

April 26, 2017

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

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REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V17006547**

CORRADO RAIN MASCIOCCHI

Animal Services Enforcement Appeal

Activity no.: A16005741

Appellant: Corrado Rain Masciocchi
represented by **Rachel Bender**
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King County: Regional Animal Services of King County
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal in part, grant in part

EXAMINER PROCEEDINGS:

Hearing Opened:	April 12, 2017
Hearing Closed:	April 12, 2017

FINDINGS AND CONCLUSIONS:

Background

1. In all our years conducting hearings, the witness testimony here is the most fundamentally irreconcilable of any case we have presided over. Typically hearings turn on important but subtle witness disputes. Choosing examples from the animal enforcement arena, had a complainant's dog wandered into the appellant's dog's lawn just before the incident occurred, or remained on the public sidewalk the whole time? Did a dog that both the appellant and the complainant agreed lunged towards the complainant actually bite the complainant, or did the appellant pull back on the leash just in time? Did a second dog actually join in a mauling or just hover close by? Differences in memory or perception in such cases are, if not always easy to resolve, at least easy to understand. The testimony here is something else; the witnesses might as well be from different planets.
2. We start with an incident at a local park on September 26, 2016, a precursor to the main event a month later. According to Cynthia Ostrovkin, as she came near a field/play area, she saw a family across the field. She also saw a dog tethered to the backstop. Her dog Gabriel got away and went bouncy-pouncy to where the family was. The tethered dog started making noise. She was adamant that Gabriel did not go after the other dog, yet the other dog got so mad it pulled out of its collar and went after Gabriel. As Gabriel retreated past Ms. Ostrovkin, she dove at the other dog and tackled it, holding it down until other adults came to help and restore order.
3. According to Corrado Masciocchi, on that September day his dog Buddy was content, relaxing on the grass, tethered to a fence. An unleashed Gabriel ran towards Buddy and they engaged in a scuffle. Buddy then got out of his collar and Ms. Ostrovkin leapt onto Buddy's back, tackling him. Buddy just laid there, not really reacting to her, trying to get up but not trying very hard.
4. Turning to the main October 27 event, according to Ms. Ostrovkin, she was walking her dog Gabriel down a street that dead-ended in a cul-de-sac. When she got to the property marked as 635 (middle of Exhibit 11) she noticed it was getting darker, so she became more aware. She saw something up ahead in the cul-de-sac, moving back and forth, wandering, loitering. She thought this was "strange," so she moved with Gabriel to the street light between 635 and 645.
5. She said she was worried it might be a vagrant or a homeless person. She thought it was a man and wondered why he was there or whether he was a threat or if he had a legitimate reason to be there. Due to problems she perceived with break-ins and heroin in the area, and homeless people camped at the bottom of the hill, she was concerned.
6. Ms. Ostrovkin testified she then saw a dog moving around. First she figured it was okay, but then she noticed that the dog [Buddy] was a fair distance from the man [Mr. Masciocchi] and was running around the cul-de-sac. The dog then made a "mad dash" to where Ms. Ostrovkin was, with Gabriel at a sit-stay position by her side. The dog was coming at them, running "as fast as it could," growling, with its ears back. Divining no way to safely retreat, and with no idea what the man was doing, she remembered wondering whether the man also intended to hurt her.

7. She shouted loudly at the dog to let it know that she was bigger and louder. To protect Gabriel, she purposefully stepped in front of the dog; the dog “barreled” into her and “bounced back a few feet on the pavement.” The dog was still growling and clawing at the pavement to try to get traction. As the dog went around her to try to get at Gabriel, Gabriel got up and the dog jumped on top of Gabriel and tried to bite him. Gabriel turned his back defensively and she recalled grabbing the dog by the shoulder and throwing the dog with all her might. At the end of her throw, the dog bit her hand, wrestled her to the ground, and would not let go. She grabbed the dog with her other hand to try to protect Gabriel. The dog never let go, and she did not let go of Gabriel’s leash. The dog was still trying to get at Gabriel.
8. She recalled the man taking his time responding. She screamed at the man, who told her he could not get the dog’s collar on; all the while she was struggling with Buddy still grasping her hand. Eventually the man got the collar on and even then the dog was not controlled; the man had to fight to control his dog, who resisted being dragged away. She got to her hands and knees, still holding Gabriel. She thought the man was going to attack her, because he offered no assistance as she stumbled away. She opined he was maybe thinking “Can I get at her too?” She and Gabriel moved away, and Ms. Ostrovkin was eventually able to get 911 assistance and then medical treatment for her significant hand injury. Exs. 1 at 003–004, 2 at 002–003.
9. Although there are no photos of Gabriel, she described Gabriel as having some scratches on his back, not quite drawing blood but “thickening” the skin. Two days later, she noticed Gabriel had blood coming from his paw. She took him to the veterinarian, who observed bleeding from an “exposed quick” in one of his toenails and opined that it “May have occurred in scuffle with other dog two days ago, though unusual for nail to start bleeding two days later. Nail is otherwise intact, and there is no further evidence of injury.” Ex. 8.
10. Mr. Masciocchi had a very different memory of October 27. He was taking Buddy out to go potty while he went to get the mail from the mailbox between 675 and 655 on Exhibit 11. It was maybe 6:30–7 p.m., dim but not pitch dark. They had not been out for very long when Buddy saw Ms. Ostrovkin and Gabriel. Buddy got excited, perked up, and looked in that direction. At this point, Mr. Masciocchi thought the dog was Buddy’s friend Walter, so Mr. Masciocchi made no effort to contain Buddy. Buddy pranced towards Ms. Ostrovkin and Gabriel, curious, neck up, ears up and tail wagging. Mr. Masciocchi emphasized that Buddy was not growling, and that Buddy does not growl when he sees other dogs, only issuing short “yip” type barks. Once Mr. Masciocchi realized the visitor was not Walter, he started running behind Buddy, starting from a distance he estimated to be about as long as from his seat at the hearing to a calendar on the courtroom wall—a distance we measured at 37 feet.
11. He stated that Buddy did not run into Ms. Ostrovkin. Instead, Buddy stopped a foot or so from Gabriel, and as they eyed each other, he could see Buddy’s tail was wagging. Ostrovkin started yelling “bad idea” and within three to four seconds, the dogs were engaged in “rough play” but not really “fighting.” (By this time Mr. Masciocchi was about halfway to the other participants.) He saw something fly out of Ms. Ostrovkin’s hand—he thought maybe Gabriel’s leash. The dogs were still engaged as Ms. Ostrovkin then tried to tackle Buddy from behind and fell to the ground pretty hard. Unlike the September incident, where Ms. Ostrovkin fully got a hold of Buddy, on this day she did

not get that same grip on Buddy to be able to contain or throw him. At no point did Buddy bite Ms. Ostrovkin.

12. At about the four second mark, when Mr. Masciocchi was within two to three feet, he recalls yelling “stop.” When he yelled, the dogs actually stopped their roughhousing. Thus, Mr. Masciocchi did not need to physically separate them. There was no collar to attach to Buddy because Buddy always had his collar on; the raincoat he had on that day partially covers his collar, so there would be no way to put the collar on after the fact.
13. He asked if Ms. Ostrovkin was okay, and she did not answer him. Instead, she walked off quickly along some front yards of houses. Buddy was standing near him and did not look upset. Not aware that Ms. Ostrovkin was injured, and not wanting Ms. Ostrovkin to think he was stalking her, when she walked away he did not follow her. (In hindsight, his was a prescient concern, given that even before the incident started Ms. Ostrovkin worried the man was a threat to her, wondered again as Buddy approached whether the man also intended to hurt her, and opined again as the incident closed whether the man was thinking, “Can I get at her too?”) After he took Buddy home, he noticed that Buddy had a few “battle wounds”—one puncture under his jaw with a tiny bit of blood, a laceration scratch behind his ear (that took some time to heal because Buddy kept scratching it) and a scratch on Buddy’s right forearm that did not bleed.
14. Regional Animal Services of King County (Animal Services) issued a Notice of Violation and Order to Comply (NVOC) to Mr. Masciocchi alleging October 27 violations for Buddy running at large (\$50), on public property not under control (\$50), and being a vicious animal (\$500). Ex. 5 at 001. The NVOC also contained several compliance terms related to the viciousness designation. *Id.* Mr. Masciocchi timely appealed. Ex. 8. 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.

Analysis

15. We can dispense relatively quickly with whether, on October 27, Buddy was “running at large,” defined as “off the premises of the owner and not under the control of the owner ... either by leash, verbal voice or signal control,” and/or was “on any public property not under control by the owner or other competent person,” with “under control” being defined as “either under competent voice control or competent signal control, or both, so as to be restrained from approaching any bystander or other animal and from causing or being the cause of physical property damage when off a leash or off the premises of the owner.” KCC 11.04.020(AA), .230(M), .230(B), .020(W).
16. There is no question that under either witnesses’ version of events, Buddy met both definitions. Assuming for purposes of this paragraph that Mr. Masciocchi’s version of October 27’s events is accurate, we reject the argument that because when he shouted at Buddy to stop tangling with Gabriel, Buddy stopped, and because he *could* have ordered Buddy not to approach Gabriel if he knew Gabriel was not in fact Walter, Buddy was thus “under control.” Ours is not a theoretical, woulda’/coulda’/shouda’ analysis, nor does KCC 11.04.230 have a *mens rea* requirement.¹ Had Mr. Masciocchi actually

¹ Subsection N does, covering animals “*known to have* a contagious disease,” but that is not our scenario.

controlled Buddy and prevented him from approaching a bystander and other animal on the public street, this whole mess would have been avoided. But he failed to do so. His appeal on these two violations is denied.

17. The most serious allegation is that Buddy is “vicious,” defined as

Having performed the act of, or having the propensity to do any act, endangering the safety of any person, animal or property of another, including, but not limited to, biting a human being or attacking a human being or domesticated animal without provocation.

KCC 11.04.020(BB). The code provision allegedly violated is KCC 11.04.230(H), which defines as a nuisance an “animal that has exhibited vicious propensities and constitutes a danger to the safety of persons or property off the animal’s premises or lawfully on the animal’s premises....”

18. There is something nonstandard about the way KCC 11.04.020(BB) defines vicious to include “biting a human being” plus “attacking a human being or domesticated animal.” “Attack” in animal parlance typically means something *less* than an actual bite. *See, e.g., Matter of Brooks v. Hemingway*, 107 Misc. 2d 190, 192, 433 N.Y.S.2d 551 (1980) (“An attack need not culminate in the ultimate hostile contact between dog and human—the bite—for dog to be declared dangerous.”); *Matter of LaBorie v. Habes*, 52 Misc.2d 768, 679, 277 N.Y.S.2d 70 (1967) (“Actual biting is unnecessary to an ‘attack’”). Read in this light, KCC 11.04.020(BB) makes no sense: a dog merely “attacking” another animal qualifies as “vicious” while the dog actually “biting” that other animal does not? That sounds analogous to saying attempted battery is a crime while actual battery is not.
19. KCC 11.04.020(BB) has more internal cohesion if the drafters meant “attack” as something *more* violent than just a bite, as in a dog even just nipping a person’s ankle (let alone a full-on *attack* of that person) would qualify, while a dog merely nipping another animal would not qualify—the dog would actually have to full on *attack* the other animal to qualify. That reading eliminates an otherwise internal inconsistency in our code, but creates an external inconsistency with how other jurisdictions employ “attack” in the dog context.² We have no completely satisfactory answer, and this uncertainty complicates our analysis, below, of whether Buddy was “attacking” Gabriel on either September 26 or October 27.
20. Turning to the evidence, Mr. Masciocchi submitted a dozen declarations from neighbors and others about how kind and nonaggressive Buddy is. We employ a lower threshold than courts do for allowing in hearsay statements, including such letters (or animal behaviorist reports), and we admit these declarants’ statements into the record. However, none of those declarants purported to have witnessed the September or October events and none were subject to cross-examination. In only one of our cases have letters (and/or an animal behaviorist report) arguably tipped the scales, and that was *Chancellor–V16005716*. There the landowner wielded a shovel and froze the trespassing dog when the dog was still 15 feet away.³ We concluded that:

² The only other use of “attack” in our code, “Any animal that bites, attacks or attempts to bite one or more persons....” does not provide any helpful clues to how the drafters meant to use “attack.” KCC 11.04.290(B)(2).

³ Available at http://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2016/V16005716_Chancellor_corrected.ashx?la=en.

Such testimonials and [expert] opinions [about how nonaggressive the dog, Austin, was] would ring hollow if Austin had actually bitten Mr. Wassell, or if it was clear that Austin had already “attacked” Mr. Wassell before Mr. Wassell staved off any actual physical contact. But here Mr. Wassell stopped Austin in his tracks while Austin was still a ways off.

21. Conversely, in today’s case there was completed physical contact. We give the declarations precious little weight.
22. We accord slightly more, but still little, weight to the alleged inconsistencies between what a responding police officer wrote that Ms. Ostrovkin said and what an Animal Services officer wrote that Mr. Masciocchi said, versus their respective hearing testimonies. What a third party, not present and available for questioning, reported that either of them said is not worth as much what Ms. Ostrovkin actually wrote in her complaint and Mr. Masciocchi actually wrote in his statement of appeal; any inconsistencies between *their own* written statements and their later hearing testimony is critical. Exs. 3 & 8. And in a similar vein, while we find (below) what Ms. Ostrovkin’s wrote in her complaint form relevant, we reject counsel’s insinuation that even though Ms. Ostrovkin fully filled out the nine lines Animal Services’ form allows for a complainant to describe an incident, Ms. Ostrovkin’s inability to cram even more details into those nine lines was somehow inconsistent with her more detailed hearing testimony.
23. Turning to the evidence we find more probative, we have Ms. Ostrovkin’s testimony that Buddy bit her hand, along with photos of her hand. Ex. 2 at 003. Mr. Masciocchi argued that her injury was caused by her falling to the ground, and not by a dog bite, and that if she was bitten, Gabriel (not Buddy) did the biting. Ex. 9 at 006. This was a weak argument that undercut Mr. Masciocchi’s credibility. Having reviewed numerous dog bite photos in numerous cases, the photos are entirely consistent with such bite wounds and inconsistent with simply falling down from a standing height and striking the ground. And as to who did the biting, even Mr. Masciocchi’s testimony was that Ms. Ostrovkin was in physical contact with Buddy, not with Gabriel, during the incident. We have little trouble finding that Buddy bit Ms. Ostrovkin.
24. The crucial issue, then, is whether Animal Services can prove that Buddy’s bite was “without provocation.” Under *both* witness’s versions, Buddy did not come after Ms. Ostrovkin—she initiated the contact with Buddy. Under her version, at the last instant she stepped right in front of a charging Buddy determined to attack Gabriel, then later grabbed and actually threw Buddy, and only *while* she was throwing Buddy did Buddy latch onto her hand. Under Mr. Masciocchi’s version, Ms. Ostrovkin tried to tackle Buddy as Buddy was roughhousing with—but not attacking—Gabriel. The question is whether her initiating physical contact “provoked” Buddy’s bite, as the courts have analyzed “provocation” in dog cases.
25. Where a dog is *already* attacking a person or a person’s pet, the person has a right to defend herself or her pet, and such defensive actions (where proportionate) do not count as “provocation.” So for example, where a petitioner—in his own backyard and with three young grandchildren present—threw sticks and a chair at a trespassing great Dane and was then bitten by the dog, the question for the court was “whether petitioner began throwing sticks and a chair at the dog, or whether the dog attacked first,” that is, whether the petitioner’s actions “under the circumstances were justified.” *Giandalone v. Zepieri*, 86 Misc. 2d 79, 80, 381 N.Y.S.2d 621 (1976). So where trespassing dogs had already

caught plaintiff's cats and "started to tear" them apart (one fatally), the plaintiff then poking and kicking the dogs—which resulted in the dogs thereafter biting the plaintiff—did not make those dogs' bites of her "provoked," because the "dogs were provoked before plaintiff reacted to their behaviors" and "plaintiff's response to the dogs' violent behaviors cannot be considered 'provocation'" for the dogs biting her. *Koivisto v. Davis*, 277 Mich. App. 492, 493, 497, 745 N.W.2d 824 (2008).

26. So, if we conclude that Buddy was *already* violently attacking Gabriel on October 27 and that Ms. Ostrovkin initiating contact with Buddy to defend Gabriel was a reasonable, response under the circumstances, Buddy biting her was not "provoked." If not, then Buddy biting her hand in response to her grabbing and throwing him was a "provoked" bite. And it is here we face two diametrically opposed, irreconcilable versions of events that evening.
27. According to Ms. Ostrovkin's testimony, a very muscular 80-pounds dog ran "as fast as it could" at them, "barreled" into her "at full force" and yet *the dog* "bounced back a few feet on the pavement." That description sounds plausible if the dog barreled into Seahawks defensive lineman Michael Bennett. But Ms. Ostrovkin gave her height at 5'4" and we would certainly not describe her as heavy-set. Nothing from our years playing and observing contact sports seems consistent with the collision she described.
28. And mass matters in another way. In one of our sadder cases, a large dog picked up a tiny dog and, with that single bite, literally shook the life out of the little dog.⁴ Thus figuring out whether an interaction between dogs is a grave threat objectively worthy of launching one's self onto a dog, or simply the "rough play" between two large dogs Mr. Masciocchi described, depends somewhat on the participants. Ms. Ostrovkin described Buddy as approximately 80 pounds and Gabriel as approximately 120 pounds, meaning Gabriel was a third *larger* than Buddy.⁵
29. Something is also not quite adding up about the collar. Ms. Ostrovkin emphasized that the dog was still clenching her hand while the man kept saying he was trying to get the dog's collar on. Even putting to the side Mr. Masciocchi's testimony that Buddy had his collar on under his rain jacket the whole time, the idea of somebody trying to put on a collar over dog's neck when the mouth was attached to a human hand is hard to square.
30. Additionally, she was initially adamant that even when Buddy had her hand in his mouth, she perceived Buddy as *still* trying to get at Gabriel.⁶ When we probed her about how Buddy could still have been trying to get at Gabriel while Buddy's mouth was tethering him to her hand, she allowed that maybe Buddy was just releasing anger. Adding to this, she said she grabbed Buddy with her other hand, while that other hand was all the time holding a leash attached to a 120-pound dog who was apparently trying to cower away from Buddy. Something is not quite adding up.
31. There were other aspects of her statement and testimony which standing alone do not necessarily prove anything, but which come in to play here. First her handwritten statement referred to herself not in the first person ("I" or "my") but in the third person:

⁴ http://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2016/august%202016/V16005930_Navarro.ashx?la=en

⁵ This is accurate, at least for Gabriel, who weighs 117 pounds. Ex. 8 at 004.

⁶ In her complaint form she described the dog as "on top [of her] still biting and going after Cynthia's dog." Ex. 3 at 002.

