

July 6, 2023

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

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

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V23014125-A2002436**

JOSEPH DINUZZO

Animal Services Enforcement Appeal

Activity no.: A23002436

Appellant: **Joseph DiNuzzo**

[REDACTED]
Redmond, WA 98052

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

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After hearing the witnesses' testimony and observing their demeanor, studying the exhibits, and considering the parties' arguments and law, we find and conclude as follows:

FINDINGS AND CONCLUSIONS:

Background

1. Regional Animal Services of King County (Animal Services) received an online complaint on April 10, 2023, from Angie Burlingame, who stated a dog had bitten her (Lily) while being walked on a retractable leash by its owner, Joseph DiNuzzo. She submitted photos of a bite wound documenting the incident. Animal Services investigated and then issued a Notice of Violation and Order to comply on April 12, 2023, identifying these code violations:
 - Vicious Animal, 1st Violation, KCC 11.04.230(H), \$500
 - Notice and Order for Confinement, KCC 11.04.290
 - Notice and Order for Abatement, KCC 11.04.260
2. Mr. DiNuzzo appealed the citation. We held a hearing on June 23, 2023. Animal Services appeared through Sergeant Chelsea Eykel. Mr. DiNuzzo also appeared.

Hearing Testimony

Testimony of Angie Burlingame

3. Ms. Burlingame stated she visited Mr. DiNuzzo's stables on March 31, 2023, as she had been doing daily, to visit her horse. She parked and walked towards the paddock where her horse was. On the way there, Ms. Burlingame stated she saw Mr. DiNuzzo walking his two dogs on fully extended retractable leashes.
4. Ms. Burlingame veered away, but the yellow dog (Lily) beelined straight to Ms. Burlingame and bit her on the hip. Startled, Ms. Burlingame jumped away. Ms. Burlingame stated she called out twice, "Hey, your dog bit me," but Mr. DiNuzzo did not respond. She believed he had ear buds on.
5. After the bite, Ms. Burlingame stated she walked to the cross-ties to check the wound. Worried about bacteria, she squeezed it, and also took a photograph of the injury (Ex. D5)¹ while in the privacy of the cross-tie. The photo is a close up of the injury showing three punctures and fresh blood.
6. Ms. Burlingame called Ms. DiNuzzo and stated she was not met with kindness or a place to clean up. Ms. DiNuzzo would not let her into the house to clean up or use supplies.
7. After the call, Ms. Burlingame walked to the upper barn where there was supposed to be a first aid kit in the bathroom but she could not locate it. Ms. Burlingame ran into another boarder [Rebecca Pope] and asked her if she had a first aid kit. Ms. Pope had one in her car, so Ms. Burlingame used that to clean her wound. She then went home.

¹ Ex. D6 is another photo of the wound, which also shows Ms. Burlingame.

8. Ex. D7 is a series of text messages between Ms. DiNuzzo and Ms. Burlingame involving whether vaccinations were up to date (which they were). Also, Ms. Burlingame brought up dog training. Ms. Burlingame has been a dog trainer for 23 years. She stated she made the suggestion not to stress the dog owners but as a way to avoid future incidents. Ms. Burlingame stated that with flexi-leashes there is no control over a dog. Ms. Burlingame was concerned about Lily's predatory nature and lack of training. By predatory nature, she explained she was referring to a reactive animal that will attack without notice. That is what happened here. There was no barking, no growling, just an immediate attack. Ms. Burlingame stated this is dangerous if the dog is within a public space.
9. Ms. Burlingame stated she no longer feels safe boarding the horse there with her 13-year-old daughter so after the incident she returned to pick up her horse to move the animal elsewhere. When Ms. Burlingame went to pick up her horse, she took a photo of Mr. DiNuzzo walking both his dogs with fully extended flexi-leashes (Ex. D9). Ms. Burlingame did not immediately file a complaint, as she was concerned about moving her horse first. She filed the complaint on April 10.
10. Ms. Burlingame addressed a statement Mr. DiNuzzo had provided from Amanda Izzo, stating Ms. Izzo saw Ms. Burlingame on March 31 and had not seen the alleged incident (Ex. D13). Ms. Burlingame stated she knows the boarder but believes Ms. Izzo has her days wrong. Contrary to the statement, Ms. Burlingame did not ride on Friday, March 31. The letter also stated the individual had seen Ms. Burlingame in the cross ties (about ten feet from where the bite occurred), but no one was present then as she had pulled her pants down to assess the bite and take a photo (Ex. D5). Ms. Burlingame clarified she took the photo and then contacted Ms. DiNuzzo.²

