

December 19, 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. **V23014666-A23005465**

TIANMIN SHI

Animal Services Enforcement Appeal

Activity no.: A23005465

Appellant: **Tianmin Shi**

[REDACTED]
Kenmore, WA 98028

Telephone: [REDACTED]

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King County: Regional Animal Services of King County
represented by Chelsea Eykel
Regional Animal Services of King County
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FINDINGS AND CONCLUSIONS:

Overview

1. Tianmin Shi appeals a violation notice declaring his dog, Luna, potentially dangerous and unlicensed and ordering her confined. After hearing witness testimony and observing demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny his appeal. Whether or not licensing penalties attach turns on whether Luna had a County license by September 27.

Background

2. On August 23, 2023, our office issued a report and decision for an earlier Mr. Shi appeal involving a May 16 Luna incident, V23014275-A23003370. We found that:

The facts here are disturbing. On May 16, Sparks [a neighborhood dog] was simply sitting out on the public sidewalk, in front of a different neighbor's house (Mr. Derr's). From a distance of over 100+ feet away, Luna charged out of the garage, seized Sparks, and shook him. Rather than immediately let go and retreat as Mr. Roy and then Mr. Derr tried to intervene, Luna continued her savage assault. Even Mr. Roy striking Luna with a heavy backpack and Mr. Derr kicking her did not deter her single-minded brutality. It took Mr. Derr twisting Luna's neck and restricting her oxygen supply to get her to release Sparks.

Even then, Luna would not be deterred, relentlessly trying to get back at her prey, including trying to burrow under the car to inflict more damage on a cowering Sparks. Yet still Luna was not done; after people managed to grab Luna and pull her back towards her house, Luna escaped and came back to inflict even more violence (though thankfully Sparks was safely in the truck bed by then). Luna did considerable damage, gashing Sparks, puncturing a muscle, creating a deep wound with an air pocket, caused a limp, and necessitated both internal (i.e., deep) and external stitches. It traumatized Sparks, the adults, and even a child.

3. To Mr. Shi's assertion that Luna had been provoked, we explained that:

The "provocation" inquiry in animal jurisprudence focuses on how an average dog, neither unusually aggressive nor unusually docile, would react to an inciting act. A dog barking in front of a different neighbor's house would not incite the average dog to leave the safety of its garage and charge 100-plus feet to attack another dog. And a key touchstone of courts' analyses is that "provocation" requires the dog's reaction to be roughly proportional to the victim's act. So even if somehow Luna was justified in charging Sparks, the unrelenting violence she inflicted on Sparks was grossly disproportionate to any incitement Sparks' barking could be said to have caused. [Luna] was in no legal sense "provoked."

4. We wrapped up the analysis with.

.... The unrelenting nature of Luna's attack—in the face of three adults trying desperately to get her to disengage—was at the high end of the viciousness spectrum. And while May 16, standing alone, would have been more than sufficient to uphold a [viciousness] violation, unfortunately it was not a completely out-of-character event. Mr. Mason-Smith described Luna, while being walked by Ms. Shi, dragging her and lunging at him. Mr. Corcoran discussed numerous times Luna banged

against the fence. And Ms. Corcoran described a time where Luna jumped so high as to get her rib cage poking over the top of the six-foot fence.

Animal Services easily meets its burden of proving that Luna qualifies as vicious.

5. In addition to upholding the viciousness¹ and running at large violations for Luna from that May 16 incident, we also upheld the licensing violation. However, we noted that if Luna was licensed in King County by September 27, 2023, there would be no licensing penalty.
6. On September 10, 2023, Regional Animal Services of King County (Animal Services) issued violation notice V23014666-A23005465 to Mr. Shi for Luna qualifying as a potentially dangerous animal and being unlicensed and unaltered. Exs. D8, D9. Mr. Shi timely appealed. Ex. D10. We went to hearing on December 5.

