

June 9, 2023

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file nos. **V23014024 & V23014025**

KIMBERLY SYMONDS

Animal Services Enforcement Appeal

Activity nos.: A23001378 & A23001386

Appellant: **Kimberly Symonds**

[REDACTED]
Duvall, WA 98019

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. Kimberly Symonds appeals two notices involving her dog, Chloe, being loose and wandering onto neighbors' properties on March 5. After hearing witnesses testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we sustain both trespass violations, overturn one of the two running at large violations, and reduce one of the monetary penalties.

Background

2. On March 7, 2023, Regional Animal Services of King County (Animal Services) issued violation notice V23014024-A23001378 to Kimberly Symonds for her dog, Chloe, running at large and trespassing on March 5. Ex. D8. On the same day, Animal Services issued Ms. Symonds violation notice V23014025-A23001386 for Chloe running at large and trespassing, both second violations, also for March 5. Ex. D9.
3. Ms. Symonds timely appealed on March 10. Ex. D14. We went to hearing on May 25.

Hearing Testimony

Testimony of Cyndi Strohmier

4. Cyndi Strohmier testified that she complained to Animal Services after her outdoor camera captured Chloe on her property on March 5. Ms. Strohmier was pretty sure it was Chloe because of the dog's size. She has seen Chloe tied up in front of Ms. Symonds' house and on walks with Ms. Symonds. Ms. Strohmier was concerned by the video because Chloe went straight to Ms. Strohmier's front door. Ex. D4. Ms. Strohmier does not want Chloe by her front door or on her property.
5. In December 2022, Chloe was at the bottom of Ms. Strohmier's driveway barking at her. Ms. Strohmier is concerned that Chloe might be aggressive because Ms. Symonds uses a thick leash and chain when she walks Chloe. The impression of the size of the leash caused Ms. Strohmier concern. Chloe has never been aggressive to her, but she is afraid of Chloe.

Testimony of Jeffery Edfast

6. Jeffery Edfast testified that he woke up the evening of March 5 to Chloe barking outside his bedroom window. That prompted Mr. Edfast to check his cameras the next day.
7. Video exhibit D7a is from Mr. Edfast's camera that shows the walkway to his front door. Video exhibit D7b is from a camera on the side of his house, looking at his side gate; Mr. Edfast believes this video shows Chloe trying to get under his gate. Video exhibit D7c shows his driveway. Mr. Edfast felt confident that the dog in the videos was Chloe because of the dog's size, tail, white body, and dark markings around the muzzle.
8. Chloe does not have permission to be on his property. Chloe being on his property could be a risk. Chloe has hardly ever been on his property; it is abnormal for Chloe to be there. Mr. Edfast is concerned with Chloe because she was trespassing and out of control. He does not have a grudge against anyone's dog, but if complaints are not registered, then things are not contained. Mr. Edfast has had a similarly-sized dog and he knows the responsibility and risks that come with that. Mr. Edfast's deceased dog would run loose because he was invited onto neighbors' properties.
9. Mr. Edfast has a catio which is just out of frame in exhibit D7. After seeing the videos, Mr. Edfast became concerned about his cat in the catio when Chloe was nearby.

Testimony of Patricia Combs

10. Patricia Combs testified that she heard Chloe barking under her bedroom window. She recognizes Chloe's bark. She does not have a problem with Chloe, and she is not scared of her, but she does not want Chloe on her property.
11. Ms. Symonds asked Ms. Combs to contain her cat, so she built a catio. Her cat is contained to her yard and the catio and is locked up at night. She knows her cat was bothering Ms. Symonds, so she made changes. Ms. Combs believes that her cat was being coerced into going on Ms. Symonds' property.

Testimony of Kimberly Symonds

12. Kimberly Symonds concedes that it was Chloe trespassing on her neighbors' property in the videos. She takes full responsibility for containing Chloe. As a general rule, Ms. Symonds does not allow Chloe to run free. However, occasionally things happen. (Chloe was also at large on December 6, but she was not trespassing that day.) The videos show that Chloe was not marauding on March 5. Chloe would not attack anyone. Ms. Symonds respects her neighbors' right to not have Chloe on their property. Chloe has been contained, with March 5 being the exception. Ms. Symonds uses a hefty collar with Chloe for training and because Mr. Edfast's cat is out and that is a trigger for Chloe.
13. She believes that Mr. Edfast and even Ms. Strohmer are being hypocritical. When Mr. Edfast's dog [Ziggy] was younger, he would attack Chloe. She had to take steps to avoid Ziggy. Ms. Combs' cat is repeatedly on her property, hunting. There is an underlying neighborhood issue. It has become a tit-for-tat situation. If there was a better rapport in the neighborhood, there would be no issues. Ms. Symonds believes Ms. Strohmer influenced Mr. Edfast to file a complaint.
14. Chloe is an Anatolian shepherd, which are bred to protect livestock from predators. The neighborhood borders state land that is frequented by bobcats, cougars, and other predators, and Chloe will bark to keep these predators away. Chloe also deters trail goers from trespassing.

Legal Standards

15. On March 5, was Chloe "running at large," meaning "off the premises of the owner and not under the control of the owner, or competent person authorized by the owner, either by leash, verbal voice or signal control," with "under control" defined as "either under competent voice control or competent signal control, or both, so as to be restrained from approaching any bystander or other animal and from causing or being the cause of physical property damage when off a leash or off the premises of the owner"? KCC 11.04.020.W, .AA; .230.B.
16. On March 5, was Chloe trespassing, defined as a "domesticated animal that enters upon a person's property without the permission of that person"? KCC 11.04.230.K.

17. 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

18. This is one of the more dysfunctional set of neighbor relations we can recall. It is hard to see how that situation will improve unless the parties take active steps to get themselves out of the morass, such as seeking out a mediator. *See, e.g.*, <https://kcdrc.org/mediation-services/>. But while the examiner is a trained mediator, that is not the hat we wear today—our role is simply to find facts, apply the law to those facts, and either uphold, overturn, or modify Animal Services’ violation notices.
19. Ms. Symonds concedes that the March 5 videos show Chloe on both the Strohmier and Edfast properties, without their permission (trespass). And Chloe had to get off her premises unrestrained by leash, verbal voice or signal control to get there (running at large). We uphold V23014024 and its first trespass (\$50) violation and first running at large violation (\$50).
20. We make two modifications to V23014025, which cited Ms. Simmons for trespass-2nd (\$100) and running at large-2nd (\$100).
- There was not a second running-at-large violation on March 5. Chloe only got out once that morning and ran at large. We overturn that and its \$100 penalty.
 - There was a second trespass violation, in that Chloe entered both the Strohmier and Edfast properties that morning. However, the purpose of doubling the penalty amount for a violation (KCC 11.04.035.C.1.c) is that the owner receives the violation (or at least notice *of* the violation), is on heightened alert to prevent whatever activity or behavior prompted the violation, fails to later exercise sufficient control, and the violation occurs again, which warrants ratcheting up the penalty. Here, in contrast, the trespasses happened during the same Chloe escape, and Ms. Symonds only received notice the following day. We reduce the \$100 penalty to \$50.
21. Finally, a question arose about the rules pertaining to cats.
- As noted above, a trespass occurs when a “domesticated animal that enters upon a person’s property without the permission of that person” KCC 11.04.230.K. And a “domesticated animal” means a “domestic beast, such as any dog, cat, rabbit, horse, mule, ass, bovine animal, lamb, goat, sheep, hog or other animal made to be domestic.” KCC 11.04.020.G. So, cats can trespass.
 - However, the running at large violation is limited to a “dog running at large within the county.” KCC 11.04.230.B. So, cats cannot run at large.

DECISION:

1. For V23014024, we uphold first trespass and first running at large violations, for a combined \$100 penalty.
2. For V23014025, we overturn the running-at-large violation and we reduce the trespass violation to \$50.
3. The total penalty Ms. Simmons owes is \$150.

ORDERED June 9, 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 *July 10, 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 MAY 25, 2023, HEARING IN THE APPEAL OF KIMBERLY SYMONDS, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NOS. V23014024 & V23014025**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Cyndi Strohmer, Jeffery Edfast, Patricia Combs, and Kimberly Symonds. 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. A23001378 |
| Exhibit no. D3 | Online Complaint form of March 5, 2023, incident by Cyndi Strohmer, dated March 6, 2023 |
| Exhibit no. D4 | Videos A23-1378 |
| Exhibit no. D5 | RASKC investigation report no. A23001386 |

Exhibit no. D6	Online Complaint form of March 5, 2023, incident by Jeffrey Edfast, dated March 7, 2023
Exhibit no. D7	Video A23-1386
Exhibit no. D8	Notice of violation no. V23014024-A23001378, issued March 7, 2023
Exhibit no. D9	Notice of violation no. V23014025-A23001386, issued March 7, 2023
Exhibit no. D10	RASKC investigation report no. A22006241
Exhibit no. D11	Online Complaint form of December 3, 2022, incident by Cyndi Strohmer, dated December 5, 2022
Exhibit no. D12	Videos V22013822-A22006241, dated December 5, 2022
Exhibit no. D13	Warning Notice V22013822
Exhibit no. D14	Appeal, received March 31, 2023
Exhibit no. D15	Map of subject area

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

Exhibit no. A1	Statement regarding Kim Symond's dog Chloe
Exhibit no. A2	A23001378 & A23001386 - Rebuttal Exhibits and Statement
Exhibit no. A3	Rebuttal Statement from Shae Williams Re: "Chloe"
Exhibit no. A4	Video
Exhibit no. A5	Photograph
Exhibit no. A6	Photograph
Exhibit no. A7	Photograph
Exhibit no. A8	Video
Exhibit no. A9	Photographs
Exhibit no. A10	Photograph
Exhibit no. A11	Statement
Exhibit no. A12	Statement
Exhibit no. A13	Photographs
Exhibit no. A14	Video
Exhibit no. A15	Video

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file nos. **V23014024 & V23014025**

KIMBERLY SYMONDS
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 June 9, 2023.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Jeffery Edfast, Patricia Combs

Hardcopy

Strohmer, Cyndi

Hardcopy

Symonds, Kimberly

Hardcopy