

December 13, 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. **V23014398-A23004012**

DANIEL HAHM AND YOUNGSIK YOO

Animal Services Enforcement Appeal

Activity no.: A23004012

Appellants: Daniel Hahm and Youngsik Yoo
represented by **Adam Karp**
Animal Law Offices of Adam Karp
114 W Magnolia Street Suite 425
Bellingham, WA 98225
Telephone: (360) 738-7273
Email: adam@animal-lawyer.com

King County: Regional Animal Services of King County
represented by **Mari Isaacson**
Prosecuting Attorney's Office
701 5th Avenue, Suite 600
Seattle, WA 98104
Telephone: (206) 477-1961
Email: mari.isaacson@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. Daniel Hahm and Youngsik Yoo appeal a Regional Animal Services of King County (Animal Services) designation for their dog, Bbossi, qualifying as vicious and needing to be confined. After hearing the witnesses' testimony and observing their demeanor, studying the admitted exhibits, and considering the parties' arguments and law, we find and conclude as follows.

Background

2. Judith Keyser filed a complaint for an incident involving Bbossi on June 22, 2023.¹ Animal Services issued Mr. Hahm a violation order.² Mr. Hahm and Ms. Yoo timely appealed.³ A hearing was conducted December 1, 2023.
3. A Korean language interpreter, Ms. Younghee Kim, was present to assist Ms. Yoo with her testimony. Her fluency in Korean and ability to interpret was confirmed, with Mr. Karp explaining that assistance would be needed only for Ms. Yoo's testimony, not the entire hearing.
4. The hearing was conducted remotely. The parties did not have technical issues, but the Examiner experienced connectivity disruption during the Appellants' presentation, so provided for repetition of disrupted testimony and reviewed the entire recording to confirm all evidence was received.

Hearing Testimony

Judith Keyser Testimony

5. On June 22, 2023, Ms. Keyser was hiking with a friend at Big Rock Park in Sammamish. She arrived about 8:00 AM, with the hike finishing about 9:00 AM. Her friend got in her car; the two were planning to next meet up for coffee. Ms. Keyser saw Ms. Yoo and Bbossi on a hill, and took a photograph. She stated she was then at a distance of about ten feet, near a stump shown in the photograph she took.⁴ She asked if Ms. Yoo wanted the photograph; Ms. Yoo responded affirmatively.
6. Ms. Keyser then approached Ms. Yoo for contact information so she could send Ms. Yoo the photograph. Ms. Keyser was walking slowly as she had just finished her hike. She had taken such photographs before and assumed Bbossi was under control. As she was taking the contact information, Bbossi bit her on the back of her hamstring.⁵ As it happened while she was looking down at her phone, Ms. Keyser did not see Bbossi approaching.
7. Ms. Keyser then pulled down her sweatpants to look at the wound. She informed Ms. Yoo that she was going to urgent care. Ms. Yoo acknowledged the bite and said that Bbossi was current with his shots. Ms. Keyser then drove to where she was meeting her friend for coffee, which was also where an emergency care facility was located. The care facility was closed, so her friend drove her to a different facility where the wound was rinsed and bandaged. No stitches were required for the single bite. Ms. Keyser believes wearing sweatpants may have helped.

¹ Ex. D4.

² Ex. D2.

³ Ex. D8.

⁴ Ex. D5 (photograph taken by Ms. Keyser).

⁵ D6 (photograph of bite); D7 (photograph of the bite a few days later).

8. On cross examination, Ms. Keyser confirmed she was at a distance of about ten feet when she took the photograph. Ms. Keyser said Ms. Yoo had stood up from a seated position. She did not recall whether Bbossi had approached her while she was taking down the contact information. Ms. Keyser filed her online complaint two days after the incident. The submittal states, “I approached them and was about four to five feet away from them [Ms. Yoo and Bbossi]. . . .”⁶ Ms. Keyser agreed the statement taken just two days after the incident would have been more accurate. She clarified that she walked towards Ms. Yoo and Bbossi. She does not know how long the leash was, but the leash seen in the photo Ms. Keyser took was the one on the dog at the time of the incident. She confirmed the dog bit her and the bite went through her sweat pants and wounded her. Afterward, Bbossi did not bite, lunge, growl, or do anything further which would be considered aggressive.
9. Ms. Keyser clarified that her friend stated she was in shock and should not drive, so that is why her friend drove her to the emergency clinic, though Ms. Keyser was comfortable driving the short distance to meet her friend.

