

October 30, 2023

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

King County Courthouse
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V23014549-A23004594**

PRECIOUS LASKOWSKY

Animal Services Enforcement Appeal

Activity no.: A23004594

Appellant: **Precious Laskowsky**

[REDACTED]
Enumclaw, WA 98022

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**

Regional Animal Services of King County

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Kent, WA 98032

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Email: raskcappeals@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. Precious Laskowsky appeals a Regional Animal Services of King County (Animal Services) designation for her dog, Kahleesi, qualifying as dangerous. 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 designation but reduce the monetary penalty. We also provide clarity on how Ms. Laskowsky can divest herself from continuing responsibility for a dangerous dog.

Background

2. Jessica Kemp filed a complaint and submitted photographs for a July 23 incident involving her friend's dog, Thor, and Khaleesi. Exs. D3, D4. Animal Services issued Ms. Laskowsky a violation order. Ex. D8.
3. Ms. Laskowsky timely appealed. Ex. D9. We went to hearing on October 19.

Hearing Testimony

Jessica Kemp Testimony

4. A friend's dogs were visiting the Kemp/Allred household on July 23. Thor and the other dog were in the backyard. Given Khaleesi's history of digging under the fence, Ms. Kemp knew they had to keep a close eye on the dogs and not let them get too close to the shared fence line.
5. Ms. Kemp was watering the grass when suddenly she lost sight of Thor. She heard Thor yipping and crying out from the other side of the fence, so she climbed over to look. She saw Ms. Laskowsky's fiancé, Mr. Kutina, holding Khaleesi by the collar and Thor in a corner pushed up against the fence, about a car length away from where Ms. Kemp was standing. Ms. Laskowsky lifted Thor over the fence. Thor was bloody and his stomach was cut open, with his intestines poking out. Ms. Kemp's mother (Deandra Allred), brother (Caleb Allred), and Thor's owner drove to the emergency veterinarian.
6. Ms. Kemp has previously witnessed Khaleesi poking her head through the fence, scratching, and trying to climb over the fence.

Alex Kemp Testimony

7. Mr. Kemp did not witness the July 23 incident, but has witnessed Khaleesi's behavior. Mr. Kemp was living with his in-laws (the Allreds) for about six months, and every day he would walk the yard, checking the fence line because Khaleesi would constantly dig under the fence. Numerous times he has seen Khaleesi growling, snarling, or jumping on the fence or going under it with her entire head and front legs. He would have to kick at Khaleesi to get her back into her property. He placed materials, such as rounds of wood with rocks behind them, under the fence to cover the holes, but Khaleesi would continue to dig under.
8. There was a black drainage pipe that had a bunch of rocks behind it. Immediately after the incident, the pipe and rocks were pushed back about 18 inches towards the garage wall. The grass was pulled under the fence, leaving about a 4–5-inch gap. Ex. D6 at 001. After the incident, Mr. Kemp pushed the pipe again against the fence, reinforcing it with additional wood rounds on each end.

Deandra Allred Testimony

9. When the Allreds moved into the home, they had wire fencing around the property. Because they had Labradors, they placed chicken wire along the fence so their dogs could not dig under. Ms. Allred had witnessed Khaleesi running up and down the property fence line and poking her head through the wired fence. There was a prior incident with her son's dog, Mikey. One day Mikey came inside the house with a hurt paw and a bloody muzzle, including a bite mark on the muzzle.¹ The Allred dogs do not dig under the fence or run against the fence line.
10. Later, the Allreds installed a wooden fence, mostly for privacy. Due to Khaleesi digging under the fence, the Allreds frequently stacked wood along the fence line to prevent her from digging too far in; they even texted Ms. Laskowsky several times about Khaleesi's digging.
11. On June 23, Ms. Allred was inside her house. She heard yelling coming from outside and then Thor's owner came in with Thor in her arms, requesting a towel. Ms. Allred drove them to the hospital, but Thor died on the way. Since then, Ms. Allred has noticed that Khaleesi has been quieter, but she continues running along the fence line.

Caleb Allred Testimony

12. Mr. Allred did not witness the July 23 incident, but has witnessed Khaleesi's behavior.
13. When Mr. Allred is outside, he always walks along the fence line and often hears Khaleesi barking at him. He sees her front paws or her face through the holes; he routinely closes the holes. Mr. Allred has two labs, and when they are outside they do not even pay attention to Khaleesi, whereas Khaleesi's behavior is aggressive.

