

February 1, 2023

**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. **V22013714**

BRIANNA KOLODZI

Animal Services Enforcement Appeal

Activity no.: A22005576

Appellant: **Brianna Kolodzi**

[REDACTED]
Redmond, WA 98053

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. Brianna Kolodzi appeals a Regional Animal Services of King County (Animal Services) violation notice and monetary penalty. After hearing witnesses testimony and observing demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we uphold the violation but reduce the penalty.

Background

2. The basic facts here are not in dispute. On October 12, 2022, Ms. Kolodzi was walking three dogs owned by Brittney Roy, two dachshunds and Jax. Before Ms. Kolodzi could get the dogs back in the apartment, Jax darted at and twice bit a passerby, Jenna Romano.
3. On October 31, Animal Services issued Ms. Kolodzi a violation notice for Jax qualifying as vicious and assessing her \$500. Ex. D5. Ms. Kolodzi timely appealed on November 11. Ex. D6.
4. We went to hearing on January 18, 2023. Ms. Roy, Ms. Romano, and Ms. Kolodzi all testified.

Hearing Testimony

Testimony of Brittney Roy

5. Brittney Roy testified that she has used the WAG dog-walker app for 60+ walks with caregivers. Jax's profile on WAG included his age, sex, breed, and other basic information. In the app, the owner writes a description of what a walk looks like. Ms. Roy wrote that:

Jax's leash has a metal collar, and the slip leashes are for the wiener dogs. Going down the stairs, you'll have to scoop each of the Dachshunds under your arms. (Jax knows to wait if you keep his leash around your wrist.) Jax won't like to be near other dogs and may bark and pull to "protect" the smaller dogs but he is a very obedient listener. They all mingle very well together and will follow you wherever you go. Alternatively, if the three together are too much, Jax can be taken out separately from the Dachshunds for an easier walk.

She followed that by suggesting bringing the dogs to the park.

6. Ms. Roy used the WAG app the day of the incident because she was out of town. Right after the incident, Ms. Kolodzi notified her that Jax had bitten someone at the apartment complex. Ms. Roy said that the individual should go to urgent care. Ms. Roy also told Ms. Kolodzi that she was willing to help and that this has never happened before.
7. Ms. Roy has had Jax for six years, and she has lived in her apartment for over three. This was an isolated incident. It is common for Jax to be startled. Since the event, Ms. Roy has tried to avoid using the app out of precaution, but she has had to use it one or two times due to her work schedule.

Testimony of Jenna Romano

8. Jenna Romano testified that she was viewing an apartment in the complex. She was walking down the sidewalk. She first saw Ms. Kolodzi and the dogs when they were

around 500 feet away. Ms. Romano saw Ms. Kolodzi holding the two smaller dogs (or maybe one was running); she cannot remember if Jax was leashed or not.

9. Ms. Romano and Ms. Kolodzi were walking towards each other. As they passed, Jax bit Ms. Romano on her arm and then on her lower back. There was no barking or warning that it was going to happen. Ms. Kolodzi was very professional and apologetic. Ms. Kolodzi got her phone number, and Ms. Roy contacted her promptly after that.