Youngsik Yoo Testimony

10. Ms. Yoo described Bbossi as a mixed breed dog she and her husband adopted five years ago. As the park is close by, she walks there regularly with Bbossi. At the park, Bbossi has been exposed to a variety of people and animals, including people of various ages, including children and the elderly. Bbossi has never been reactive or aggressive to any individuals encountered at the park or in public. Bbossi is a well-behaved dog. The grandparents and grandkids, and their dog sitter, have had positive experiences with Bbossi. Bbossi has been taken to off-leash parks without incident.
11. Ms. Yoo first saw Ms. Keyser speaking with her friend in the parking lot. She and Bbossi passed by her while she was in the parking lot. Bbossi showed no interest in Ms. Keyser as they passed. Ms. Yoo walked up a grass noll with Bbossi and took photographs of Bbossi. She took the pictures between 9:06 and 9:08 AM.⁷ From when she was taking the photographs and when Ms. Keyser had approached, she had not left the hill. Ms. Yoo and Bbossi’s position corresponds with their position in the photograph Ms. Keyser took.
12. After 9:08 (when Ms. Yoo took the last photo) she heard someone talking loudly from afar. Ms. Yoo could not tell what Ms. Keyser was saying as she was too far away. Ms. Keyser was waving her phone and talking loudly. Ms. Keyser kept coming towards Ms. Yoo and Bbossi. Ms. Keyser said, “I couldn’t resist” and then something else, but Ms. Yoo could not remember the rest of the phrase. Ms. Yoo was standing next to Bbossi. Ms. Yoo wrapped the leash around her wrist, making the leash shorter, or about five feet, which is otherwise 6’7”.⁸

⁶ Ex. D4.

⁷ Ex. A5.

⁸ Ex. A7.

13. When Ms. Keyser approached, Bbossi was right next to Ms. Yoo and Ms. Keyser was about 4 to 5 feet away. Ms. Yoo did not approach Ms. Keyser at any point. Bbossi stayed next to Ms. Yoo, where he was seated. Bbossi stayed still and did not growl or bark or show any aggression.
14. Ms. Yoo’s distance from Ms. Keyser was initially 4 to 5 feet away. As they talked, Ms. Keyser stuck her leg out and came closer to Ms. Yoo, so that she was right next to Ms. Yoo, with her leg close to Bbossi.
15. Ms. Keyser made Ms. Yoo nervous and tense. During her walks with Bbossi, many individuals had complimented Bbossi, but this was the first time someone took a picture of Ms. Yoo in a public area and then approached her. When Ms. Keyser approached, she had walked directly to Ms. Yoo from afar, waving her arms, and talking loudly in English. The interaction made Ms. Yoo uncomfortable.
16. Bbossi got up and then Ms. Keyser said, “Your dog bit me.” Ms. Yoo said Bbossi immediately released, before Ms. Keyser pulled her leg back. She does not remember Bbossi staring at Ms. Keyser as Ms. Keyser had stated. Ms. Keyser yelled, “Fuck, your dog bit me” and “fuck” again after she checked her leg. To check her leg, she pulled her pants down.
17. Ms. Yoo obtained the vaccination history from her husband and forwarded the documentation to Ms. Keyser. Ms. Yoo obtained Bbossi’s documentation within 11 minutes of Ms. Keyser taking the photo.⁹
18. Ms. Yoo addressed the assessment provided by Bbossi’s veterinarian, Dr. Tuyet-Anh Hoang. Dr. Hoang wrote the assessment in her capacity as a licensed veterinarian with a decade of experience and over 15-years in the field. Her intention was “to provide a professional assessment and behavioral history regarding” her patient Bbossi, a “five year old male neutered dog - Korean Jindo Mix” whom she has treated since 2019, shortly after his adoption.¹⁰ Her last appointment with Bbossi was on May 2, 2023. Dr. Hoang concluded that “Bbossi has not shown any evidence of unprovoked aggression or behavior that would suggest a propensity to bite without cause.”¹¹ The report includes supporting analysis, including the following excerpt:

During the time Bbossi has been under my care from 2019 to 2023, he has required routine examinations and treatments to include, but not limited to, vaccinations, allergy injection treatments, blood draws, ear cleanings, nail trims, grooming, and oral dental cleanings. These treatments and procedures all require restraint and close contact with the patient, and Bbossi has tolerated treatments by myself and hospital staff during my care without incident. In my professional opinion based on numerous

⁹ Ex. A4.

¹⁰ Ex. A4.

¹¹ Ex. A3.

appointments and a variety of clinical situations in the hospital that Bbossi has exhibited a friendly and compliant demeanor. It is not uncommon for dogs to experience fear or anxiety during veterinary visits, such as panting, barking or shaking, and Bbossi usually displays signs of mild to moderate anxiety but never aggressive tendencies during veterinary visits. This is normally assessed as the “fear, anxiety, and stress, or FAS score”. The FAS score is on a scale of 0-5, with 0 being no signs of fear or anxiety, to 5 as displaying signs of fight and aggression (<https://fearfreepets.com/fas-spectrum/>). Bbossi has never displayed any signs of aggression with handling by myself or my staff, and has been on a scale of 0-2 under my care. Bbossi has remained cooperative and gentle, even in the presence of unfamiliar people and animals within the clinic setting.

It is important to acknowledge that animal behavior can be complex and influenced by numerous factors including, but not limited to, environment, and previous experiences. It is my professional assessment that Bbossi has demonstrated a stable and friendly disposition. Furthermore, Bbossi has not shown any evidence of unprovoked aggression or behavior that would suggest a propensity to bite without cause. In my experience, any signs of such tendencies are usually identifiable in a clinical context over time, none of which have been observed in Bbossi’s case.¹²

19. Ms. Yoo agreed with this assessment.
20. Since the incident, Ms. Yoo and her husband have taken various measures to protect against any repetition of what happened here. The leash they now use is five feet and also locks. Ms. Yoo has placed a red tag on the leash saying the dog “needs space.” If a stranger compliments the dog, Ms. Yoo is more cautious and just continues with her walk.

Daniel Hahm Testimony

21. Mr. Hahm was not present during the incident. He described Bbossi as a loving dog who has interacted well with many children of friends and family of all ages. There has been no incident nor any concern there could be one. Bbossi is not aggressive and does not provoke other dogs. Mr. Hahm is familiar with the park where the incident occurred, and has walked with Bbossi in that park and others.
22. The primary reason Mr. Hahm and his wife appealed was their concern about labeling Bbossi as vicious. They care for Bbossi and based on Mr. Hahm’s five years of observing Bbossi with others, the designation does not accurately reflect Bbossi’s temperament. As far as the confining order, they are already taking the measures listed.

¹² Ex. A3.

Legal Standards and Analysis

23. Appellants challenged the designation of Bbossi as vicious, which carries a \$500 fine, and also the order of confinement, which does not carry a fine.¹³
24. We do not grant substantial weight or otherwise accord deference to agency determinations.¹⁴ For those matters or issues raised in an appeal statement, Animal Services has the “burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.”¹⁵
25. The code was substantially overhauled in July 2023. But the code in place in June defined “vicious” as:
- having performed the act of, or having the propensity to do any act, endangering the safety of any human, animal, or property of another, including, but not limited to, biting a human being, or attacking a human being or domesticated animal without provocation.¹⁶
- And the violation itself was framed as, “Any 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.”¹⁷
26. 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 means that the animal has exhibited certain propensities which present a danger to others.
27. “Provocation” is defined in the animal code that became effective in July, but that definition is not retroactively applicable to a June 22 altercation.¹⁸ “Provocation” is a staple of animal jurisprudence, and, as our High Court instructs us, when analyzing “terms of art” we look to “well-established meanings” of words in their specific context.¹⁹ The court’s “provocation” inquiry in the animal context “focuses ‘on how an average dog, neither unusually aggressive nor unusually docile, would react to an alleged act of provocation.’”²⁰ And a key touchstone of courts’ analyses is that “provocation” requires the dog’s reaction be relatively proportional to the victim’s act.²¹ Provocation is

¹³ The Hearing Examiner has been designated to hear the appeal. KCC 11.04.270.

¹⁴ Exam. R. XV.F.3.

¹⁵ KCC 20.22.210(B); KCC 20.22.070; KCC 11.04.260(B)(6).

¹⁶ KCC 11.01.390, Ord. 19638 § 40.

¹⁷ KCC 11.04.230(H).

¹⁸ “Provocation” now means “to torment, agitate, or harass an animal immediately before the attack, chase, or menacing behavior, [and] does not include actions taken to defend oneself, other humans, animals, or property.” KCC 11.01.350.

¹⁹ *State, Dept. of Ecology v. Theodoratus*, 135 Wn.2d 586, 589, 957 P.2d 1241 (1998).

²⁰ *Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108 (2001) (citing *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000))

²¹ *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792.

“a matter of whether particular actions are likely to cause a dog to react by biting,” and courts “disregard whether the actor intended to provoke.”²²

28. Bbossi is a five-year old, neutered male dog, about 45 pounds. There have been no incidents before or since June 22, nor any suggestion that Bbossi has ever endangered anyone’s safety. The single incident occurred at a park. Bbossi was on a leash and under control. Ms. Yoo and Bbossi were not violating any law. But for Ms. Keyser approaching, the incident would not have happened.
29. Ms. Keyser’s manner of approaching was not a normal thing for Ms. Yoo, and there was a language barrier. Ms. Yoo responded by standing, moving closer to her dog, and tightening the leash. At the same time, Ms. Yoo tried to be respectful to an unknown person accosting her, speaking loudly, and using dramatic gestures.
30. There was some dispute on distance, but Ms. Keyser stated her earlier written statement on her position (four to five feet from Ms. Yoo) would be more accurate than her hearing testimony (ten feet from Ms. Yoo) due to how close to the event her written statement was. Also, the leash was less than seven feet, and further shortened as Ms. Yoo had wrapped the leash around her arm.²³
31. Ms. Keyser claimed Ms. Yoo had also approached her. Ms. Yoo stated that she did not and simply stood still, with Ms. Keyser approaching her. Given the differences between Ms. Keyser’s testimony and her written statement, and Ms. Yoo’s precision on what she could and could not remember throughout her testimony (regardless of the party the particular point of testimony favored), Ms. Yoo’s testimony had greater reliability. Ms. Yoo testified that Ms. Keyser had stuck out her leg, approaching to a distance of less than two feet.
32. Bbossi reached around and bit the back of Ms. Keyser’s leg. Bbossi did not growl, further attack, and promptly, if not immediately, released. In general, Bbossi did not present as angry and combative, but took a defensive posture with Ms. Keyser to let her know she should back off as she was too close and Bbossi’s owner was feeling apprehensive. And unlike the typical interaction where strangers may walk closely by, Ms. Keyser approached speaking loudly, gesturing, ascending a hill, coming within a foot or two, and launching a leg out created agitation and tension. The facts presented were of an unintentionally provoked warning nip that resulted in minor injury. The outcome was proportional to the stimulus.
33. The incident was coupled with Ms. Keyser’s unusual behavior. Cursing due to surprise and pain is unremarkable. Pulling down one’s pants in a public area is more unusual. While Ms. Keyser’s friend, who was not present to testify, viewed her as being in shock, Ms. Keyser felt comfortable driving herself to seek help, though her friend took over once they realized the one driven to was closed.

²² *Toney v. Bouthillier*, 129 Ariz. 402, 405, 631 P.2d 557, 560 (1981).

²³ *See also* Ex. A7.

34. Though unintentional, there was provocation. Ms. Keyser photographed Ms. Yoo without permission, then approached Ms. Yoo and Bbossi, coming within a foot or two of the pair. Coupled with the close proximity and language barrier, was Ms. Keyser’s loud speaking and gesturing. This made Ms. Yoo uncomfortable and nervous. Ms. Keyser’s manner of approach and her close proximity to Ms. Yoo, a proximity neither Ms. Yoo nor Bbossi had created, agitated Bbossi.
35. Moreover, the actual violation criteria contains both a past-tense, “exhibited” vicious behavior requirement and also a present-tense, “constitutes a danger” requirement. Here we have a superficial, back-off nip delivered to a person who approached to within a foot or two of Ms. Yoo and Bbossi, without their permission, while gesticulation, waving her phone, and talking loudly. And the nip was from a dog with no history of presenting a danger to others or of any other incidents where Bbossi has endangered another’s safety. The evidence presented at the hearing was of a dog well-loved and comfortable with his owners and others, and whose behavior with individuals of all ages has been positive and has not presented any safety concerns before or after the incident. This was documented through a veterinarian’s analysis, a professional familiar with evaluating dogs for the traits at issue here, and who is familiar with Bbossi. In addition, the owners acted responsibly in handling the incident and have taken reasonable measures to protect against any repetition.

DECISION:

1. The Department did not show by a preponderance of the evidence that Bbossi meets the criteria for a vicious animal.
2. The Notice of Civil Violation is reversed, as is the Order to Comply. No fine is owed.

ORDERED December 13, 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 *January 12, 2024*. 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 DECEMBER 1, 2023, HEARING IN THE APPEAL OF DANIEL HAHM AND YOUNGSIK YOO, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V23014398-A23004012

Susan Drummond was the Hearing Examiner in this matter. Participating in the hearing were Judith Keyser, Daniel Hahm, and Youngsik Yoo. 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 |
| Exhibit no. D2 | Notice of violation no. V23014398-A23004012, issued June 24, 2023 |
| Exhibit no. D3 | RASKC investigation report no. A23004012 |
| Exhibit no. D4 | Online complaint from Judith Keyser, June 22, 2023, incident, dated June 24, 2023 |
| Exhibit no. D5 | Photograph of Bbossi and Ms. Yoo |
| Exhibit no. D6 | Photograph of bite |
| Exhibit no. D7 | Photograph of bite |
| Exhibit no. D8 | Appeal, received July 25, 2023 |

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

| | |
|----------------|---|
| Exhibit no. A1 | Notice of violation no. V23014398-A23004012 |
| Exhibit no. A2 | Certificate of vaccination, dated May 2, 2023 |
| Exhibit no. A3 | Declaration of Tuyet-Anh Hoang, DVM |
| Exhibit no. A4 | Text thread between Ms. Yoo and Ms. Keyser |
| Exhibit no. A5 | Photograph of Bbossi on June 22, 2023, at 9:08 a.m. |
| Exhibit no. A6 | Photograph of Ms. Yoo and Bbossi on June 22, 2023, at 9:12 a.m. |
| Exhibit no. A7 | Photographs of leash |

December 13, 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 no. **V23014398-A23004012**

DANIEL HAHM AND YOUNGSIK YOO

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 December 13, 2023.



Jessica Oscoy
Office Manager

Eykel, Chelsea

Regional Animal Services of King County

Hoang, Tuyet-Anh Dr.

Isacson, Mari

Prosecuting Attorney's Office

Karp, Adam

Animal Law Offices of Adam Karp

Hardcopy

Keyser, Judith

Hardcopy

Youngsik Yoo, Daniel Hahm

Hardcopy