Precious Laskowsky Testimony

14. Ms. Laskowsky testified that at least one of Mr. Allred's dogs has trespassed into their yard multiple times.² Ms. Laskowsky was not aware that Khaleesi had previously shown aggression to the Allreds.
15. On July 23, Ms. Laskowsky theorizes that Thor came into their yard through a gap in the fence that the homeowner, thirty minutes after the incident, closed up by placing bricks against it. Ms. Laskowsky did not witness the incident; she was in the laundry room watching her daughter and Khaleesi playing in the backyard. She believes that Khaleesi was protecting her daughter.

Legal Standards

16. Does Khalessi meet the definition of "dangerous animal"? KCC 11.04.230.F. Per KCC 11.01.120:

¹ As discussed below, we make no inferences about the Mikey incident.

² Thor is not an Allred dog, but one that was visiting on July 23.

A. “Dangerous animal” means any animal that:

1. Inflicts severe injury on or causes the death of a human being without provocation;
2. Inflicts severe injury on or causes the death of a domesticated animal without provocation;
3. Has been previously found to be potentially dangerous or vicious because of injury inflicted on a human, the owner having received notice of such, and the animal again bites, attacks, or endangers the safety of humans;
4. Enters onto private property without the consent of the owner or occupant and, regardless of provocation, engages in conduct meeting subsection A.1., A.2., or A.3. of this section; or
5. Jointly engages, with one or more animals, in conduct meeting A.1., A.2., A.3., or A.4. of this section, in which case all animals may be deemed dangerous, absent an affirmative demonstration that a specific animal was not responsible for a qualifying act.

B. An animal shall not be declared a “dangerous animal” if:

1. The threat, injury, or bite alleged to have been committed by the animal was sustained by a person who was at the time committing a willful trespass upon the premises occupied by the owner of the animal, or who was abusing or assaulting the animal, or who was committing or attempting to commit a crime. This exclusion does not apply to actions taken in defense of oneself, other humans, animals, or property; or
2. The animal has not been previously found to be potentially dangerous, vicious, or dangerous, and the severe injury or death is to a domesticated animal other than pets or large livestock.

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. Nobody saw, in the moments between Ms. Kemp losing sight of Thor and Thor yelping and being mortally wounded in the Laskowsky yard, how Thor wound up minutes from

death in the Laskowsky yard. But circumstantial evidence can be as equally reliable as direct evidence, so long as the inferences from that evidence are reasonable.³

19. Putting aside conspiracy theories, there are two plausible ways July 23 could have happened.
 - The four-pound Thor had the strength and will to pull back bricks (each weighing as much as him) and log rounds a foot-plus and then trespass under the Laskowsky fence, where Khaleesi killed him.⁴
 - A Siberian Husky with a history of digging under the fence, including getting her entire head and front legs under the fence, pushed back the bricks and log rounds, got at least her jaws into the Allred yard, seized Thor, pulled him through, and killed him. *See also* Ex. D7 at 003.
20. We find that second bullet point is our most likely scenario—indeed the most probable series of events. Khaleesi inflicted severe injury on, and actually caused the death of, Thor, without provocation. Khaleesi meets the code criteria for a dangerous animal.
21. However, even if—against all logic and the overwhelming weight of the evidence—we had instead found that Thor somehow momentarily had a surge of supernatural adrenaline and managed to pull back all the barriers and enter the Laskowsky yard voluntarily (meaning not being pulled through by Khaleesi’s jaws), that would have changed the calculus, but ultimately not the result.
22. Per our code provocation “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. In animal jurisprudence, reviewing courts focus on how an average dog, neither unusually aggressive nor unusually docile, would react to an inciting act.⁵ And a key touchstone of courts’ analyses is that “provocation” requires the dog’s reaction to be roughly proportional to the victim’s act.⁶ Such trespass would have reasonably provoked a response, even a violent response. Yet an average dog would not kill another dog, and Khaleesi’s infliction of mortal wounds was grossly disproportionate to a trespass. Again, that is a somewhat academic exercise, because our most likely facts here are easy to discern.

³ *State v. Miller*, 179 Wn. App. 91, 105, 316 P.3d 1143 (2014). The inferences based on circumstantial evidence must, of course, be reasonable and not based on speculation. *State v. Vasquez*, 178 Wn.2d 1, 16, 309 P.3d 318 (2013).