“Cynthia was walking her dog... She saw... ran at Cynthia... attacked Cynthia’s dog... Cynthia tried to pull it off her dog... biting Cynthia... knocked Cynthia over... Cynthia’s dog... she grabbed... Cynthia’s dog... Cynthia called 911.” Second, in her testimony, she kept referring to “the man” and “the dog” despite the fact that she had seen Mr. Masciocchi and Buddy in September, had referred to them each by name in her November 2 complaint,⁷ and was sitting only a few feet away from Mr. Masciocchi at the hearing. We are not entirely sure how this de-personalization and distancing of herself, Buddy, and Mr. Masciocchi from events precisely figures in to accuracy, but it raises another question mark.

32. This does not mean we think Ms. Ostrovkin is fabricating things. She certainly seems to believe her versions of events. We have little doubt that her *perception* on September 26 and October 27 was that Buddy posed a clear and present danger to Gabriel and that she should sacrifice herself to try to protect an endangered Gabriel by trying to tackle Buddy. The question is whether that was an objectively reasonable response.
33. The September events in the park gives us some context in which to interpret the October events in the street. Ms. Ostrovkin claims that in September an “angered” Buddy “went after” Gabriel, “trying to attack” Gabriel. There too, both she and Mr. Masciocchi agreed that she initiated the physical contact with Buddy, actually tackling Buddy. We have trouble accepting that if an enraged Buddy was truly charging at Gabriel, someone could successfully tackle a pit bull mastiff she estimated at 80 pounds and described as “very muscular.” Ex. 3 at 001. Staying with the Seahawks reference, Kam Chancellor could, but Ms. Ostrovkin is not Kam Chancellor. In addition, it is not clear how a dog that angry (and powerful) would submit to being tackled by a stranger. There is something incongruous about Ms. Ostrovkin’s version of the September 26 interaction. We find it far easier to see how a normal person could tackle and restrain Buddy if Buddy was not really “attacking” in the first place. It gives us another clue that her perception of what poses a grave threat to Gabriel—and what an appropriate response should be—may not quite mesh with a reasonably objective view.
34. October 27 is different in that, unlike September 26, this time when Ms. Ostrovkin grabbed Buddy, Buddy latched on to her hand. Perhaps this indicates that Buddy was in a more aroused state than in September, but perhaps it is just a reflection of her putting her hand in the wrong place at the wrong time. And her perception to start the October 27 interaction with Buddy was shaped by her initial fears over recent cases of heroin, break-ins, and a nearby homeless encampment. While there is serious dispute about what happened *after* Buddy approached Ms. Ostrovkin and Gabriel, we have no trouble finding that *before* Buddy’s approach the scene she and Gabriel came upon objectively consisted of nothing more sinister than a homeowner letting his dog run around in front of his house while the man moseyed about to get his mail. Yet she perceived the man as “strange,” and questioned whether he had had a “legitimate” reason to be there, and whether he was a vagrant, homeless person, and/or threat.
35. Conversely, Mr. Masciocchi told a simple, consistent story, without drama, defensiveness, or obvious evasiveness. Either Mr. Masciocchi is a Keyser Söze-level sociopath, calmly delivering lie after lie, not catching himself in his own web of deceit, not overplaying his hand, not betraying any telltale hints of fabrication... or else the

⁷ She referred to Mr. Masciocchi by his middle name, “Rain.” Ex. 3 at 002.

events were pretty straightforward and there was simply not much complexity to get twisted around.

