

December 27, 2023

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V23014776-A2300 5979**

IVONNE PINEDA

Animal Services Enforcement Appeal

Activity no.: A23005979

Appellant: **Ivonne Pineda**

Seattle, WA 98168

Telephone: [REDACTED]

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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
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FINDINGS AND CONCLUSIONS:

Overview

1. Ivonne Pineda requests a fine reduction for a Regional Animal Services of King County (Animal Services) violation order for her dog, Chiquita, again running at large and again qualifying as potentially 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 reduce, but only slightly, the penalty.

Background

2. On August 11 Breana Rounds filed a complaint for an August 4 incident involving her dog Brutus and Ms. Pineda's dog Chiquita. Ex. D12. Because no resident at the house agreed to provide identification to Animal Services when they came to the house to issue the penalty on August 13, Maritza Herrera, a friend visiting from Oregon, stepped up and accepted the violation notice and order in her name. Ex. D15. On September 15, Animal Services approved a fine reduction, leaving the potentially dangerous designation, and the order to contain Chiquita on the premises, in place. Ex. D17.
3. On October 7, Chiquita broke loose and attacked again. Animal Services issued Ms. Pineda another violation order. Ex. D7. Ms. Pineda surrendered Chiquita to Animal Services. Ex. D6. Ms. Pineda appealed, requesting another fine reduction Ex. D19.
4. Animal Services has since euthanized Chiquita. We went to hearing on December 8 and provided Ms. Pineda with a Spanish interpreter.

Hearing Testimony

Rocio Lopez Testimony

5. Rocio Lopez is an administrative staff with Animal Services and fluent in Spanish. Ms. Lopez has assisted with translating complaints and emails to and from Spanish speaking persons. Ms. Lopez relayed to her supervisor Ms. Pineda's appeal requesting a fine reduction (for Chiquita's August 4 attack).
6. Ms. Lopez explained to Ms. Pineda the requirements for a potentially dangerous dog and how to pay the fines; Ms. Pineda seemed to understand the importance in abiding by the confinement order requirements and the need for public safety. Ms. Lopez relayed that due to Chiquita's breed, another incident could not happen again. She believes she transmitted the requirements in Spanish by writing in addition to a phone call.

Henry Corrado Testimony

7. Henry Corrado and Breana Rounds live diagonally across the street from Ms. Pineda. On October 7 Mr. Corrado and Ms. Rounds were walking their dog Brutus. They were on Ms. Pineda's side of the street when they saw Chiquita appear from the corner of the Pineda fence. Chiquita pushed the fence gate open and ran towards them. Mr. Corrado got in front of Ms. Rounds and Brutus, but Chiquita ran around him and bit or latched to Brutus' rear. Ms. Rounds tried to shake Brutus to get Chiquita off him. Mr. Corrado then jumped on top of Chiquita attempting to wrestle her off Brutus.
8. Eventually Chiquita let go, and Mr. Corrado kept Chiquita on a chokehold, pinned to the ground. After one to two minutes, persons from the Pineda household came outside. One woman went back inside to grab a leash and harness. They took Chiquita back inside and Mr. Corrado and Mr. Rounds took Brutus back home. They noticed that Brutus had been bit in one or two places and Ms. Rounds also had injuries, though he does not know which dog bit her.

Breauna Rounds Testimony

9. On October 7 Ms. Rounds and Mr. Corrado were walking with Brutus. Ms. Rounds saw Chiquita barking and running along the inside of the Pineda fence and then pushed the gate open and started running towards them. Ms. Rounds grabbed Brutus' harness and Chiquita went around Mr. Corrado to bite Brutus on his back. Chiquita then bit her arm. When Chiquita finally let go, Ms. Rounds took Brutus across the street. Two women from the Pineda household came outside. Mr. Corrado called 911 and they returned home. Ms. Rounds noticed she was bit on her right forearm and her left leg and knee.
10. Ms. Rounds also witnessed another incident on August 11 involving Chiquita and a delivery driver where Brutus came to the stairs of a delivery driver's truck and barked at the driver.
11. At some point between the August 4 and October 7 (she thought September), she observed an altercation between Chiquita and another dog. She did not see how that started, having been inside her home at the time and only alerted to look up because of the noise, but she saw that Chiquita was loose on the *opposite* side of the street from the Pineda house.

Ivonne Pineda Testimony

12. Ms. Pineda testified that on October 7 her tenant did not lock the fence gate. She was home all day. Ms. Pineda heard Chiquita barking so she immediately went outside. Her daughter heard the noise, so she came outside to help. Her daughter was able to open Chiquita's mouth to release Brutus. Mr. Corrado then got on top of Chiquita to contain her. Ms. Pineda grabbed one of Chiquita's feet, while her daughter went back inside to grab a leash and harness.
13. It all happened so fast that Ms. Pineda did not even realize that Chiquita bit Brutus. When she saw the police and the firefighters, she thought something else had occurred. An officer informed Ms. Pineda that Chiquita bit Brutus, but she did not understand the situation too well. Ms. Pineda stated that they had not had a situation of this magnitude in the past. She has not had another issue with other neighbors, and Chiquita has been friendly with other persons. Even on one occasion when Chiquita was loose and an elderly woman was outside, Chiquita was not aggressive. Ms. Pineda clarified that she was not present on another occasion (presumably, September) that Chiquita bit another dog; she thought from her family's comments that Chiquita was only barking. Ms. Pineda was also unaware of the August 4 incident because she is always working and never home.
14. Even though Ms. Pineda had Chiquita for protection, to resolve the situation she decided to turn Chiquita over to Animal Services.