Testimony of Brianna Kolodzi

10. Brianna Kolodzi testified that she was returning to Ms. Roy’s apartment after bringing the dogs to a park to play. She let the dogs out of her car and was walking them towards their building. Ms. Kolodzi picked up one of the Dachshunds (Tess) in her left arm. The other Dachshund was following her and Jax. She was about ten feet from the building opening.
11. Ms. Kolodzi had Jax on a tight leash, like how she always walks him. Ms. Kolodzi turned around and saw Ms. Romano, who was behind her. She could not move further away from Ms. Romano, because there was a bush in the way. Jax was between Ms. Kolodzi and Ms. Romano.
12. Suddenly, Jax lunged at Ms. Romano. Ms. Kolodzi quickly pulled back Jax. Jax did not bark or give any warning. Ms. Kolodzi rushed the dogs into Ms. Roy’s apartment. She texted Ms. Roy that Jax had just bitten someone, then she rushed back outside to Ms. Romano. Ms. Kolodzi apologized to Ms. Romano and tried to help her. Ms. Kolodzi feels very sorry for what happened, and she takes full responsibility.
13. Ms. Kolodzi read the WAG notes before she brought the dogs out. She does not recall if the notes said that Jax has sudden stimuli. The notes did not say that Jax gets protective of the smaller dogs. If she had known that, she would have walked the dogs separately. Ms. Kolodzi does not take aggressive dogs on WAG, and she is very cautious when she reads the notes in the app. Ms. Kolodzi no longer does WAG. WAG is not for professional dog walkers.

Legal Standards

14. Does Jax qualify as vicious, meaning “[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. If Jax meets the above code criteria, is a penalty reduction in order?
15. 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

16. This is a pretty simple case, one without a “bad guy.”
17. Ms. Romano was doing nothing more provocative than walking on the sidewalk when, without warning, a dog bit her twice.
18. Ms. Roy put an appropriate warning in her dog walker notes—appropriate because while Jax was anxious, startled easily, and was protective of the dachshunds around other dogs, Jax had never actually bitten anyone or had an incident. After the event Ms. Roy responded quickly, compassionately, and appropriately.
19. Nor, despite Animal Services’ after-the-fact, armchair quarterbacking, do we find anything irresponsible about Ms. Kolodzi’s actions.
 - She read the note, which focused on Jax not liking to be near *other dogs* and potentially barking and pulling to protect his housemates from those other dogs.
 - Ms. Roy had written that *if* the three dogs together were too much, Jax could be taken out separately to make the walk “easier” (not to prevent an incident, which at the time would have seemed an extremely remote possibility).
 - Ms. Kolodzi took the dogs to the park as Ms. Roy’s note had suggested.
 - Covering the short distance from the car to the apartment, she had Jax on a short leash—significantly shorter than the maximum eight-foot leash allowed for walking even a *known* vicious dog. And Jax had not (leading up to October 12) actually bitten anyone.
 - Immediately after the incident, as everyone involved acknowledged, Ms. Kolodzi did exactly what a responsible person should do.
20. Everything is clearer with 20/20 hindsight, but we see no yellow flags, let alone red flags, with how Ms. Kolodzi handled October 12. Yes, now we have more information, and Ms. Roy and any future caretaker will need to adjust accordingly to keep Jax in compliance.¹ But we find a significant penalty reduction in order.

¹ No one challenged Jax’s designation as “vicious,” nor would such an appeal have been successful. Jax performed an act endangering the safety of a person, specifically biting Ms. Romano without provocation, and constitutes a danger to the safety of persons off the animal’s premises.

DECISION:

We uphold the violation but reduce Ms. Kolodzi's penalty from \$500 to \$100.

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. This decision shall be final and conclusive unless appealed to superior court by *March 3, 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 18, 2023, HEARING IN THE APPEAL OF
BRIANNA KOLODZI, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V22013714-A22005576**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Brittney Roy, Jenna Romano, and Brianna Kolodzi. 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. A22005576
Exhibit no. D3	Online Complaint form of October 12, 2022, incident by Jenna Romano, dated October 18, 2022
Exhibit no. D4	Photograph of Ms. Romano's injuries
Exhibit no. D5	Notice of violation no. V22013714-A22005576, issued October 31, 2022
Exhibit no. D6	Appeal, received November 14, 2022
Exhibit no. D7	Map of subject area

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

Exhibit no. A1	Email with photograph and text conversation
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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V22013714**

BRIANNA KOLODZI

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 February 1, 2023.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Kolodzi, Brianna

Hardcopy

Romano, Jenna

Hardcopy

Roy, Brittney

Hardcopy