Hearing Testimony

Neva Corrigan Testimony

7. Neva Corrigan testified that due to Pippa's owners' health and mobility issues, she has been walking Pippa. She and Todd Vannoy would bring Pippa on a walk a couple times a week.
8. On September 8, Mr. Vannoy, Ms. Corrigan, and her son, Charles, brought a leashed Pippa on a walk. They were walking on the right side of the road, on the pavement. It was dusk as they were heading home and came upon Mr. Shi's house. Charles was walking ahead of them. Ms. Corrigan saw a pair of feet in the driveway; there was a large rhododendron bush blocking her view. At no point did they walk into the Shi driveway.
9. The next things she remembers is being on the ground in the middle of the road with her arms around Pippa and a German Shepherd [Luna] in her face. Luna was attacking Pippa. It was all a blur. Pippa was squealing horrible sounds, like she was suffering. Mr. Vannoy was behind Luna trying to pull her off. A couple [Mr. Shi and Jing Chen] came out and joined in trying to pull Luna off. Mr. Shi and Ms. Chen were on the other side of Luna; they were nowhere close to Pippa. As they were able to pull Luna away, she still had Pippa by the mouth. They finally were able to separate the dogs.
10. Ms. Corrigan noticed her hand had been bitten. As Ms. Corrigan walked to a neighbor's house for help, she looked back and saw Ms. Chen sitting in the middle of the road with Mr. Shi. Ms. Corrigan, carrying Pippa, Mr. Vannoy, and Charles went to the Mason-Smith house for help. Jacob Mason-Smith washed Ms. Corrigan's wound. They noticed Pippa was limping. Her other neighbor, Lance Roy, took Charles. Someone called Bee and Jim, who brought Pippa to the emergency vet. Mr. Vannoy brought Ms. Corrigan to

¹ The old KCC Title 11 had a single category for violent animal behavior—vicious. That was replaced in July with a two-tiered, “potentially dangerous” and “dangerous” system.

the emergency room. Ms. Corrigan no longer walks Pippa because this incident was so terrifying.

*Charles Testimony*²

11. Charles testified that he was on a walk with Ms. Corrigan, Mr. Vannoy, and Pippa. He was ahead of the group. They were on the road, close to the shoulder. A car was in the Shi driveway. The trunk opened, and Luna leaped out. There was no time to react. Charles was about eight to ten feet away from the car when Luna jumped out.
12. Luna came out into the roadway and was trying to bite Pippa's head off. Mr. Vannoy, Mr. Shi, and Ms. Chen tried pulling Luna away from Pippa and Ms. Corrigan also tried to pull Pippa away. Charles stayed back. After Luna was pulled away, they went to a neighbor's house for help. Ms. Corrigan was crying, and Pippa was limping.

Todd Vannoy Testimony

13. Todd Vannoy testified that Ms. Corrigan, Charles, and he brought a leashed Pippa on a walk. Mr. Vannoy heard people in the Shi driveway. He was apprehensive about Luna because of the previous incident. They started edging out and were about parallel to the Shi house, walking in the middle of the street about 10 to 15 feet from the Shi driveway. When questioned again, he said they might have been walking in the right lane, but clarified that he never went into the driveway. Luna suddenly came sprinting out towards Pippa. It was only a few seconds before Luna was on top of Pippa. He did not see where Luna came from on the Shi property.
14. Ms. Corrigan saw Luna and said "no, no, no, no." She laid down on the street and wrapped her arms around Pippa. Luna went straight for Pippa's neck and face. Pippa was squealing. There was a struggle on the ground. Mr. Vannoy tried to pull Luna back. He was not sure if Luna had a collar or not. He was pulling Luna back by her neck. After about a minute or two, Mr. Shi and Ms. Chen walked into the middle of the street. After about thirty seconds, Luna followed them.
15. Pippa's front leg was hurt. Ms. Corrigan carried Pippa to the neighbor's house to get help. Mr. Vannoy brought Ms. Corrigan to the emergency room.
16. Mr. Vannoy reiterated that neither he, Ms. Corrigan, Charles, or Pippa ever went into the Shi driveway, and Pippa never chased anyone. Pippa was leashed the whole time. She is a very small lap dog.

Nicole Derr Testimony

17. Nicole Derr testified that she was walking at the intersection of 190th and 58th. She only came in at the aftermath of the incident, after Luna had been removed. She heard Ms. Corrigan yelling and running towards the Mason-Smith house. Ms. Derr headed towards

² We typically do not identify minors at all in our decisions. Because Charles has a different last name than his mom, using his first name does not inadvertently identify him.

them and noticed someone sitting in the middle of the road. Ms. Derr called 911 as she walked towards the Mason-Smith house. She realized the person in the middle of the road was Ms. Chen, and Mr. Shi was helping her.