Legal Standards

15. Ms. Pineda does not dispute that Chiquita was at-large on October 7, meaning "off the premises of its owner and not under control of a competent person," with "under

control” meaning “restrained, by a human using a leash or competent and effective voice or signal control, from approaching any bystander or other domesticated animal and from causing property damage”? KCC 11.01.090; KCC 11.01.380; KCC 11.04.230.O.

16. Animal Services asserts that Chiquita’s actions on October 7 violated the terms of her earlier potentially dangerous dog designation and qualified Chiquita for a second time as potentially dangerous under KCC 11.04.230.F. 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.

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. Ms. Pineda does not really challenge that Chiquita’s actions on October 7 met the code criteria for another “potentially dangerous” violation. It would not have been a successful challenge anyway. While Chiquita, by charging off her property onto a public

walkway and attacking Brutus is *likely* responsible for Ms. Rounds sustaining a bite from Brutus as Ms. Rounds tried to end the assault, we need not tackle that question. Brutus walking along a public right-of-way was nowhere close to sufficient provocation for Chiquita to rush out to a public walkway and bite or inflict injury on *Brutus*. Exs. D3-D5. Animal Services has shown another KCC 11.04.230.F (potentially dangerous) violation, as well as another at-large violation. And the same violation within a one-year period results in doubling the base penalty. KCC 11.04.035.C.1.b & .C.2.b.

19. Instead, Ms. Pineda requests a penalty reduction. Where an owner shows that (on the front end) the animal did something despite—not due to a lack of—their responsible behavior and/or (on the back end) they have taken steps after the violation to avoid a recurrence, we often reduce the otherwise applicable penalty.
20. On the front end, Ms. Pineda was completely *ir*responsible. Animal Services had been in contact with the household since 2022 about Chiquita’s frequent escapes and troubling behavior. And after Chiquita’s August 4 attack, there were at least two other times leading up to October 7 that Chiquita escaped the Pineda yard and either menaced a person or got into a fight with another dog. And then on October 7 Chiquita was again allowed to get loose and again attack Brutus, this time resulting in Ms. Rounds being injured. It was always the same excuse about a gate being unlocked. We make no penalty reduction on that score.
21. And on the back end, at hearing Ms. Pineda was still making excuses for Chiquita’s violence. Yet Ms. Pineda surrendered Chiquita to Animal Services for, as she put it, the security and well-being for all. Ex. D6. That allowed Animal Services to euthanize Chiquita to eliminate the very significant public safety threat Chiquita posed. Thus, not only did Ms. Pineda take steps to minimize the chance of another Chiquita attack, she took steps that resulted in *eliminating* that possibility. That significant benefit to public safety—not to mention to the mental well-being of neighbors and visitors anywhere near the Pineda household who can now rest easy, and warrants a small penalty reduction.

DECISION:

We uphold Chiquita’s October 7 violations, but we reduce the penalty from \$1100 to \$750.

ORDERED December 27, 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 26, 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 11, 2023, HEARING IN THE APPEAL OF
IVONNE PINEDA, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V23014776-A23005979**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Breana Rounds, Henry Corrado, Chelsea Eykel, Allison Ostrer, and Ivonne Pineda. 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. A23005979
Exhibit no. D3	Photograph of injury to Brutus
Exhibit no. D4	Vet Bills
Exhibit no. D5	Ms. Rounds’ medical report
Exhibit no. D6	Owner surrender form signed by Ms. Pineda
Exhibit no. D7	Notice of violation no. V23014776-A23005979, issued October 7, 2023
Exhibit no. D8	RASKC investigation report no. A22000739
Exhibit no. D9	RASKC investigation report no. A22000935
Exhibit no. D10	RASKC investigation report no. A23004970
Exhibit no. D11	RASKC investigation report no. A23004976
Exhibit no. D12	Online Complaint form of August 4, 2023, incident by Breana Rounds, dated August 11, 2023
Exhibit no. D13	Photograph of Brutus’s injury A23-4976
Exhibit no. D14	Vet Bill A23-4976
Exhibit no. D15	Notice of violation no. V23014572-A23004976, issued August 13, 2023
Exhibit no. D16	Potentially Dangerous Dog Declaration
Exhibit no. D17	Settlement V23-014573
Exhibit no. D18	Map of subject area
Exhibit no. D19	Appeal

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014776-A235979**

IVONNE PINEDA

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 27, 2023.



Jessica Oscoy
Office Manager

Breauna Rounds, Henry Corrado

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Pineda, Ivonne Ms.

Hardcopy