The rooster is in a coop in the middle of her five-acre property.

Preliminary Matters

53. In addition to the first (V22013592) and third (V22-013692) violation notices and appeals we analyze on the merits, there was an intervening second violation notice (V22013663) that was issued to Ms. Porrazzo and not appealed. By law, appeals of Animal Services decisions must be “received by the department” within 24 days of the “date of issuance of the decision.” KCC 20.22.080.B. And where “a person fails to timely deliver the appeal statement..., the office of the hearing examiner does not have jurisdiction consider the appeal and the decision of the department... becomes final and unreviewable.” KCC 20.22.080.H.
54. Ms. Porrazzo asserts she had no knowledge of that second violation notice. As our high court has ruled, “due process does not require proof of actual receipt of the mail by the addressee,” and if the council “had intended to require evidence of actual delivery, it could have said so expressly.” *In re Marriage of McLean*, 132 Wn.2d 301, 306-309, 937 P.2d 602 (1997). “I never saw it” is an excuse we hear all the time, and typically not one that proves successful. Plus, as described below, Ms. Porrazzo’s credibility was not particularly high. Yet there are a few reasons why her assertions related to service of the second violation has some legs.
55. On September 26, Animal Services issued V22013592 to Ms. Porrazzo’s PO Box. Ex. D9. Postal records show she retrieved it signed for it on October 12. Ex. D10. She emailed her appeal the very next day, over a week *before* the appeal due date. D11.
56. Then, on October 18, Animal Services issued V22013663, but for some unknown reason did not use her mailing address (her PO box) and instead tried to mail it to her street address, where she asserts she does not receive mail. Ex. D17. Unlike the first violation, this one does *not* show that she or anyone else signed for it. Ex. D17 at 004.
57. It is possible Ms. Porrazzo tried to duck service by writing “no longer at this address” when the post office attempted to deliver it starting around October 21. Ex. D18 at 001, 003. However, that would be weird, because two days later, on October 26, Animal Services posted V22013692. Ex. D21. And on November 4, over two weeks before the appeal due date for that, she filed her challenge. Ex. 22. So, she does not have a pattern of avoiding violations, but rather of promptly appealing them.

58. So, we are faced with two scenarios. Either:

- Ms. Porrazzo accepted service of the first violation and promptly filed her appeal, then a few days later did a 180 and changed tactics and tried to duck service on the second violation, then a few days after that did another 180 and changed tactics again, accepting service of a third violation and promptly filing another appeal.
- Ms. Porrazzo accepted service of a violation at her PO Box and promptly filed her appeal, then a few weeks later again accepted service of a violation delivered at her home and again promptly file an appeal, and in the middle of that another violation notice was erroneously routed.

Both explanations have their shortfalls, but we have to decide factual matters on a preponderance-of-the-evidence standard. And we find the second explanation slightly more probable than the first.

59. Thus, we dismiss V22013663 without prejudice, meaning it is not a decision on the merits. The upshot of that is:

- For V22013592, we analyze whether Matteo’s barking through September 21 qualifies as a violation;
- For V22013692, we analyze whether Faith and Violet’s barking up to October 25 qualifies as a violation and whether Matteo’s barking after September 21 and October 25 qualifies as a violation.
- If we uphold V22013692, that qualifies as a *second* violation notice for Matteo, not a third.

Legal Standards

60. The legal standard is easy to state—does the animal bark “to an unreasonable degree, in such a manner as to disturb a person or neighborhood,” KCC 11.04.230.J—and more complex to apply. However, we have established consistent benchmarks, two of which are applicable here.

61. First, we draw a sharp 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.¹ That the timing of a noise matters significantly is not controversial, nor new. For example, as one pre-Civil War court

¹ 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.siu.edu/~gengel/ece476WebStuff/SPL.pdf>.

described it, “The peace of Sunday may be disturbed by acts which, on other days, cannot be complained of.”² Replace “Sunday” with “midnight” and “on other days” with “noon,” and that proposition remains true 164 years later. Animal Services carries a significantly higher burden for appeals involving daytime noise (meaning after 7:00 a.m. on weekdays/9:00 a.m. on weekends and before 10:00 p.m. each evening) than for nighttime noise.