18. Ms. Derr explained that if Ms. Chen had been in the driveway, she would not have been able to see her from where Ms. Derr was standing. Ms. Derr asked Mr. Shi if they needed medical assistance. The hatch of the car in the Shi driveway was open, and the kennel in the trunk was also open. Ms. Chen had difficulty walking.
19. Ms. Derr went to see if she could assist Ms. Corrigan, who was worried that Pippa was injured. Ms. Derr wrote down her statement right when she got home. She specifically wrote down that Ms. Chen was sitting in the middle of the road because at the time she thought that was so odd.

Tiffany Mason-Smith Testimony

20. Tiffany Mason-Smith testified that Ms. Corrigan, Mr. Vannoy, Charles, and Pippa arrived at her house. Ms. Corrigan was crying and kept saying she had been attacked. She was worried about Pippa and that it happened on her watch.
21. Ms. Corrigan told Ms. Mason-Smith that she dove on top of Pippa with her body, but Luna was still able to get to Pippa. Ms. Corrigan was in shock. Ms. Mason-Smith's husband washed Ms. Corrigan's hand and Ms. Mason-Smith took pictures of her hand. She took Pippa's leash off to check her for wounds.

Beatrice Abbott Testimony

22. Beatrice Abbott testified that she received a call that Luna attacked Pippa. When she arrived, Pippa could not walk because her paw was hurt. Ms. Abbott and her husband took Pippa to the emergency vet. The vet irrigated the wound. The next day they brought Pippa in for an x-ray. It found bone chips around the ankle. Sometimes, Pippa still has issues and limps. She is a ten-year-old dog, around 12 to 13 pounds. Pippa is very friendly. She has never attacked anything or anyone. Ms. Corrigan always walked Pippa on a leash.

Tianmin Shi Testimony

23. Tianmin Shi testified that he and Ms. Chen had just gotten home, and Mr. Shi was moving stuff from the car into the house. He was walking from the house back to the car and Ms. Chen was at the back of the car, bringing Luna into the house. Luna was on a leash. Mr. Shi was about 10 to 15 feet from Ms. Chen.
24. Mr. Shi saw Pippa followed by Ms. Corrigan, Mr. Vannoy, and Charles. Pippa charged out from the road onto Mr. Shi's driveway and almost got Ms. Chen. Luna blocked Pippa. The two dogs started fighting on the driveway. Ms. Chen tried to stop the fight, and Pippa bit Ms. Chen's finger; however, Mr. Shi did not see the bite and clarified on cross examination that he did not know whether Pippa or Luna bit Ms. Chen. Mr. Shi ran to Ms. Chen, who was on the ground. Ms. Corrigan tried to pull back Pippa. This all

happened in a few seconds. Mr. Shi did not notice Ms. Corrigan on the ground or Mr. Vannoy pulling Luna back.

25. The fight was in their driveway. When the dogs separated, Ms. Chen was on the ground in pain. Ms. Chen was not in the middle of the road; she was in their driveway. Mr. Shi put Luna inside. Mr. Shi assisted Ms. Chen to stand, and he then brought Ms. Chen to the emergency room. The next day, Ms. Chen received surgery. She may need another surgery for complete recovery.
26. Mr. Shi was waiting on microchip information before licensing Luna. Mr. Shi then questioned the need for a license.

Legal Standards

27. Does Luna meet the definition of “potentially dangerous animal”? KCC 11.04.230. Per KCC 11.01.320
- A. “Potentially dangerous animal” means any animal that when unprovoked:
1. Bites or inflicts injury on a human or domesticated animal;
 2. Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack;
 3. Has a known propensity, tendency, or disposition to attack, to cause injury, or otherwise to threaten the safety of humans or domestic animals; or
 4. Jointly engages, with one or more animals in conduct meeting subsections A.1., A.2., or A.3., of this section, in which case all animals are deemed potentially dangerous, absent an affirmative demonstration that a specific animal was not responsible for a qualifying act.
- B. Regardless of provocation, an animal is a “potentially dangerous animal” if it enters onto private property without the consent of the owner or occupant and bites a human or animal or chases or approaches a person in a menacing fashion or apparent attitude of attack.
- C. An animal shall not be declared a “potentially dangerous animal” if 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.
28. Was Luna unlicensed and unaltered? Per KCC 11.04.030.A:
- Any owner of a pet eight weeks old and older in King County for more than thirty days shall license and register that pet, but this provision does

not apply to a pet walker, sitter, or other temporary custodian, if that person can verify the pet owner’s name and contact information. The license must be renewed on or before the date of expiration.