Testimony of Rebecca Sue Clark Pope

11. Ms. Pope stated she ran into Ms. Burlingame on March 31, as she was coming from the direction of the barn bathroom and could tell something was off. Ms. Pope asked if she was okay and Ms. Burlingame said no. Ms. Burlingame's jeans were torn on the upper side and she was upset, talking fast, and in disbelief about what had just occurred. Ms. Burlingame told Ms. Pope she had been bitten by one of the yellow dogs (Lily).
12. Ms. Pope relayed that Ms. Burlingame stated Mr. DiNuzzo had been walking his dogs and Lily had lunged at her and bit her. Ms. Burlingame had told her she called after Mr. DiNuzzo, and he did not respond. Ms. Burlingame had said she had asked Ms. DiNuzzo for help and Ms. DiNuzzo had denied that the incident happened. Ms. Pope stated she

² Ms. Izzo's statement identifies her observations as occurring "between 3 pm and 3:45 pm," or after the alleged incident, which occurred around 2:12 pm. This is noted in the investigation report. "Time frame cited ... off by approx. 1 hour..." Ex. D2-005. Ms. Izzo's statement is also inconsistent with other information on how long Ms. Burlingame remained on the property on March 31. Ms. Burlingame stated she left the property after cleaning the wound. According to Ms. Izzo, 35-minutes after Ms. Izzo first saw Ms. Burlingame, Ms. Izzo returned from her horse ride, saw Ms. Burlingame again, and then saw Ms. Burlingame preparing for a horse ride. This would make Ms. Burlingame's departure about an hour after the time frame Ms. Burlingame described. The property owner did not provide security footage, stating the event was not captured. The cameras may capture the timing of vehicles leaving the property.

asked what she could do to help and then retrieved her first aid kit and provided it to Ms. Burlingame. Ms. Burlingame took the kit, went to the bathroom to clean up the wound, and then returned the kit to Ms. Pope. Ms. Pope stated Ms. Burlingame was incredulous that the incident was denied, noting that all they had to do was review the video footage from the cameras which are all over the property.

Testimony of Margaret Brooks

13. Ms. Brooks did not witness the March 31 events, but she is familiar with Mr. DiNuzzo's dogs. She boarded her horse from September 2022 until January 2023, and observed the two dogs. She saw the dogs quite a bit as they were in the yard often and she would walk her horse by them. The yellow dog (Lily) would come forward and bark a lot, presumably to the limits of the invisible fence, which always made her a little nervous.
14. She observed Ms. DiNuzzo walking the dogs 3-4 times in January on long flexi-leashes. The dogs would pull towards ducks which gathered in a drainage ditch and charge after them. Ms. Brooks stated Ms. DiNuzzo had a very difficult time controlling the dogs. They would drag her forward 6-10 feet as she yelled out. This was a similar scene each time she saw Ms. DiNuzzo walking the two dogs. The dogs would stop only once the ducks flew away. Ms. Brooks never heard Ms. DiNuzzo tell the dogs to "leave it" and the dogs did not stop in response to verbal commands.

