

April 7, 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

**SUMMARY ORDER ON REMOVAL ORDER AND
NOTICE OF UNREDEEMABLE ANIMAL**

SUBJECT: Regional Animal Services of King County file nos. **V22013574, V22013755, V22013813, V23013895, V23013896, V23013957, V23013959, and V23014096**

JAMES NGUYEN

Animal Services Enforcement Appeal

Appellant: **Johnny Nguyen**

Seattle, WA 98178

Telephone:

Email:

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

Introduction

We start by explaining why Animal Services' recent removal order is flawed; we summarily dismiss it. We then note that because the notice of unredeemable animal was based on an alleged violation of that removal order, the notice is also flawed; for now, Animal Services must return Musky to Mr. Nguyen. We caveat that removal may or may not be warranted on the merits, only that the rationale Animal Services cited for removal does not withstand even casual scrutiny of the removal order. And we close by discussing next steps.

Analysis of March 29 Removal Order and April 3 Notice of Unredeemable Animal

Section A. of KCC 11.04.290 relates to *vicious* animals. It has three subsections:

- (1) states that an animal declared vicious can be kept in King County only upon compliance with those requirements Animal Services prescribes;
- (2) lists examples of requirements for keeping a vicious dog; and
- (3) states that if the owner fails to comply with those requirements, the animal shall be removed from King County.

On March 29, Animal Services issued a removal order based on Mr. Nguyen and Musky allegedly violating those compliance terms. The problem, which should have been obvious to whomever does quality control on removal orders—or needs to in the future double or triple check removal orders before the manager signs them)—is that Musky has *never* been declared vicious. Musky has apparently trespassed many, many times and caused havoc, but the basis for Animal Services' removal order was KCC 11.04.290.A.3, which applies only when an animal is declared *vicious* and ordered contained, and the owner later fails to meet the requirements for keeping that vicious animal. The removal order cites multiple trespassing incidents but nowhere even alleges that Musky had been declared vicious. So, there is no way Mr. Nguyen or Musky could have violated the requirements for keeping a vicious dog in King County when Musky has not even been declared vicious. We dismiss the removal order.

On April 3, Musky allegedly trespassed yet again and harassed the neighbor's livestock, causing Animal Services to seize Musky for violating the removal order. If true, another violation means more monetary penalties and has other consequences (see below). But again, the removal order was flawed. Animal Services' notice of unredeemable animal is thus also flawed. Animal Services must immediately return Musky to Mr. Nguyen.

Next Steps

That that in no way gives Mr. Nguyen or Musky a free pass. In addition to the increasing monetary penalties Mr. Nguyen racks up each time Musky escapes his property, KCC 11.04.290.B.1 provides that any animal with *three* (non-vicious) sustained nuisance violations in a *twelve*-month period shall be ordered removed, unless the owner can show he has provided reasonable restraints to protect the public from repetitions of violations notice. As seen below, Musky may have had as many as *six* separate nuisance violations in only *seven* months.

That is something we will need to sort out. Counting back chronologically, we are aware of the following (alleged) violations:

- V23014096 (for an alleged April 3, 2023, trespass and running at large for Musky *and* Rosey, as well as Rosey not being licensed); the deadline for Mr. Nguyen to appeal that is April 28;
- V23013957 (for an alleged February 2, 2023, Musky trespass and running at large); Mr. Nguyen timely appealed this;

- V23013896 (for an alleged January 5, 2023, Musky trespass); Mr. Nguyen timely appealed this;
- V23013895 (for an alleged December 25, 2022, Musky trespass); Mr. Nguyen timely appealed this;
- V22013813 (for an alleged December 2, 2022, Musky trespass and running at large); Mr. Nguyen did not timely appeal that;
- V22013755 (for an alleged November 13, 2022, Musky trespass and running at large); Mr. Nguyen did not timely appeal that; and
- V22013574 (for an alleged September 21, 2022, incident of cruelty to Musky and both Musky and Rosey(?) not being licensed); Mr. Nguyen did not timely appeal that, but cruelty does not qualify as a nuisance violation.

Once Animal Services receives Mr. Nguyen' appeal of V23014096 and transmits that, we will schedule a proceeding.

If for some reason we have misunderstood the situation, by **May 8, 2023**, either party is free to file, with the examiner, a motion for reconsideration explaining why the examiner should not be dismissing this appeal. Filing a timely motion for reconsideration postpones the deadline (described below the signature line) for lodging an appeal.

DATED April 7, 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 *May 8, 2023*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

April 7, 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

CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file nos. **V22013574, V22013755, V22013813, V23013895, V23013896, V23013957, V23013959, and V23014096**

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **SUMMARY ORDER ON REMOVAL ORDER AND NOTICE OF UNREDEEMABLE ANIMAL** 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 April 7, 2023.



Jessica Oscoy
Office Manager

Carlson, Michael

Regional Animal Services of King County

Eykel, Chelsea

Regional Animal Services of King County

Nguyen, Johnny Mr.

Hardcopy

Williams, Margaret

Hardcopy