An owner “means any person who harbors, keeps, maintains, or has control of an animal except for individuals or organizations involved with providing care to a feral cat colony, such as trap, neuter, and release programs.” KCC 11.01.280. And “harbor, keep, or maintain” means: “A. Providing animal care, shelter, protection, refuge, food, or nourishment; or B. Having custody of an animal.” KCC 11.01.190

29. 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

Potentially Dangerous

30. We have two diametrically opposed testimonies of how the altercation started, each with an obvious legal conclusion.
- A. Ms. Corrigan, Charles, and Mr. Vannoy testified that they were walking a leashed Pippa on the street when Luna charged out of the Shi driveway and attacked Pippa in the street. At no point did Pippa enter the Shi property; all the activity took place on the street. In that scenario, Luna, without provocation, bit a domesticated animal, qualifying her as potentially dangerous.
- B. Conversely, Mr. Shi testified that Pippa charged up the Shi driveway from the street to attack Ms. Chen, but Luna valiantly interceded to protect Ms. Chen. The altercation occurred entirely in the Shi driveway; Ms. Chen was *not* in the road but in the Shi driveway. In that scenario, Luna was provoked³ to defend against Pippa and thus does not qualify as potentially dangerous.
31. Ms. Chen did not testify at our hearing. We noted in our August 28 decision the problem with eyewitnesses who do not appear at the hearing. The first round it was Mr. Shi’s mom who apparently saw how the May 16 incident started. We observed that “the only alleged source of [the case for] provocation was the hearsay statement that his mom told him that Sparks was barking. His mom was not available to testify or answer questions.” Here Ms. Chen was present and obviously got bitten but she elected not to testify at our December 5 hearing. Mr. Shi did submit a written statement from her.
32. A statement made outside of the hearing room, offered for the truth of what it asserts, typically qualifies as “hearsay.” Unlike the usual court bar to hearsay, an examiner may

³ “Provocation” is defined as “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.

(as a state administrative tribunal) admit certain hearsay. *Compare* Wash. R. Evid. 802 *with* Exam. R. XII.B.1 *and* RCW 34.05.452(1). We typically allow in hearsay statements—in fact, we typically allow in just about anything either party presents—but admissibility is not the same thing as weight. And here, by her own statement, she did not see how the altercation started, facing away from the street as Luna darted behind her, turning to see Luna already engaged with Pippa. Ex. A2. And while we completely respect her reasons for not participating, she was not there for us to question or to assess credibility.

33. Conversely, Ms. Derr did testify. She saw Ms. Chen in the middle of the road, not on her own property. In fact, from Ms. Derr’s initial vantage point, she would not have been able to see Ms. Chen if she had been sitting on her own property.
34. We found Charles’ testimony to be the most credible of the eyewitnesses who observed the altercation. Even without Ms. Derr’s testimony that undermined Mr. Shi’s version that the entire altercation occurred (and Ms. Chen lay down) in the Shi driveway, we would have found that, more likely than not, at no point did Pippa veer off the street and enter the Shi property. Instead, more likely than not, Luna charged onto the street and, without anything approaching legal provocation, attacked Pippa. Thus, Luna meets the “potentially dangerous” criteria. Ms. Derr’s testimony simply makes the proof even clearer and more convincing. Add to that, Luna has a documented history of charging off her property and attacking smaller dogs, and this case almost ventures into beyond-a-reasonable-doubt territory.⁴

Licensing

35. The last line in our August 28 decision upholding the first Luna violations was:

We uphold the licensing violation. However, Luna was spayed at the time, so the maximum penalty would be \$125. And if Luna gets licensed in King County by **September 27, 2023**, there is no licensing penalty.

