

August 30, 2023

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

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file nos. V23014312 and V23014334

**FRANCISCA VILLEGAS**

Animal Services Enforcement Appeal

Activity nos.: A23003560 and A23003720

Appellant: **Francisca Villegas**

[REDACTED]  
Kent, WA 98032

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](mailto:raskcappeals@kingcounty.gov)

FINDINGS AND CONCLUSIONS:

Overview

1. Francisca Villegas appeals Regional Animal Services of King County (Animal Services) notices and orders related to her dog, Sugar. 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 both running at large violations, one threatening violation, and the licensing violation, but we reduce that penalty.

### Background

2. Antonio Vargas filed the first complaint for an incident involving Sugar on April 21. Ex. D3. Animal Services gave Ms. Villegas a verbal warning. Mr. Vargas filed a second complaint for an incident involving Sugar on May 27. Ex. D8. He provided photographs of Sugar loose on May 27 and May 28. Exs. D4 and D5. On June 1, Animal Services issued Ms. Villegas a notice and order. Ex. D9.
3. Mr. Vargas filed yet another complaint for an incident involving Sugar on June 7. Ex. D12. He provided a photograph. Ex. D13. On June 8, Animal Services issued Ms. Villegas another notice and order. Ex. D14.
4. Ms. Villegas timely appealed both notices and orders. Ex. D15. Ms. Villegas did not contest that Sugar was running at large. Ms. Villegas provided documentation showing Sugar being licensed in June. She did not document Sugar being altered, but Animal Services accepted Ms. Villegas' explanation.
5. We held a hearing on August 23.

### Hearing Testimony

#### *Antonio Vargas Testimony*

6. Mr. Vargas lives on the next cul de sac over from Ms. Villegas. Ex. D16. On April 21, Mr. Vargas first filed a complaint for Sugar being loose. Sugar was roaming outside of his neighborhood street even after Mr. Vargas yelled at him to go home. Sugar was tucking his tail, and his hair was raised up at times.
7. Sugar continued getting out and barking at people, so Mr. Vargas filed another complaint on May 27. He was waiting for his niece to get off the school bus when he saw Sugar making his way towards Mr. Vargas' house; Sugar was about five to six feet away from his niece. Sugar was in the roadway, roaming around and barking, and Mr. Vargas was concerned for his niece and for Sugar's safety. Mr. Vargas yelled at Sugar to go home, and Sugar backed away but continued barking from a further distance.
8. On another occasion, Mr. Vargas saw a similar incident with Sugar near his driveway, barking at his wife and daughter as they tried to leave the house. Mr. Vargas yelled at Sugar to go home, but he did not.
9. On June 7, Mr. Vargas filed another complaint. On that day Mr. Vargas was in his yard when he saw Sugar loose and barking with his tail tucked.
10. Between the first and last filed complaint, Mr. Vargas has seen Sugar loose about once or twice a week. He has not seen Sugar loose since June 8.

#### *Francisca Villegas Testimony*

11. Ms. Villegas testified that there was an opening in her backyard, which Sugar found to escape from. She has fixed her fence. Sugar loves kids and has never attacked anyone. Sugar is not aggressive and barks to get close to people—it is like her way of saying hello. Ms. Villegas attempted to license Sugar earlier; however, she had technical difficulties. Only when her son helped her later, did she discover that her initial application was not completed.

#### Legal Standards

12. In V23014312, on May 27 was Sugar:
- “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;
  - A “domesticated animal that habitually snaps, growls, snarls, jumps upon or otherwise threatens persons lawfully using the public sidewalks, streets, alleys or other public ways,” KCC 11.04.230.G; and/or
  - Unaltered and unlicensed, in violation of KCC 11.04.030.A, which requires all dogs eight weeks old and older be licensed and registered?
13. In V23014334, on June 7, was Sugar again running at large and again threatening people in public?
14. 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

15. We have no doubt that Sugar is friendly to people she perceives as non-threatening. But that is not how Sugar behaves at least some of the time when she feels frightened, especially when away from the safe confines of her home. The behavior Ms. Villegas described of Sugar barking to say hello and get close to people is *not* the behavior Sugar has exhibited to some other people.
16. When Steve Nickelson responded to Mr. Vargas’s complaint in April, he described Ms. Villegas as being nice and cooperative but Sugar as decidedly not. Sugar circled around to him, hackles raised, and in a matter he perceived as threatening. Ofc. Nickelson had to reach for a catchpole and even raise his foot in defense, as Sugar advanced on him seemingly to bite. Ex. D2 at 001, n.1. While Sugar threatened Ofc. Nickelson, and while

