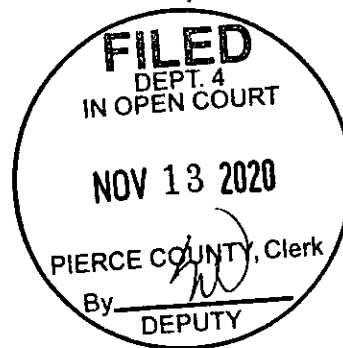


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**SUPERIOR COURT OF THE STATE OF WASHINGTON  
PIERCE COUNTY**

ANNA F. DANIELI,

Plaintiff,

v.

KING COUNTY, a municipal corporation;  
CITY OF BELLEVUE, a municipal corporation;  
KING COUNTY HEARING EXAMINER;  
REGIONAL ANIMAL SERVICES OF KING  
COUNTY; GENE EDWARD MUELLER, and  
marital community; TIM ANDERSON, and  
marital community; and DOES 1-10,

Defendants.

Case No.: 19-2-07054-0

**ORDER GRANTING DECLARATORY  
JUDGMENT WITH INJUNCTIVE RELIEF  
ON MOTIONS FOR SUMMARY  
JUDGMENT**

**[CLERK'S ACTION REQUIRED]**

THIS MATTER came before the Court on the Following Motions: (1) Plaintiff's Motion for Partial Summary Judgment, (2) King County Defendants' Motion for Summary Judgment, (3) City of Bellevue's Motion for Summary Judgment, and (4) the King County Hearing Examiner's Motion for Summary Judgment.

**1. BASES**

The Court considered the records, pleadings and papers filed with the Court, as well as the following Motions, Supporting Declarations, and Exhibits:

ORDER GRANTING DECLARATORY JUDGMENT  
WITH INJUNCTIVE RELIEF ON MOTIONS FOR  
PARTIAL SUMMARY JUDGMENT  
[PAGE 1 of 8]

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- 1.1. Plaintiff's Motion for Partial Summary Judgment, Declaration of Jon Zimmerman with Attached Exhibits;
- 1.2. King County Defendants' Motion for Summary Judgment, Declaration of Defendant Tim Anderson with Attached Exhibits, Declaration of Defendant Gene Mueller with Attached Exhibits;
- 1.3. City of Bellevue's Motion for Summary Judgment, Declaration of Chad Barnes, with Exhibits, and Memorandum Regarding Pending Violations signed by Defendant Tim Anderson;
- 1.4. King County Hearing Examiner's Motion for Summary Judgment;
- 1.5. King County Defendants' Response in Opposition to Plaintiff's Motion for Partial Summary Judgment, Declaration of Amy Montgomery;
- 1.6. City of Bellevue's Opposition to Plaintiff's Motion for Summary Judgment;
- 1.7. Plaintiff's Response in Opposition to King County Defendants' Motion for Summary Judgment; Declaration of Jeffrey Possinger, Declaration of Jon Zimmerman, Declaration of Jessica Beatty with Attached Exhibits, Declaration of Anna Danieli.
- 1.8. Plaintiff's Response in Opposition to City of Bellevue's Motion for Summary Judgment, and Declaration of Jeffrey Possinger, Declaration of Jon Zimmerman, Declaration of Jessica Beatty with Attached Exhibits, Declaration of Anna Danieli;

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- 1.9. Plaintiff's Response in Opposition to King County Hearing Examiner's Motion for Summary Judgment;
- 1.10. King County Defendants' Reply to Plaintiff's Response in Opposition to Plaintiff's Motion for Partial Summary Judgment, and the Declaration of Counsel Amy Montgomery and Supplemental Declaration of Defendant Tim Anderson;
- 1.11. City of Bellevue's Reply to Plaintiff's Response in Opposition to Plaintiff's Motion for Partial Summary Judgment;
- 1.12. Plaintiff's Joint Reply to King County Defendants' and City of Bellevue's Opposition to Plaintiff's Motion for Partial Summary Judgment;
- 1.13. Plaintiff's Supplemental Declaration of Counsel, Jeffrey Possinger in Response to King County Defendant's Motion for Summary Judgment;
- 1.14. Oral argument of counsel for Plaintiff, King County Defendants, City of Bellevue, and the King County Hearing Examiner.

**2. FINDINGS AND CONCLUSIONS:**

**Plaintiff's Motion for Partial Summary Judgment:**

- 2.1. The Plaintiff in her motion has requested Declaratory and Injunctive Relief from this Court.
- 2.2. There is a justiciable controversy before this Court, and Plaintiff has standing to bring her equitable claims, namely Declaratory and Injunctive Relief with regard

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to the legal authority of the King County Hearing Examiner to hear Bellevue animal enforcement cases. The King County Hearing Examiner did not dismiss the Danieli Notices of Violation that were then before him, and the actions taken by the King County Defendants did not void the Notices of Violation.

2.3. Plaintiff has standing under the Uniform Declaratory Judgment Act, Ch. 7.24 RCW.

2.4. The issues presented to the Court for Declaratory and Injunctive Relief are not moot.

2.5. The previous cases before the King County Board of Appeals involving animal enforcement were described by the City of Bellevue as civil infractions. See *City of Bellevue, Answer to First Amended Complaint*, (p.3, ln 21-23). King County law now vests the King County Hearing Examiner with authority to hear such matters. There has been no change in the Bellevue City Code regarding animal enforcement cases since 2010. (Ord. 5957 § 3, 2010.) The Notices of Violations currently before this Court are Notices of Civil Infractions. Ch. 7.80 RCW, BCC 8.04.260. *Post v. Tacoma*, 167 Wn.2d 300, 217 P.3d 1179 (2009)

2.6. Plaintiff has established that there is no genuine issue as to any material fact related to the following: (1) King County and the City of Bellevue entered into an Interlocal Agreement ("ILA") for Animal Services which was executed by the

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contracting parties in July and August of 2017, (2) as part of that ILA, the City of Bellevue was required to update the Bellevue City Code in order to authorize the King County Hearing Examiner to hear appeals for animal enforcement actions by RASKC, and (3) the City of Bellevue did not take the required actions and procedures to pass an ordinance and update the Bellevue City Code.

2.7. The ILA between the City of Bellevue and King County is not sufficient to effectuate a change in the City of Bellevue's city code.

2.8. The Plaintiff has met her burden under CR 56 and is entitled to judgment as a matter of law on her declaratory and injunctive claims.

2.9. The City of Bellevue has not given legal authority to the King County Hearing Examiner to adjudicate animal enforcement cases for the City of Bellevue. Thus the King County Hearing Examiner lacks jurisdiction to hear such cases until such time as the City of Bellevue passes an ordinance and codifies this ordinance in the Bellevue City Code or King County changes its law to return such enforcement action to the King County Board of Appeals.

2.10. The King County Hearing Examiners actions with respect to animal control cases in the City of Bellevue since the change in enforcement authority from the King County Board of Appeals are ultra vires.

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2.11. Except to dismiss City of Bellevue animal enforcement cases currently before it, or to communicate that the King County Hearing Examiner lacks jurisdiction to hear such cases, the King County Hearing Examiner is enjoined from taking any further action on animal control cases in the City of Bellevue until such time as the City of Bellevue and/or King County bring their animal control enforcement processes into conformity with each other and authorize the King County Hearing Examiner to properly take such enforcement action.

2.12. The King County Hearing Examiner is not dismissed from the above captioned action.

2.13. All actions taken by the King County Hearings Examiner as to Plaintiff, Danieli, are void.

2.14. As to the Plaintiff's Causes of Action for Declaratory and Injunctive relief contained in her First Amended Complaint, Plaintiff is the prevailing party.

**Defendants' Motions for Summary Judgement**

2.15. Based on the foregoing findings, the Court will not decide on the various Motions for Summary Judgment filed by the several Defendants at this time.

**3. ORDER:**

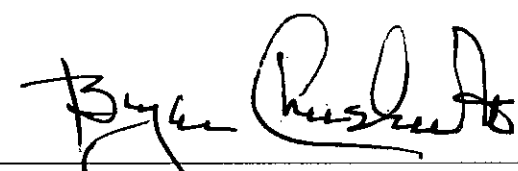
Having reviewed the records on file herein and being otherwise fully advised, the Court hereby **ORDERS:**

- 1 3.1. Plaintiff's Motion for Partial Summary Judgment for Declaratory and Injunctive  
2 Relief is GRANTED.
- 3  
4 3.2. The Court declares that the City of Bellevue has not given legal authority to the  
5 King County Hearing Examiner to adjudicate animal enforcement cases for the  
6 City of Bellevue. Accordingly, the King County Hearing Examiner lacks legal  
7 authority and jurisdiction to hear such Bellevue animal control cases until such  
8 time as the City of Bellevue passes an ordinance establishing the King County  
9 Hearing Examiner's authority and codifies this ordinance in the Bellevue City  
10 Code or otherwise until such time as the City of Bellevue and/or King County  
11 bring their animal control enforcement processes into conformity with each  
12 other and authorize the King County Hearing Examiner to properly take such  
13 enforcement action.
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17 3.3. The King County Hearing Examiner has no authority to hear animal control cases  
18 from the City of Bellevue.
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20 3.4. This Court enjoins the King County Hearing Examiner from hearing Bellevue  
21 animal enforcement cases unless and until the conditions set forth in ¶3.2 are  
22 met.
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- 3.5. The Court has determined not to rule on the Motion for Summary Judgment at this time filed by Defendants King County, King County Hearing Examiner, City of Bellevue.
- 3.6. The King County Defendants have not been dismissed from the above captioned action.
- 3.7. The King County Hearing Examiner is not dismissed from the above captioned action.
- 3.8. The City of Bellevue has not been dismissed from the above captioned action.
- 3.9. Plaintiff, Danieli's Causes of Action sounding in tort are not dismissed.

**ORDERED** this 13 day of November, 2020.

  
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 HON. BRYAN CHUSHCOFF  
 Superior Court Judge

cc: Pierce County Clerk for filing  
 under above cause number  
  
 Counsel of record