36. Mr. Shi first claimed he had issues with a microchip and that Luna was licensed in Seattle. So, at our hearing we pulled up our August 28 decision and read him the paragraph stating:

because Luna was in King County (meaning unincorporated King County, plus the cities like Kenmore that contract with Animal Services) for more than thirty days, Luna needed a *County* animal license. KCC 11.04.030.A. Mr. Shi’s girlfriend did license Luna at the end of July, but in Seattle. Seattle is not part of the Animal Services regulatory system—Seattle has its own system—but we completely get the confusion. If Mr. Shi or his girlfriend want Luna to live at both locations, he may need a County license (\$30) in addition to the Seattle license. Conversely, if Luna will

⁴ To be clear, preponderance of the evidence remains the actual standard. KCC 20.22.080.G. *See also Mansour v. King County*, 131 Wn. App. 255, 266, 128 P.3d 1241, 1247 (2006) (preponderance of the evidence is correct standard for serious animal cases).

simply be residing in Kenmore, they can transfer the Seattle license to King County for \$5, good for 12 months.

We will waive the licensing penalty so long as Luna is licensed in King County (either via a new license or via transferring the Seattle license) within the next month [i.e., by September 27].

37. Mr. Shi then changed his story and questioned whether Luna actually needed a County license. That was water under the bridge. Our August 28 decision closed by explaining that:

This decision shall be final and conclusive unless appealed to superior court by *September 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.

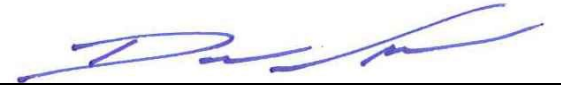
Mr. Shi did not appeal, making that decision final and conclusive.

38. Moreover, there is zero question that Luna requires a King County license, given that Kenmore operates under the Regional Animal Services system. See KMC 6.05.010, .020. Luna has been harbored, kept, maintained—being provided with a care, shelter, protection, refuge, and food—at Mr. Shi’s Kenmore residence for far more than thirty days, being an aggressive presence since at least last the spring.
39. However, Luna was, as of the time of her May 16 violation, altered, meaning the penalty for being unlicensed should have been \$125 back in May and \$125 in September, not \$250 each. Moreover, by the terms of our August 28 decision, we provided Mr. Shi until September 27 to get Luna licensed by Animal Services to remove the licensing penalty. At hearing, Animal Services was not sure whether Mr. Shi (or Ms. Chen) had licensed Luna with King County by September 27. If they did, then we waive the licensing penalty for both the May and September violations. If they did not license Luna with King County by September 27, then the \$125 penalty from May and the \$125 penalty from September remain in place.

DECISION:

1. We deny Mr. Shi’s appeal of Luna’s potentially dangerous animal designation.
2. We deny Mr. Shi’s appeal of Luna’s licensing violation. If, as of September 27, Luna was licensed in King County, there is no licensing penalty associated with either V23014275-A23003370 or V23014666-A23005465. If not, then the \$125 penalty from V23014275-A23003370 remains in place, as does then the \$125 penalty from V23014666-A23005465.

ORDERED December 19, 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 *January 18, 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 5, 2023, HEARING IN THE APPEAL OF TIANMIN SHI, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V23014666-A23005465

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Neva Corrigan, Charles Rawert, Todd Vannoy, Nicole Derr, Tiffany Mason-Smith, Bee Abbott, and Tianmin Shi. 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. A23005465
Exhibit no. D3	Online Complaint form of September 8, 2023, incident by Neva Corrigan, dated September 8, 2023
Exhibit no. D4	Video of Pippa after attack
Exhibit no. D5	Photograph of Pippa’s swollen injured leg
Exhibit no. D6	Vet report and bill for Pippa
Exhibit no. D7	Photograph of Ms. Corrigan’s injury
Exhibit no. D8	Notice of violation no. V23014666-A23005465, issued September 10, 2023
Exhibit no. D9	Potentially Dangerous Dog Declaration
Exhibit no. D10	Appeal, received September 28, 2023
Exhibit no. D11	Map of subject area

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

Exhibit no. A1	Statement from Shi, Tianmin
Exhibit no. A2	Statements from Chen, Jing
Exhibit no. A3	ER after visit summary
Exhibit no. A4	Photo of Ms. Chen’s injury
Exhibit no. A5	Photo of Luna’s injury

December 19, 2023

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014666-A23005465**

TIANMIN SHI

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 December 19, 2023.



Lauren Olson
Legislative Secretary

Charles, Neva Corrigan
Hardcopy

Derr, Nicole

Eykel, Chelsea
Regional Animal Services of King County

Mason Smith, Tiffany

Roy, Lance

Shi, Tianmin
Hardcopy

Vannoy, Todd