



City of Tacoma
Hearing Examiner

October 31, 2017

Cortney Young
6110 South Park Avenue
Tacoma, WA 98408-4607
(Electronic & First Class Mail Delivery)

Jennifer Taylor, Deputy City Attorney
City of Tacoma, Legal Department
747 Market Street, Room 1120
Tacoma, WA 98402-3701
(Electronic & Interoffice Mail Delivery)

Re: *Cortney Young v. City of Tacoma, Animal Control and Compliance (ACC)*
File No. HEX 2017-023 (Dog: Tokelat)

Dear Parties,

In regard to the above referenced matter please find enclosed a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Decision entered on October 31, 2017, as the result of a hearing held on October 5, 2017.

Sincerely,

Louisa Legg
Office Administrator

Enclosure – Findings, Conclusions, and Order

Cc: Joseph Satter-Hunt, Animal Control and Compliance Supervisor, Tacoma Police
(Electronic Mail Delivery Only)

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through City of Tacoma Mail Services to the parties or attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED October 31, 2017, at Tacoma, WA.

1 **OFFICE OF THE HEARING EXAMINER**

2 **CITY OF TACOMA**

3 **CORTNEY YOUNG,**

4 **Appellant,**

5 **v.**

6 **CITY OF TACOMA**, a Washington
7 Municipal corporation through its
8 Animal Control and Compliance
9 Division of the Tacoma Police
Department,

10 **Respondent.**

HEX2017-023
(L16-082336)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION

11 **THIS MATTER** came on for hearing before JEFF H. CAPELL, the Hearing Examiner
12 for the City of Tacoma, Washington, on October 5, 2017, at the Tacoma Municipal Building,
13 747 Market Street, Tacoma, Washington, beginning at 9:00 am. Deputy City Attorney Jennifer
14 Taylor represented the City of Tacoma, Animal Control and Compliance (“Animal Control”).
15 Appellant Cortney Young represented herself *pro se*. Witnesses were sworn and testified.
16 Exhibits were admitted and reviewed. Arguments were presented and considered.

17 From the evidence in the hearing record, the Hearing Examiner enters the following:

18 **FINDINGS OF FACT**

19 1. Appellant Cortney Young (“Young”) resides in a house located at 6110 S. Park
20 Avenue in Tacoma, Washington, and is the owner of a grey and white colored, neutered male
21 Siberian husky named “Tokelat.” *Young Testimony; Exs. R-1 and R-8.* Prior to the hearing in

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION

City of Tacoma
Office of the Hearing Examiner
Tacoma Municipal Building
747 Market Street, Room 720
Tacoma, WA 98402-3768

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ORIGINAL

1 this matter, Young had owned a second Siberian husky that was more reddish in color named
2 “Sitka.” *Young Testimony; Ex. R-1 and R-8.* Sitka has been rehomed outside the city limits of
3 Tacoma and is therefore not subject to these proceedings. *Madden Testimony; Ex. R-2.*

4 2. On July 12, 2017, at around 9:30 am, both Sitka and Tokelat were present at 863
5 South 50th Street, the residence of Holly Roberts (“Roberts”). *Roberts Testimony, Madden*
6 *Testimony; Exs. R-2 through R-4.* Officer Katherine Madden of Animal Control (“Madden”) *Madden*
7 responded to 5001 South I Street, across the street from the Roberts residence around this time
8 after a call reported to be from one “Gabriele Gent.” *Madden Testimony; Ex. R-2.* The Gents
9 reside at 5001 South I Street.

10 3. When Madden arrived at 5001 South I Street, she found Sitka and Tokelat
11 present, but leashed by, and under the control of, an individual identified in Madden’s report as
12 the husband of “Jessica Gent.” *Id.* Madden contacted Jessica Gent and took her statement.
13 *Madden Testimony; Ex. R-2, Ex. R-3.* Jessica Gent informed Madden that she had seen Sitka
14 and Tokelat attacking the Roberts’ cat across the street while playing with her kids in their
15 yard. *Madden Testimony; Exs. R-2 and R-4.* Madden testified that she was familiar with Sitka
16 and Tokelat from prior contacts with the dogs and their owner, Appellant Young. Madden
17 confirmed her presumed recognition of the dogs by their microchipped IDs.

18 4. Shortly after arriving on the scene, Madden placed both dogs in her vehicle,
19 crossed the street to the Roberts residence, and found a deceased cat at the Roberts residence.
20 *Madden Testimony; Ex. R-2.* Madden placed the deceased cat in her vehicle and left a notice on
21 the Roberts’ door. *Madden Testimony; Ex. R-2.*

1 5. Thereafter, Madden drove the dogs back to their residence at 6110 South Park
2 Avenue in Tacoma. Madden contacted a man at this location who identified Sitka and Tokelat.
3 He indicated that he was house sitting, and that the dogs had escaped the yard when he failed to
4 place them on their tie-outs. *Madden Testimony; Ex. R-2*. This individual was informed that the
5 dogs would not be returned at that time and that their owner would have to call Animal Control
6 upon returning home. *Madden Testimony; Ex. R-2*.