62. Second, while the noise need not disturb a neighborhood (the code standard being disturbing a person or neighborhood), in analyzing whether noise truly “disturbs,” our Court reminds us to focus on an objective “unreasonableness” standard, and to not allow any given complainant to make a “subjective determination” of a noise violation.³ Similarly, our Court instructs us to guard against measuring conduct “by its effect on those who are inordinately timorous or belligerent.”⁴ And in looking at both “unreasonable” and “disturb,” we review the steps an appellant took to control the noise and the steps a complainant took to mitigate the noise’s impact.⁵
63. We reject the review standards Mr. Morrow and Ms. Porrazzo suggested.
64. Mr. Morrow seemed to think that it was not his responsibility to take even simple steps like using white noise. As noted above, we review the steps a complainant took to mitigate the noise’s impact, along with the steps an appellant took to control the noise
65. Mr. Morrow asserted that Ms. Porrazzo’s dogs should not bark more than other neighborhood dogs and that the barking should only be occasional, infrequent, and short-lived. That is not even close to what we apply when analyzing daytime barking. Dogs bark along a bell curve, starting with (1) a thin slice of unusually quiet dogs, (2) moving to the fat part of the bell curve with the vast majority of dogs making less than average through average through more than average noise, to (3) a thin slice of unusually noisy dogs at the far end of the curve. Simply making more noise than average, and more than occasionally, infrequently, and short-lived, does not begin to cut it. The noise must be at the (3) far end of the bell curve.
66. Ms. Porrazzo asserts that these are miniature schnauzers and barking when they hear something is just what the breed does, and that it is not their fault for having a high-pitched bark. We have rejected a similar defense in dog bite scenario, where the appellant asserts that [*insert dog type*] is bred to be the protective and thus the bite was provoked. Courts are clear that the “provocation” inquiry “focuses ‘on how an average dog, neither unusually aggressive nor unusually docile, would react to an alleged act of provocation.’”⁶ We apply a similar, objective standard in the noise context.

² *Commonwealth v. Jendell*, 2 Grant 506, 509 (Pa. 1859).

³ *City of Spokane v. Fischer*, 110 Wn.2d 541, 544–45, 754 P.2d 1241 (1988).

⁴ *Seattle v. Eze*, 111 Wn.2d 22, 29–30, 759 P.2d 366 (1988) (citations omitted).

⁵ See, e.g., *State v. Acrey*, 148 Wn.2d 738, 748–49, 64 P.3d 594 (2003) (“reasonable” depends on balancing competing interests).

⁶ *Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108, 113 (2001) (citing *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000)).

67. To do otherwise would set up a subjective criteria based on various breeds' assumed reputations, and create an unworkable standard. For example, we take judicial notice that Bernese mountain dogs typically appear at the top of lists of the quietest dogs. So, if a Bernese barks much more, and in a much harsher way, than the average Bernese, but that is still well within the fat part of the bell curve for all dog barking, should that be a violation? No, it should not. Nor does anything in the Porrazzo dogs' DNA get them off the hook. Ms. Porrazzo could raise any breed she wants, but she has chosen miniature schnauzers. And choices have consequences.
68. 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

69. Noise cases often turn on credibility, and this case is no exception. Ms. Porrazzo attempted to undermine the complainant's credibility by submitting video files of her dogs being quiet that she states refute the times complainants reported. Ex. A2. The dates, however, do not add up. Several of her videos were from September 17. That is sort of close to the Morrow/Despres/Hudson complaint about September 18, exhibit D4, but her September 17 videos do not actually tell us about the situation the following day. Similarly, she submitted a video from December 26, two videos from a date she thought was about December 26, and one video from December 31. However, the last specific date a neighbor complained about was December 4. Ex. D25.
70. Ms. Porrazzo asserted that these neighbors just do not like her. Yet at her former residence in Pacific, the jurisdiction received "numerous barking complaints" about her miniature schnauzers. Ex. D2 at 002. So, she did not accidentally wander into a high-strung, highly-sensitive, or (with the exception of Mr. Morrow) unrealistic-expectation neighborhood.
71. The neighbor testimony was consistent:
- Mr. Morrow described the constant, high-pitched screaming-barking that rattles and grates his nerves, stressing him even when he is outside in silence, because he is just waiting for it to start again.
 - Mr. Popp, though he lives further than the other neighbors and is less impacted, described the high-pitched screaming sound which to him sounds like a dog being killed by a predator.
 - Mr. Hudson described the high-pitched, visceral, nails-on-a-chalkboard noise the dogs make, like someone being killed or hurt; it immediately puts him on edge, disturbing even to the Hudson dog, and makes Mr. Hudson not want to go outside and attend to his farm.