Testimony of Joseph Anthony DiNuzzo

15. Mr. DiNuzzo stated he was walking the two dogs on March 31 and had them on fully extended leashes. He remembers seeing Ms. Burlingame walking towards him and he did see her veer off to the right. The dogs did go towards her, and Mr. DiNuzzo stated he pulled them back. They persisted towards Ms. Burlingame and he pulled them back again. They continued on, and Mr. DiNuzzo stated he never stopped, and the dogs never came within three feet of Ms. Burlingame. Mr. DiNuzzo stated he was not wearing headphones and Ms. Burlingame did not stop either. About 8-10 minutes later he stated his wife called and told him what Ms. Burlingame had told him. He said he was surprised. He said there was someone in the cross ties who saw the whole thing and a statement was submitted on that. Mr. DiNuzzo stated while there are a lot of cameras on the property, there is no visibility of the area at issue.

Testimony of Stacey DiNuzzo

16. Ms. DiNuzzo stated on March 31 she was at her house sitting on her sofa taking a break when the phone rang. It was Ms. Burlingame who said the dog [Lily] had just bit her. Ms. DiNuzzo stated she was taken completely off guard. Ms. DiNuzzo stated her dogs have never been aggressive to a person. She emphasized that the space the dogs were walking in is a private space, not a public space.
17. When she realized Ms. Burlingame had a bleeding wound, Ms. DiNuzzo stated she told Ms. Burlingame she should seek medical attention. Ms. DiNuzzo stated Ms. Burlingame demanded three times to come inside to get a band-aid. Ms. DiNuzzo stated she told Ms.

- Burlingame she would not let her in, but she could go to the barn bathroom where there is a first aid kit.
18. Ms. DiNuzzo said the conversation took about a minute. She then immediately called her husband. Ms. DiNuzzo stated the photo of the wound says it was taken at 2:12, her phone records of the call with Ms. Burlingame show the call as being at 2:13, and the call with her husband being at 2:14.
 19. Ms. DiNuzzo stated she later went to the barn and took a photo of the first aid kit and sent the photo to Ms. Burlingame via text, and also pulled the vaccination history for Lily. Ms. DiNuzzo stated she “was bombarded” with texts on dog training. Ms. DiNuzzo stated her dogs have no history of biting. Ms. DiNuzzo went on to describe Ms. Burlingame in uncomplimentary terms. Ms. DiNuzzo also stated there are no photographs showing the barn bathroom and the wound. Ms. DiNuzzo would have called witnesses if she had realized that she could do that and described her dogs’ interactions with guests and an employee.
 20. On cross examination, Animal Services referred to Ex. D7-005, which are text messages with a time and date stamp of March 31 at 5:17 PM, in which Ms. DiNuzzo stated that a minor scrape that does not penetrate clothing could not cause rabies. Animal Services asked that if Ms. DiNuzzo believed the dog had not come within three feet of Ms. Burlingame, why the text would have referenced a minor wound. Ms. DiNuzzo was not sure why it was worded that way, but she was responding to a vaccination record request.
 21. Animal Services asked about Ex. D4, which is a written statement from Mr. DiNuzzo. In the second paragraph, it states, “[m]y only thought was that they were going to jump on Angie [Ms. Burlingame] for attention and get her clothes dirty...” Animal Services asked Ms. DiNuzzo if the dogs have never jumped on anyone, why would her husband have assumed they would do just that? Ms. DiNuzzo stated she could not speak for him but stated she’s never let her dogs get “remotely close” to any boarders.

Legal Standards and Analysis

22. We do not grant substantial weight or otherwise accord deference to agency determinations.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.⁴
23. A nuisance animal is “[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.”⁵ “Vicious means having performed the act of, or having the propensity to do any act, endangering the safety of any person, animal or property of

³ HER XV.F.3.

⁴ KCC 20.22.210.B; HER XV(E); KCC 11.04.270.