7 6. On July 17, 2017, Madden had contact with Roberts and her husband regarding
8 the incident. *Madden Testimony, Ex. R-2*. Madden was informed that the Roberts had a video
9 of the incident recorded from a camera placed in their front bedroom window. *Madden*
10 *Testimony, Ex. R-2*. Madden was unable to obtain the recorded video because the footage was
11 lost in an attempt to upload it. *Madden Testimony, Roberts Testimony; Ex. R-2*. Prior to losing
12 the video, both Roberts and her husband had watched it. *Id.* Madden obtained a verbal
13 statement from Mr. Roberts regarding what he saw on the video. *Madden Testimony; Ex. R-2*.
14 Holly Roberts (“Roberts”) testified at the hearing about what she saw on the video before its
15 contents was lost. She identified the deceased cat as hers. *Roberts Testimony*. Statements and
16 testimony from the Gents and the Roberts regarding which of the two dogs was more the
17 primary aggressor against the Roberts’ cat is not entirely consistent. *Roberts Testimony; Exs. R-*
18 *2 through R-4*. This inconsistency notwithstanding, all statements and testimony regarding the
19 incident leading to the cat’s death showed both dogs to have acted aggressively towards the
20 Roberts’ cat, and their attack as being the reason for the cat’s demise. No one’s statement or
21 testimony indicated that either dog acted alone, or that the cat could have died from any other

1 cause than the dogs' attack.

2 7. As a result of its investigation, Animal Control issued a Potentially Dangerous
3 Dog Notice for Tokelat on July 20, 2017, indicating that he had without provocation, bitten or
4 injured a human or domestic animal and is known to have a propensity, tendency, or
5 disposition to attack unprovoked or to cause injury or otherwise threaten the safety of humans
6 or domestic animals on any public or private property. *Ex. R-1.*

7 8. Any Conclusion of Law hereinbefore stated which may be deemed properly
8 considered a Finding of Fact herein is hereby adopted as such.

9 Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

10 **CONCLUSIONS OF LAW**

11 1. The Hearing Examiner has jurisdiction in this matter under *Tacoma Municipal*
12 *Code* ("TMC") *1.23.050 B.8* and *TMC 17.04.032*.

13 2. In appeal proceedings before the Hearing Examiner involving challenges to a
14 Potentially Dangerous Dog Notice, the animal control authority (Animal Control) bears the
15 burden of proving that the dog is potentially dangerous by a preponderance of the evidence.
16 *TMC 17.04.032 B*. In order to prevail in this matter, Animal Control must establish that
17 Ms. Young's dog Tokelat meets the following definition of a potentially dangerous dog:

18 "Potentially dangerous dog" means any dog which:

- 19 a. unprovoked, bites or injures a human or domestic animal on public
20 or private property; or
21 b. unprovoked, chases or approaches a person or domestic animal
upon the streets, sidewalks, or any public or private property in a
menacing fashion or apparent attitude of attack; or

- 1 c. has a known propensity, tendency, or disposition to attack
2 unprovoked, to cause injury, or to otherwise threaten the safety of
3 humans or domestic animals.

4 *TMC 17.01.010.27.*

5 3. Despite the inconsistencies in testimony, Animal Control proved by a
6 preponderance of the evidence that Tokelat is a “potentially dangerous dog” at least under
7 subsection a. above for Tokelat’s role in the death of the Roberts’ cat. All accounts of the
8 attack had Tokelat participating to the level of biting the cat. The evidence shows that the
9 attack led to the cat’s death. At least one account designated Tokelat as the primary aggressor.
10 There was no evidence of provocation, and Tokelat was on the Roberts’ property without
11 invitation.

12 4. Accordingly, the Hearing Examiner concludes that Animal Control’s Potentially
13 Dangerous Dog Notice declaring Ms. Young’s dog Tokelat to be a “potentially dangerous dog”
14 under TMC 17.01.010.27.a, complies with the law and should be affirmed.

15 5. Any Finding of Fact which may be deemed to be properly considered a Conclusion
16 of Law is hereby adopted as such.

17 Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing
18 Examiner issues the following:

19 **DECISION**

20 The City of Tacoma’s Potentially Dangerous Dog Notice, issued to Cortney Young
21 regarding her Siberian husky named Tokelat by Animal Control is affirmed, and the appeal in
this matter is denied. Tokelat must be maintained according to the governing restrictions for a

1 potentially dangerous dog under the Tacoma Municipal Code set forth at TMC 17.04.050.

2 **DATED** this 31st day of October, 2017.

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4 **JEFF H. CAPELL, Hearing Examiner**

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION**

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NOTICE

RECONSIDERATION/APEAL OF EXAMINER'S DECISION

RECONSIDERATION TO THE OFFICE OF THE HEARING EXAMINER:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the Office of the Hearing Examiner requesting reconsideration of a decision or recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140.*)

NOTICE

This matter may be appealed to Superior Court under the terms of RCW Chapter 34.05, Part V. The petition for review must be filed within thirty (30) days after service of the final Order. RCW 34.05.542.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION**