April 2, 2018

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
King County Courthouse
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Seattle, Washington 98104
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REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V18007774**

KENDALL ROY BRADSHAW
Animal Services Enforcement Appeal

Activity no.: A18000016

Appellants: **Kendall Bradshaw and Valyncia Green**
13432 48th Place S
Tukwila, WA 98168
Telephone: (206) 351-8131
Email: valynciagreen@comcast.net

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
21615 64th Avenue S
Kent, WA 98032
Telephone: (206) 263-5968
Email: raskcappeals@kingcounty.gov

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal, but amend penalty

EXAMINER PROCEEDINGS:

Hearing Opened:	March 21, 2018
Hearing Closed:	March 21, 2018

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, the examiner hereby makes the following findings, conclusions, and decision.

FINDINGS AND CONCLUSIONS:

1. On New Year's Eve, Kendall Bradshaw was filling up at a gas station in unincorporated King County, when he observed a man holding a dog. The man said he found the dog after the dog had been hit by a car. Recognizing that Regional Animal Services of King County's (Animal Services') shelter would be closed for the night, and not aware that Animal Services has a 24-hour response line, Mr. Bradshaw took in the dog. Mr. Bradshaw attempted to take the dog to Animal Services the following day as well, but the office was closed for New Year's Day.

2. It was slightly after noon the day after that, January 2, when things spiraled out of control, in a quick-hitting series of interactions he and his mom, Karen Bradshaw, had with two Animal Services' staffers. The facts are analyzed below, but there is no question that sometime before 2 p.m. that afternoon, Mr. Bradshaw abandoned the dog on a public street, and then drove off.

3. Animal Services served a Notice of Violation and Order to Comply (NVOC) to Mr. Bradshaw, asserting a violation of KCC 11.04.250.A.2, which makes it unlawful to:

> By reason of neglect or intent to cause or allow any animal to endure pain, suffering or injury or to fail or neglect to aid or attempt alleviation of pain, suffering or injury the person has so caused to any animal.

Ex. 4. Mr. Bradshaw timely appealed. Ex. 6.

4. 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. Unless directed to by law—and no special directive applies to today's case—the examiner does *not* grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. Ours is a true *de novo* hearing.

5. The flipside of us not giving Animal Services' determinations deference is that what Animal Services said or did or thought or knew prior to issuing a notice of violation is usually not relevant—Animal Services' factual allegations are typically based on others' first-hand observations, say, the victim of a dog bite. Here, Seth Bates testified by phone to observing the dog being dropped off beside a public road, the dog running across the road, and then the driver pulling away. Mr. Bates then called 911. His testimony is not crucial, because Mr. Bradshaw freely admits he did in fact let the dog go, and no one asserted that Mr. Bates' recollection was inaccurate.[1] Mr. Bradshaw's theory of the case

[1] What is partially inaccurate is Animal Services' NVOC, finding that the dog was "throw and/or released." Ex. 4 at 001. Mr. Bates testified that he saw the dog "getting out of the car." Animal Services adding a reference to the dog perhaps being "thrown" out of the car did nothing to enhance Animal Services' credibility.

is basically that Animal Services left him no choice but to abandon the dog, because he had no way to care for the dog.

6. Two Animal Services officers interacted with the Bradshaws in the crucial hour-and-a-half or so period on January 2. Animal Services did not produce either officer at hearing. Animal Services' theory is that even without resorting to any officer statements, Mr. Bradshaw abandoned the dog on a public road, and that alone is sufficient to sustain the violation.

7. A statement made outside of the hearing room, offered for the truth of what it asserts, is called "hearsay." Unlike the usual court bar to hearsay, an examiner may (as may 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. Where a live witness, subject to cross-examination, offers a credible version of events countering a hearsay statement, we often accept that live, cross-examined testimony over the out-of-court hearsay statement.

8. While the Bradshaws exhibited significant emotional self-regulation issues, leading to frequent courtroom tirades (despite our repeated cautions), they seemed honest, and there was nothing incredible about the version of events they testified to.[2] We resolve the evidentiary issues by finding—in each instance where the Bradshaws' offered a different version of events (say, the specifics of a conversation the officer recorded notes on) by adopting the Bradshaws' version. Thus, our factual findings below are based primarily on the Bradshaws' testimony, with a little help from Mr. Bates' testimony, and augmented by the written record—but only where the written record fills in details not disputed by the Bradshaws and not contrary to their testimony.

9. On January 2, Mr. Bradshaw brought the dog into Animal Services shortly after it opened at noon. (An Animal Services' officer wrote that the dog came in "between the hours of 1200 and 1230," so there is no discrepancy.) Animal Services' receptionist told Mr. Bradshaw that she would not take the dog, because the dog was not the responsibility of (unincorporated) King County or any city Animal Services contracts with, and instructed him to take it to the Seattle shelter. This was wrong on two levels. First, Mr. Bradshaw had in fact found the dog in unincorporated King County, and so Animal Services—and not the Seattle shelter—was the correct place to drop the dog off. Second, even if Mr. Bradshaw had found the wounded dog in a sister jurisdiction, it was poor customer service to turn away a Good Samaritan bringing in a lost, injured dog, and put the responsibility back on that Good Samaritan to navigate various local government bureaucracies.

