

October 26, 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 no. **V23014503-A23004635**

KIMBERLY SYMONDS
Animal Services Enforcement Appeal

Activity no.: A23004635

Appellant: **Kimberly Symonds**

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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FINDINGS AND CONCLUSIONS:

Overview

1. Kimberly Symonds appeals a Regional Animal Services of King County (Animal Services) notice of violation for her dog, Chloe, trespassing on a neighbor's property. 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 the violation but reduce the monetary penalty.

Background

2. In May 2023, we held a hearing on appeals of V23014024 and V23014025, two violation notices issued to Ms. Symonds for Chloe running at large and trespassing in March. The critical evidence in that case was March 5 nighttime video footage from two sets of neighbors. Ms. Symonds conceded that it was Chloe trespassing on her neighbors' property in those videos.
3. We issued our report on June 9, upholding the V23014024 trespass and running at large, and overturning the V23014025 running at large and upholding that trespass. Although Chloe trespassed on two separate neighbors' properties (Edfast and Strohmier) on March 5. and thus there were two trespass violations, because on March 5 Chloe only got loose once from the Symonds property and ran at large, there was only one running at large violation.
4. We also reduced the second trespass monetary penalty, explaining that the purpose of doubling the penalty amount for a violation is that an owner receives the violation (or at least notice that there was a problem), is on heightened alert to prevent a repeat, fails to later exercise sufficient control, and the violation occurs again, thus warranting ratcheting up the penalty amount. There, in contrast, the violations happened during the same March 5 Chloe escape, and Ms. Symonds only received notice the following day.
5. On July 29, 2023, Animal Services issued violation notice V23014503 to Ms. Symonds for Chloe allegedly again trespassing on the Strohmier property, this time on July 22. Ex. D6. Ms. Symonds timely appealed. Ex. D7. We went to hearing on October 12.

Hearing Testimony

Cyndi Strohmier Testimony

6. Cyndi Strohmier testified that she has six cameras on her property, installed within the last year. Shockingly, she has not seen dogs other than Chloe loose on her property in the videos. She lives next to a well-used trail, and people walk up her driveway to get to the trail. The cameras have caught *leashed* dogs with their owners heading to the trail, but not any dogs running at large. She has not seen any loose dogs in the area apart from Chloe.
7. She checks her video cameras every few days, primarily looking for bears or coyotes. When Ms. Strohmier checked her July 22 videos, she saw Chloe. Ex. D4. She submitted the videos to Animal Services a day later.
8. Ms. Strohmier noted that she would be amenable to mediation, but nobody ever approached her after the last hearing.

Kimberly Symonds Testimony

9. Kimberly Symonds testified that if Chloe gets loose, it is the exception and not the rule. Chloe has only been loose two times in the past three years. She is not habitually loose.

Chloe was in her home the night of the incident. Ms. Symonds has been bringing in Chloe almost every night since March. Chloe is much thinner and narrower than the dog in the recent video. That dog is much bigger.

10. She also believes Ms. Strohmier falsified the date stamp for the video, because it was a few days after Chloe was attacked. Ms. Symonds did not file a report about that attack.
11. At our previous hearing for the V23014024 and V23014025 appeals, Ms. Symonds agreed to attempt mediation to stop the neighborhood dispute. The day after that hearing, however, Ms. Strohmier served the threat of a frivolous lawsuit about where Ms. Symonds can install her fence.

Legal Standards

12. On July 22, did Chloe enter upon Ms. Strohmier's premises without her permission? KCC 11.04.230.L.
13. 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

14. In our June report, we observed that, "This is one of the more dysfunctional set of neighbor relations we can recall," and that it was "hard to see how that situation will improve unless the parties take active steps to get themselves out of the morass." Nobody took the initiative on that, and here we are again.
15. At our May hearing we took significantly more testimony than we did for this appeal hearing, giving us more on which to assess witness credibility. We ranked it then with Ms. Strohmier as the most credible of the four, Mr. Edfast in the middle, and Ms. Symonds and Ms. Combs in a race to the bottom. Although Mr. Edfast and Ms. Coombs did not testify this round, and the testimony from Ms. Strohmier and Ms. Symonds was shorter, nothing much changed this round in terms of our credibility assessment.
16. Ms. Symonds claims the July 22 video Ms. Strohmier submitted this round was not of Chloe. Ex. D4b. Ms. Symonds asserts that there are two other Anatolians in the neighborhood, and thus alleges that the dog in the recent video is one of those larger dogs. She did not, unfortunately, provide any photos, but on its face, that is a plausible contention—identification is often a thorny topic, and we often view and re-view photos and video meticulously to analyze similarities and differences.
17. However, Ms. Symonds undermined her different-dog theory by asserting that those other Anatolians in the neighborhood are extra-large, and asserting that Chloe is much thinner and narrower than the dog depicted in the recent video. Ex. D4b. The Anatolian in exhibit D4b looks very similar to Chloe, but the pictures and videos we have from last

spring showing what was undisputedly Chloe show that Chloe is, if anything, slightly *heavier* and *wider* than the Anatolian depicted in the recent video.¹

18. Ms. Symonds did not stop there, undermining her theory still further by claiming that Ms. Strohmier was lying about the timing of the (supposedly) July 22 Chloe trespass, perhaps duplicating an earlier Chloe video and then falsifying it. Standing alone—meaning if she had not already advanced the July 22-video-shows-a-different-Anatolian argument—her Ms.-Strohmier-faked-the-timing claim would at least have some internal logic. Conceivably, Ms. Strohmier, who was apparently part of a boundary-related dispute again Ms. Symonds near the time of her complaint, would have been motivated to take an earlier Chloe trespass video and pretend that it showed a new Chloe trespass given how dysfunctional these neighbor relations are, we would not put anything past anyone—though, again, Ms. Strohmier was the most credible of the four neighbors. At least Ms. Symonds conspiracy theory would have been *internally* consistent as a stand-alone theory.
19. However, *combining* the two theories was fatal. Ms. Symonds conspiracy theory of Strohmier-pretended-the-video-was-from-July-22 undermined her the-July 22-video-shows-a-different-Anatolian theory. Ms. Strohmier would have no reason or incentive to perjure herself on the timing of a video showing a *different* dog. And Ms. Symonds would have no reason to challenge the timing of the July 22 video unless a part of her grasped that, yes, it again showed Chloe, and she was desperate to avoid the consequences of another violation, as discussed below.
20. In sum, Animal Services has shown that, more likely than not, on July 22 Chloe once again trespassed onto the Strohmier property. Thankfully for Ms. Symonds, the consequences are not so dire anymore. Under the version of the code in place when we addressed the situation in June, there was a potential three-strikes-and-the-dog-is-out (of the County) regime; an animal with three violation notices in a one-year period could be ordered removed from the County. Former KCC 11.04.290.B.1. However, under the code amendments that became effective in July, it now takes *five* nuisance violations in a *two*-year period for an animal to be at a risk of removal. KCC 11.04.222. Today's violation is only the third. Ms. Symonds will want to take extra precautions to keep Chloe in, to avoid both a doubling of the monetary penalty and the risk of Chloe being removed from the County if Chloe commits two more violations before March 2024. But removal is not currently on the table.
21. If Ms. Symonds would like to pursue mediation, <https://kcdrc.org/mediation-services/> gives some thoughts on who Ms. Symonds can contact to explore the process.

DECISION:

1. We DENY Ms. Symonds appeal.

¹ Animal Services theorized that Chloe would have had a winter coat in early March and a lighter coat in late July. The Anatolian depicted in the recent video looks very similar to earlier confirmed video/pictures of Chloe, if maybe a little leaner. But again, Ms. Symonds' theory went the opposite direction—that Chloe was thinner and narrower than the Anatolian depicted in the recent video. That is simply not the case.

2. However, although the penalties double for violations in a one-year period, for reasons explained above in paragraph 4, we previously reduced each March 5 violation to \$50. Thus, a doubling of the penalty for the July 22 violation brings us to \$100, not to \$200.

ORDERED October 26, 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 *November 27, 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 OCTOBER 12, 2023, HEARING IN THE APPEAL OF KIMBERLY SYMONDS, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V23014503-A23004635

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Cyndi Strohmier, 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
Exhibit no. D2	RASKC investigation report no. A23004635
Exhibit no. D3	Online Complaint form of July 22, 2023, incident by Cyndi Strohmier, dated July 26, 2023
Exhibit no. D4	Videos A23-4635 (today's hearing)
Exhibit no. D5	Videos A23-1378 (last hearing)
Exhibit no. D6	Notice of violation no. V23014503-A23004635, issued July 29, 2023
Exhibit no. D7	Appeal, received March 31, 2023
Exhibit no. D8	Hearing Examiner's Report and Decision V23014024 and V23014025
Exhibit no. D9	Map of subject area

In addition, the examiner re-admitted exhibits D4, D7b, D7c, D7d, A5, A6, A8, A9 from our May 2023 hearing.

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CERTIFICATE OF SERVICE

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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, 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 October 26, 2023.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Strohmer, Cyndi

Hardcopy

Symonds, Kimberly

Hardcopy