- Ms. Hudson described the barking in similar terms, emphasizing that she is not as concerned with the time and tone and mostly concerned with the pitch; she avoids coffee on the front porch and her vegetable garden.
 - Mr. Desprese described hearing (shortly after Ms. Porrazzo moved in) an unbelievable screeching, screaming noise, like something was dying, causing him to run around until he could locate the noise source; since then nothing in his house has been remotely peaceful, leaving them not knowing what to do and contemplating selling their dream house.
72. Our first inclination was that the neighbors *must* be exaggerating the situation, or perhaps it was the neighbors themselves who were riling each other up and heightening their collective anxiety. Because, really, how bad can the *quality* (as opposed to the quantity, timing, duration, frequency, or loudness) of dog barking be?
73. Pretty bad, as it turns out. Listening to the voluminous audio files, some of the barking actually starts kind of normal-sounding—not particularly loud (as contrasted with other sounds we can hear on the recording), and not particularly distressing. Yet once the dogs get going, not only does the volume amp up somewhat, but far more importantly the sound morphs into something extremely high-pitched and like a creature in extreme distress. It is the most disturbing sound (quality-wise) we have heard in any of our 90 noise cases, unsettling even from the safe space of our desk and even in the small doses we subjected ourselves to. Past cases turning on sound *quality* involved scenarios where the dog seemed, say, lonely, with barks we would categorize as whimpers or whining. None sounded like an animal, or in this case multiple animals, being actively harmed, like with Ms. Porrazzo’s dogs.
74. As we have observed in past cases, for the average person, something beyond decibels and duration figures into the impact of noise on the average listener. Noises made in distress are more likely to disturb a typical non-psychopath than noises made during play. And that is not just true for dogs. For example, in the summer our neighborhood is filled with children screaming. But it is almost always the sound of children at play, and thus far easier to ignore and far less disturbing than even softer, shorter duration sounds of a child in distress. Ironically, as we wrote this paragraph, there were three 11-year-olds running around our home screaming, but those were happy sounds we would characterize as annoying (even with our headphones on) but not disturbing, a distraction but not a quality-of-life issue. In short, there is a qualitative, as well as quantitative, aspect to noise. And this barking is off the chart, quality-wise.
75. It is difficult to know if Ms. Porrazzo is being actively deceptive, or she is just honestly oblivious to (or inoculated against) sounds so deeply distressing to everyone else, first in Pacific, now in unincorporated King County. Mr. Popp described asking her if her animals were okay and she claimed she did not know what he was talking about. Mr. Desprese had a similar conversation where he asked her about the barking and she asked him what he meant. And Mr. Desprese described going into Ms. Porrazzo’s garage to help her out and the noise made him physically wince and bend over, yet it did not seem

to bother her. And of course, she has chosen to breed and be around large numbers of miniature schnauzers.

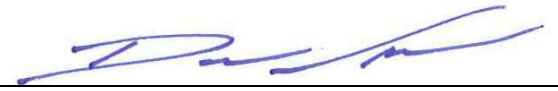
76. In the end, it does not really matter what Ms. Porrazzo's subjective state of mind is regarding the noise. The barking is objectively atrocious. Mr. Desprese was the most credible of all the hearing participants. He got that there were gradations of noise from the Porrazzo dogs; not all the episodes were so bad. He continually reached out to her and tried to give her as much latitude as possible to allow her to make changes, doing everything he could to work with her. And yet even he has been pushed to his breaking point and they are considering selling their home to escape an untenable situation.
77. To be sure, Ms. Porrazzo has certainly taken some steps, blacking out the kennel, and buying the supplies to install a wood fence. She brings the dogs inside more and now only takes one adult dog out at a time and monitoring them when they go outside to potty. She has even tried bark collars, though she does not want to use shock collars.
78. As to the results of her more recent efforts, the neighbors testified that while the barking is still unacceptable to them, it has at least marginally improved:
 - Mr. Morrow noted the barking has gotten a bit better since it started to get cold and snowy.
 - Mr. Popp agreed that the magnitude of noise has decreased since the enforcement started and since it has gotten colder; in the month leading up to our January 4 hearing, the noise was less frequent and of shorter duration.
 - Ms. Hudson noticed the barking from the Porrazzo property has slightly decreased since it has gotten colder.
79. None of those recent changes directly relate to the two appeals before us. The latest date reference in the violation notices (and thus the subject of this appeal) is October 25. The record contains testimony, barking logs, and audio files through October 25. Animal Services easily meets its burden of proof on V22013592 and V22013692.
80. The more current situation is relevant in terms of setting expectations and avoiding future disputes. The normal benchmarks we apply in terms of bark time (day v. night), duration of barking episodes (how long each last), the frequency of barking episodes, how loud the barking must be to truly "disturb" a person, etc. are somewhat inapplicable because the *quality* of these dogs barking is so much worse than any scenario we have encountered in our 90 noise appeals. So, the location of the normal "safe harbors" we can suggest an appellant follow to avoid future violations is harder to pin down. Jettisoning the two younger dogs to get her down to the allowable (without a kennel permit) three-dog limit should facilitate the anti-bark collars. And dogs must be let out to relieve themselves, and so long as that is not consistently during nighttime hours, no matter how obnoxious short durations of daytime barking is, it could not, standing alone, qualify as a violation. But Ms. Porrazzo has her work cut out for her to reduce the frequency and duration of the barking.