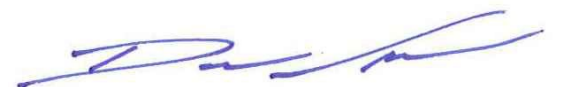
that April event illustrates similar behavior to what Mr. Vargas described, it was not by itself a threatening-persons-lawfully-using-public-ways violation, as it took place on Sugar's property.

17. Mr. Vargas described several encounters with Sugar; some, but not all of them, qualify as threatening.
18. The time Sugar essentially trapped Ms. Vargas and their daughter in their driveway, and then Sugar remained in the street menacing the family, even as Mr. Vargas tried to get Sugar to go home, qualifies as threatening. And so does the time Sugar got to within five or six feet of his niece, barking aggressively, before Mr. Vargas was able to retrieve her. We uphold the first threatening violation (V23014312).
19. However, the June 7 incident Mr. Vargas described, which prompted the second threatening violation (V23014334), does not qualify. On that day Sugar barked at Mr. Vargas but did not really approach him or any other human while doing so. Barking in the middle of the street, without more, does not qualify as threatening behavior. We overturn the second threatening violation.
20. There is no question that Sugar was running at large on a least four different dates. We uphold both running at large violations.
21. As to the licensing violation, Sugar was unlicensed through May. However, we accept Ms. Villegas's explanation that Sugar has been spayed and that, after receiving Ofc. Nickelson's April visit, she attempted to license—and thought she had licensed—Sugar. After she realized her error in June, she had one of her children go online and help her successfully license Sugar. Thus, the initial penalty should have been \$125 for an unlicensed but altered pet, instead of \$250 for an unlicensed and *unaltered* pet. And because Ms. Villegas tried to promptly license Sugar, and then finished the task when she discovered that her original effort was unsuccessful, we reduce the \$125 penalty down to \$50.

#### DECISION:

1. We uphold the running at large (first), threatening (first) and licensing violations, but we reduce the total penalty due in V23014312 to \$150.
2. We uphold the running at large (second) violation and overturn the threatening (second) violation, resulting in a total penalty due in V23014334 of \$100.

ORDERED August 30, 2023.



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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 *September 29, 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 AUGUST 23, 2023, HEARING IN THE APPEAL OF FRANCISCA VILLEGAS, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS. V23014312 AND V23014334**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Antonio Vargas, and Francisca Villegas. 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	Staff report to the Hearing Examiner
Exhibit no. D2	RASKC investigation report no. A23002758
Exhibit no. D3	Online Complaint form of April 21, 2023, incident by Antonio Vargas, dated April 21, 2023
Exhibit no. D4	Photograph of Sugar loose on May 27, 2023
Exhibit no. D5	Photograph of Sugar loose on May 28, 2023
Exhibit no. D6	Door posting
Exhibit no. D7	RASKC investigation report no. A23003560
Exhibit no. D8	Online Complaint form of May 27, 2023, incident by Antonio Vargas, dated May 27, 2023
Exhibit no. D9	Notice of violation no. V23014312-A23003560, issued June 8, 2023
Exhibit no. D10	Proof of service
Exhibit no. D11	RASKC investigation report no. A23003720
Exhibit no. D12	Online Complaint form of June 7, 2023, incident by Antonio Vargas, dated June 7, 2023
Exhibit no. D13	Photograph of Sugar loose
Exhibit no. D14	Notice of violation no. V23014334-A23003560, issued June 8, 2023
Exhibit no. D15	Appeal, received June 26, 2023
Exhibit no. D16	Map of subject area

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file nos. V23014312 and V23014334

**FRANCISCA VILLEGAS**

Animal Services Enforcement Appeal

I, Jessica Oscoy, 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, through Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED August 30, 2023.



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Jessica Oscoy  
Office Manager

**Eykel, Chelsea**

Regional Animal Services of King County

**Vargas, Antonio**

Hardcopy

**Villegas, Francisca**

Hardcopy