August 1, 2018

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V18008155**

VIVIENNE LYNNE MCCLEAN
Animal Services Enforcement Appeal

Activity no.: A18002011

Appellant: **Vivienne McClean**
13833 SE 260th Street
Kent, WA 98042
Telephone: (253) 347-9934
Email: viviheartsyou@yahoo.com

King County: Regional Animal Services of King County
represented by **Michael Lindquist**
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:	Grant appeal in part, deny appeal in part
Examiner's Decision:	Grant appeal in part, deny appeal in part

EXAMINER PROCEEDINGS:

Hearing Opened:	July 18, 2018
Hearing Closed:	July 18, 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. This is not a case that should have gone to hearing.

2. Appellant Vivienne McClean did not challenge the trespass violation, and even if she had, the pictures complainant Dan Young submitted would have been sufficient proof that Remi was trespassing on the Youngs' property. That would have left the licensing violation, but where the only issue is the appropriate monetary penalty, Animal Services typically works out some settlement amount with an appellant, avoiding the need to drag everybody into the courtroom.

3. The biggest issue in this case, and the one that required a hearing and live witnesses, was Remi's designation as a vicious dog. However, Mr. Young choose not to attend our hearing. That would have been acceptable if he had informed Animal Services of his election beforehand. Animal Services would have dropped the viciousness charge and almost certainly have settled out the licensing and trespass charges, conserving everyone's time.

4. Apparently, Mr. Young did not inform Animal Services of his decision to stay away from our hearing, causing Animal Services to waste public resources driving from its Kent offices to our Seattle courthouse, the examiner's office to waste public resources setting up for a hearing that did not need to occur, and Ms. McClean to waste her own time coming to a hearing that could been resolved with Animal Services over the phone. That was poor form.

5. As to whether (and if so, how much of) the $250 penalty for Remi not being licensed on the date of the infraction we should waive, we noted in our prehearing order that if Ms. McClean "can duly license Remi prior to our hearing, a penalty reduction seems in order." Ms. McClean satisfied this, licensing Remi before our hearing. And Animal Services did not dispute Ms. McClean's testimony that when her boyfriend returned Remi to her, the boyfriend assured her that he had licensed Remi. We think a $150 reduction of this penalty is in order.

DECISION:

1. Ms. McClean's appeal is GRANTED as to the viciousness violation and the confinement order.

2. Ms. McClean's appeal is GRANTED IN PART as to the licensing violation, in that $150 of the $250 shall be waived.

3. Ms. McLean's appeal is DENIED as to the trespassing violation and its $100 penalty.

4. Ms. McClean shall pay the remaining $200 to Animal Services by **August 31, 2018**.

ORDERED August 1, 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 *August 31, 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 JULY 18, 2018, HEARING IN THE APPEAL OF VIVIENNE LYNNE MCCLEAN, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V18008155

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Sergeant Michael Lindquist and Vivienne McClean.

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. V18008155
Exhibit no. 2	Online complaint form of May 13, 2018 incident by Dan Young, dated May 14, 2018
Exhibit no. 3	RASKC investigation report no. A18002011
Exhibit no. 4	Statement of Nay 13, 2018 incident and photographs
Exhibit no. 5	Notice of violation no. V18008155, issued May 21, 2018
Exhibit no. 6	United States Postal Services tracking no. 70163010000068331380 results
Exhibit no. 7	Appeal, received June 8, 2018
Exhibit no. 8	RASKC investigation report no. A17006368

DS/ed

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V18008155**

VIVIENNE LYNNE MCCLEAN
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 August 1, 2018.

Elizabeth Dop
Legislative Secretary

Lindquist, Michael
Regional Animal Services of King County

McClean, Vivienne
Hardcopy

Young, Dan
Hardcopy