81. Finally, and this relates to breeding requirements but also to the number of dogs (which directly relates to noise), it is hard to fathom how, when Pacific advised her that she was only allowed three pets in the city without a commercial or hobby kennel license, and she then moved out to avoid prosecution, she did not check the requirements in the jurisdiction she was considering moving to (unincorporated King County has those same requirements). Ex. D2 at 002. KCC 11.04.020.M & .O, .060.A, .070. Yet she continued breeding without first obtaining a kennel license. Illegally breeding dogs may carry more significant consequences than simply a minimal monetary penalty for noise violations. Ms. Porrazzo should make sure she has her kennel license in place *before* she has any more litters, here or elsewhere in King County.⁷

DECISION:

1. We deny the appeal as to V22013592 and its \$50 penalty.
2. We dismiss V22013663 without prejudice, thus negating that \$100 penalty.
3. We deny the appeal for V22013692, except that we reduce the penalty from \$300 to \$200 because it qualifies as Matteo's second (not third) violation.

ORDERED January 25, 2023.



David Spohr
Hearing Examiner

⁷ In addition to unincorporated King County, the contract cites 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

We can not speak for other cities within King County or to municipalities outside King County.

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 *February 24, 2023*. 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 4, 2023, HEARING IN THE APPEAL OF MARIE PORRAZZO, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS. V22013592, V22013663 & V22013692

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Daniel Morrow, Randy Popp, Tim Hudson, Cathy Hudson, Klint Desprese, and Marie Porrazzo. 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	Metro Animal Services Report
Exhibit no. D3	RASKC investigation report no. A22005046
Exhibit no. D4	Online Noise Complaint form of August 23 and September 18 incident by Daniel Morrow, dated September 18, 2022
Exhibit no. D5	Barking Dog Letter issued by Officer Nickelson, dated September 19, 2022
Exhibit no. D6	RASKC investigation report no. A22005095
Exhibit no. D7	Online Noise Complaint form of September 21 incident by Daniel Morrow, dated September 21, 2022
Exhibit no. D8	Audio recording A225095 A-L
Exhibit no. D9	Notice of violation no. V22013592-A22005095, issued September 26, 2022
Exhibit no. D10	NVOC mailing/tracking history
Exhibit no. D11	Appeal, received October 13, 2022
Exhibit no. D12	RASKC investigation report no. A22005164
Exhibit no. D13	RASKC investigation report no. A22005468
Exhibit no. D14	RASKC investigation report no. A22005471
Exhibit no. D15	Audio recording A225471 A-D
Exhibit no. D16	Online Complaint form of October 8 and 9 incidents by Daniel Morrow, dated October 9, 2022
Exhibit no. D17	Notice of violation no. V22013663-A22005471, issued October 18, 2022
Exhibit no. D18	NVOC mailing/tracking history
Exhibit no. D19	RASKC investigation report no. A22005697
Exhibit no. D20	Online Noise Complaint form of October 12, 14, and 19 incidents by Kathy Hudson and Timothy Hudson, dated October 26, 2022

Exhibit no. D21	Notice of violation no. V22013692-A22005697, issued October 26, 2022
Exhibit no. D22	Appeal, received November 4, 2022
Exhibit no. D23	RASKC investigation report no. A22005817
Exhibit no. D24	RASKC investigation report no. A22006069
Exhibit no. D25	Online Complaint of December 4 incident by Tim Hudson, dated December 19, 2022
Exhibit no. D26	Map of subject area
Exhibit no. D27	Email: Title 11 regarding Hobby Kennels

The following exhibits were offered and entered into the record by the appellant:

Exhibit no. A1	Email from Marie Porrazzo, dated December 26, 2022
Exhibit no. A2	Videos, dated September 17, December 26, and December 31, 2022

January 25, 2023

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

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Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King Co. files **V22013592, V22013663 and V22013692**

MARIE PORRAZZO

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 January 25, 2023.



Lauren Olson
Legislative Secretary

Desprese, Klint

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Hudson, Tim/Cathy

Hardcopy

Morrow, Daniel

Hardcopy

Popp, Randal

Hardcopy

Porrazzo, Marie

Hardcopy