36. We certainly have some concerns with Mr. Masciocchi's testimony, beginning with the distance he was to start the interaction; as counsel raised effectively on cross examination, from that distance he might not have heard Buddy growl. And not recognizing that Buddy had bitten Ms. Ostrovkin is a strike against him. If the bite happened the way Ms. Ostrovkin described it—a long drawn out affair where Buddy dragged her along by the hand as he tried to continue his assault of Gabriel, while Mr. Masciocchi kept struggling to get Buddy's collar over his neck and Ms. Ostrovkin's hand—then Mr. Masciocchi is either lying or worthless as a witness. Yet, as described above, Ms. Ostrovkin's description—not that the bite happened, but everything surrounding the bite—raises some yellow flags. There is nothing necessarily inconsistent with Buddy delivering a bite to Ms. Ostrovkin's hand and a generally observant and truthful Mr. Masciocchi not spotting that bite in the tangle of bodies briefly flying about before he yelled "Stop."
37. We have no videotape of what happened in September and October, no crystal ball, and no superhuman ability to discern which witness is closer to the mark. In the end we find Ms. Ostrovkin's version of events no more likely objectively accurate than Mr. Masciocchi's. Under the version of events we find as plausible as any other, Buddy was not "attacking" Gabriel, Ms. Ostrovkin's grabbing Buddy was not justified under the circumstances and amounted to legal provocation for Buddy biting her, and Buddy does not meet the code's definition of "vicious." Because Animal Services bears the burden of proving the violation, has imposed," KCC 20.22.210, we grant Mr. Masciocchi's appeal as to viciousness.

DECISION:

1. Mr. Masciocchi's appeal as to violations of KCC 11.04.230(B) and (M) is DENIED. He shall pay to Animal Services the corresponding \$100 penalty by **May 22, 2017**.
2. Mr. Masciocchi's appeal as to a violation of KCC 11.04.230(H) and as to the corrective actions and \$500 penalty that flow from a viciousness designation is GRANTED.

ORDERED April 26, 2017.



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 26, 2017*. 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 APRIL 12, 2017, HEARING IN THE APPEAL OF CORRADO RAIN MASCIOCCHI, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V17006547.

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Amy Eiden, Cynthia Ostrovkin, Sergeant Shelby Russell, Rachel Bender, and Corrado Masciocchi.

The following exhibits were offered and entered into the record:

- | | |
|----------------|---|
| Exhibit no. 1 | Issaquah Police Department report no. 1612373, dated October 27, 2016 |
| Exhibit no. 2 | Email between Issaquah Police Department and Animal Services with photographs from incident no. 1612373, dated November 3, 2016 |
| Exhibit no. 3 | Report of complaint, received November 14, 2016 |
| Exhibit no. 4 | Email between Appellant and Animal Services about case A16005741, dated January 11, 2017 |
| Exhibit no. 5 | Notice of violation no. V17006547, issued February 9, 2017 |
| Exhibit no. 6 | Regional Animal Services of King County investigation report no. A16005741 |
| Exhibit no. 7 | RASKC staff report to the Hearing Examiner for file no. V17006547 |
| Exhibit no. 8 | Statement of appeal, received March 4, 2017 |
| Exhibit no. 9 | Alpine Animal Hospital record no. 100767, dated October 30, 2016 |
| Exhibit no. 10 | A. Declaration of Brenda Mueller
B. Declaration of Corrado Masciocchi
C. Declaration of David Apman
D. Declaration of Douglas Norwood
E. Declaration of Howard Friedman
F. Declaration of Ian Terry
G. Declaration of Michele Sammeth
H. Declaration of Nicole Masciocchi
I. Declaration of Owen Duncan
J. Declaration of Paul Winterstein
K. Declaration of Susan Norwood
L. Declaration of Matthew Trizuto
M. Declaration of William Hill |
| Exhibit no. 11 | Map of neighborhood |

DS/ed

April 26, 2017

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

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V17006547**

CORRADO RAIN MASCIOCCHI
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.
- ☒ caused to be placed via County INTEROFFICE MAIL to County staff to addresses on record.

DATED April 26, 2017.



Elizabeth Dop
Legislative Secretary

All Parties of Record

Bender, Rachel
Bender Law PLLC

mailed paper copy

Eiden, Amy
Prosecuting Attorney's Office

mailed paper copy

Masciocchi, Corrado Rain

mailed paper copy

Ostrovkin, Cynthia Louise

mailed paper copy

Russell, Shelby
Regional Animal Services of King County