⁵ KCC 11.04.230(H).

another, including, but not limited to, biting a human being or attacking a human being or domesticated animal without provocation.”⁶

24. The term “vicious” is a legal term. Under the KCC, it does not mean a dog is vicious all the time, or that the dog’s owners do not take good care of the dog. It simply means that the animal has exhibited certain propensities which present a danger to others.
25. Lily’s owners do not believe their dog bit Ms. Burlingame. However, there are corroborating photos and testimony from two witnesses, and a third witness who corroborated the inability of the owners to control Lily more generally. The testimony from Ms. Burlingame who experienced the event firsthand and Ms. Pope who came upon the scene immediately following, was consistent with the dates and times of the submitted photos and with Animal Services’ reporting. This evidence corroborates an unprovoked attack by Lily and Lily biting Ms. Burlingame in a way which tore Ms. Burlingame’s jeans, punctured Ms. Burlingame’s skin, and drew blood.
26. The written statement Mr. DiNuzzo attached to his appeal describes an encounter resembling what he described, but that witness was not called to testify, and her written statement is off by about an hour. The statement also would have Ms. Burlingame leaving the property later than Ms. Burlingame depicted (*see* footnote 2). As Ms. Burlingame surmised, it is likely the scenario this individual described occurred on a different day.
27. Why the DiNuzzos became so immediately self-protective, rather than extending themselves to assist with medical treatment is not apparent. If a client boarder is injured, regardless of how, immediate assistance is a pragmatic approach. Had the bite been more serious, and had Ms. Pope not immediately arrived, the situation could easily have turned out quite differently.
28. Animal Services met its burden to demonstrate a “vicious” designation is warranted. Witness testimony and photographs supported the determination that an unprovoked attack had occurred, and Lily had bitten Ms. Burlingame. A vicious animal may only be kept in King County subject to prescribed requirements.⁷ Given this is a first-time violation, removal is not at issue in this proceeding. However, Animal Services did impose conditions to protect against future incidents and has demonstrated these conditions are warranted.

⁶ KCC 11.04.020(BB).

⁷ KCC 11.04.290; KCC 11.04.260.

DECISION:

1. The vicious animal citation, including the penalty, is upheld.
2. The Notice of Order for Confinement and Notice and Order for Abatement are upheld and remain in place.

ORDERED July 6, 2023.



Susan Drummond
King County Hearing Examiner *pro tem*

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 *August 7, 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 JUNE 23, 2023, HEARING IN THE APPEAL OF JOSEPH
DINUZZO, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V23014125-A2002436**

Susan Drummond was the Hearing Examiner pro tem in this matter. Participating in the hearing were Chelsea Eykel, Angie Burlingame, Rebecca Pope, Margaret Brooks, Joseph DiNuzzo, and Stacey DiNuzzo. 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. A23002436
Exhibit no. D3	Online Complaint form of March 31, 2023, incident by Angie Burlingame, dated April 10, 2022
Exhibit no. D4	Mr. DiNuzzo's written statement
Exhibit no. D5	Photograph of Ms. Burlingame's injury taken at 2:12
Exhibit no. D6	Photograph of Ms. Burlingame's injury
Exhibit no. D7	Text messages between Ms. Burlingame and the DiNuzzos
Exhibit no. D8	Photograph of bruising and healing injury
Exhibit no. D9	Photograph of Mr. DiNuzzo continuing to walk his dogs on fully extended retractable leashes
Exhibit no. D10	Notice of violation no. V23014125-A2002436, issued April 12, 2023
Exhibit no. D11	NVOC mailing/tracking history
Exhibit no. D12	Appeal, received April 25, 2023
Exhibit no. D13	Amanda Izzo's statement
Exhibit no. D14	Map of subject area

July 6, 2023

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014125-A2002436**

JOSEPH DINUZZO
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 July 6, 2023.



Lauren Olson
Legislative Secretary

Brooks, Margaret

Hardcopy

Burlingame, Angie

DiNuzzo, Joseph/Stacey

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Pope, Rebecca

Hardcopy