⁴ Ex. D6 at 001. Mr. Allred stated that the brick weighs proximally five pounds. That is in the ballpark, though perhaps a tad high. We take judicial notice that the common brick is typically between 4.2 and 4.5 pounds. Thor weighed four pounds. <https://chicagobrickco.com/how-much-does-a-pallet-of-bricks-weigh/>; <https://www.survivaltechshop.com/brick-weight/>; <https://lovehomedesigns.com/how-much-does-a-brick-weigh/>.

⁵ *Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108, 113 (2001) (citing *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000)).

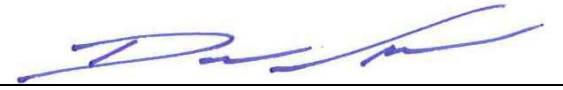
⁶ *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792.

23. As far as the monetary penalty, at first this case seemed straight forward. A dog owner aware of her dog's aggressive tendencies and repeated trespass (at least with the snout and paws) under the neighbor's fence fails to respond to her neighbors' complaints about that aggression, takes no action, and then the predictable violence ensues. In that context, the full weight of the \$500 penalty would be appropriate.
24. Yet breaking down the testimony, other than the incident with the Allred dog Mikey, no witness refuted Ms. Laskowsky's claim that the neighbors had not conveyed any concerns to her about Khaleesi's aggression—i.e., the complaints were about *nuisance* behavior, not *aggressive* behavior. And unlike July 23, where it is painfully obvious that a four-pound dog did not claw back all the impediments and trespass into the Allred yard, Mikey weighed 80-pounds. Without the hindsight provided by Khaleesi reaching in, grabbing Thor, and slaughtering him on July 23, it is unclear what Ms. Laskowsky was (or even we would have been) supposed to infer from the statement that Mikey had an interaction near the fence that resulted in a bite on his muzzle—which large dog crossed the fence line? We reduce the penalty to \$300.
25. As far as next steps, Ms. Laskowsky noted that she would likely give up Khaleesi rather than contain her in a locked pen (not to mention having to obtain a half-million dollars in insurance coverage). However, one thing lacking in Animal Services' notice of next steps (exhibit D8 at 003-04) is what options Ms. Laskowsky has for divesting herself of Khaleesi. Certainly, paragraph five notes that she can arrange for a different owner, though only after giving ten days' advance notice and meeting other hurdles. But how large is the pool of people willing take on the responsibility of a dangerous animal, including keeping a \$500,000 insurance policy or surety bond?
26. It seems unrealistic to expect a typical owner will be able to find someone up for that task. Animal Services should amend its subsequent notices to explain what an owner can do in the not-unlikely-event that they do not have the will or ability to keep the animal and are unable to find someone who can. We will amend our order to give Ms. Laskowsky the option of surrendering Khaleesi to Animal Services.

DECISION:

1. We uphold Khaleesi's dangerous animal designation but reduce the penalty to \$300.
2. By November 29, 2023, Ms. Laskowsky shall either:
 - A. Follow the steps in exhibit D8 for obtaining a dangerous animal registration (steps 1-2) and thereafter follow the steps for keeping a dangerous animal (steps 3-4); OR
 - B. Follow step 5 for rehoming Khaleesi; OR
 - C. Surrender Khaleesi to Animal Services.

ORDERED October 30, 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 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 OCTOBER 19, 2023, HEARING IN THE APPEAL OF PRECIOUS LASKOWSKY, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V23014549-A23004594

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Deandra and Caleb Allred, Chelsea Eykel, Jessie and Alex Kemp, and Precious Laskowsky. 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. A23004594
Exhibit no. D3	Online Complaint form of July 23, 2023, incident by Jessica Kemp, dated July 24, 2023
Exhibit no. D4	Photographs of injuries
Exhibit no. D5	Photograph of running track on Laskowsky property
Exhibit no. D6	Photographs, reinforcements on Kemp/Allred fence
Exhibit no. D7	Photographs, digging at fence on Laskowsky property
Exhibit no. D8	Notice of violation no. V23014549-A23004594, issued August 9, 2023
Exhibit no. D9	Appeal, received August 29, 2023
Exhibit no. D10	Map of subject area

October 30, 2023

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014549-A23004594**

PRECIOUS LASKOWSKY
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 October 30, 2023.



Jessica Oscoy
Office Manager

Allred, Caleb/Deandra

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Kemp, Jessie/Alex

Hardcopy

Lawkowsky, Precious

Hardcopy