10. As Mr. Bradshaw left Animal Services and started driving towards the Seattle shelter, he called Seattle, and Seattle advised him to go back to his address in Tukwila and call Tukwila to try to pick the dog up. Instead, he left the dog by the road to fend for itself. As to when precisely he abandoned the dog, at one point in his testimony he said it was

[2] Valyncia Green, who was with Mr. Bradshaw at the gas station on New Year's Eve was also a credible fact witness, although her eyewitness testimony was limited to New Year's Eve. Unlike the Bradshaws, who brought significantly more heat than light, Ms. Green kept her composure throughout, and performed admirably as the Bradshaws' lay representative.

"around 2" p.m. and later he referenced 1:30. Animal Services states that the 911 dispatcher—in response to Mr. Bates' call—roped in Animal Services around 1:47, Exhibit 3 at 003, which fits snuggly in Mr. Bradshaw's range.

11. Somewhat parallel to Mr. Bradshaw's interactions with various government officials, at 12:29 pm, Ms. Bradshaw called Animal Services to complain. Ex. 2 at 001. The call was dispatched to Animal Services Officer Valerie Fetters, who recorded notes but was not present at hearing to testify about these communications. The precise sequence of events, and who said what in a few voicemails and calls within the next hour or so, is not crystal clear. Yet the general parameters are ascertainable.

12. First, there is no question that the conversations between Ms. Bradshaw and Ms. Fetters were tense. Although there is no audio recording, given Ms. Bradshaw's uncontrolled, angry outbursts in the courtroom, we get something of the flavor. Second, Ms. Bradshaw was candid that when Ms. Fetters called to say she was coming out to pick up the dog, Ms. Bradshaw was angry at Ms. Fetters (because Ms. Bradshaw had been resting from working the graveyard shift when Ms. Fetters called) and told Ms. Fetters that she would not open the door for Ms. Fetters, but would instead tie the dog outside.

13. Mr. Bradshaw explained that Animal Services did not make it to his mom's house until well after 2:00 pm. He believed Animal Services should have dropped what it was doing—apparently Ms. Fetters was on lunch break when Ms. Bradshaw's first call was routed to her—just like a police officer should, and come sooner. He claimed it was unreasonable to expect him to wait on Animal Services. Apparently his mom did not tell him that Animal Services was coming out.

14. We certainly understand the Bradshaws' frustration. If the Animal Services' receptionist had not erroneously refused to accept the wounded animal a little after noon, Mr. Bradshaw would not have been in a position an hour and a half or so later to dump the dog. We do not pull punches in criticizing Animal Services. But the living being that bore the brunt of the Bradshaws' anger and impulse control issues was not Animal Services, but a poor, injured dog, recently hit by one car and left to take his chances again with other cars on a public road. Two wrongs do not make a right. Animal Services has met its burden of proving the violation.

15. Mr. Bradshaw's rant that the $500 fine is "piracy" and "taxation without representation," well overshoots the mark. Yet while many of the words he uttered at hearing were over the top, we agree with the underlying sentiment that paying Animal Services the $500 fine that accompanies his violation, KCC 11.04.035.C.2.a, is not warranted.

16. First, $500 would have been the penalty if, for example, Mr. Bradshaw had grown tired of one of his own dogs and abandoned it by the side of the road. The actual facts here are less damning to Mr. Bradshaw. Thus, we cut the dollar amount in half. Second, while Mr. Bradshaw is ultimately responsible for his own actions, Animal Services started things off on a terrible foot by improperly refusing to take the dog an hour and a half or so earlier. Given that Animal Services refused to take the dog on economic grounds, we will provide Mr. Bradshaw with an option that does not monetarily reward Animal Services for its error.

DECISION:

1. Mr. Bradshaw's appeal is DENIED as to the violation.

2. As to the penalty, Mr. Bradshaw's appeal is a PARTIALLY GRANTED. We reduce the amount to $250. In addition, if by **May 2, 2018**, Mr. Bradshaw provides to Animal Services a receipt proving that he has—between today and May 2—made a $250 donation to a registered, nonprofit animal rescue provider, that satisfies his penalty. If he does not timely accomplish this, Animal Services may collect the $250 fine from Mr. Bradshaw in its normal course of business.

ORDERED April 2, 2018.

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 *May 2, 2018.* 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 MARCH 21, 2018, HEARING IN THE APPEAL OF KENDALL ROY BRADSHAW, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V18007774

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Sergeant Chelsea Eykel, Seth Bates, Valyncia Green, Kendall Bradshaw, and Karen Bradshaw.

The following exhibits were offered and entered into the record:

Exhibit no. 1	Regional Animal Services of King County staff report to the Hearing Examiner for file no. V18007774
Exhibit no. 2	RASKC investigation report no. A18000014
Exhibit no. 3	RASKC investigation report no. A18000016
Exhibit no. 4	Notice of violation no. V18007774, issued January 17, 2018
Exhibit no. 5	United States Postal Service certified mail receipt no. 70160750000032248607
Exhibit no. 6	Appeal, received January 30, 2018

April 2, 2018

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V18007774**

KENDALL ROY BRADSHAW
Animal Services Enforcement Appeal

I, Elizabeth Dop, 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.

☒ caused to be placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED April 2, 2018.

Elizabeth Dop
Legislative Secretary

Bates, Seth
Hardcopy

Bradshaw, Karen
Hardcopy

Eykel, Chelsea
Regional Animal Services of King County

Kendall Bradshaw, Valyncia Green
Hardcopy

Pena, Linda
Hardcopy