



**CITY OF KIRKLAND**  
**PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT**  
**123 FIFTH AVENUE, KIRKLAND, WA 98033**  
**425.587.3225 - [www.kirklandwa.gov](http://www.kirklandwa.gov)**

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**To:** Hearing Examiner  
**From:** Judd Tuberg, Code Enforcement Officer  
**Date:** September 17, 2012  
**Subject:** HEARING FOR ERIC CHEN AND FRANK MANNING, NOTICE OF CIVIL VIOLATION FOR TWO VIOLATIONS OF THE KIRKLAND PROPERTY MAINTENANCE CODE LOCATED AT 8554 124th AVENUE NE, KIRKLAND,WA; PLANNING DEPARTMENT FILE NO COM12-00130.

## **I. INTRODUCTION**

City of Kirkland staff ("staff") offer this staff report with regard to the above-referenced Code Enforcement matter. The person(s) responsible for the violations are Eric Chen and Frank Manning ("respondents").

## **II. ISSUES PRESENTED**

- A. Regarding Violation #1, Do the weeds, grass, and blackberries currently allowed or maintained on the premises and exterior property at the above address violate the Kirkland Property Maintenance Code regulating weeds, grass and blackberries in excess of eighteen inches in height?
- B. Regarding Violation #2, Does the accumulation of rubbish and junk allowed or maintained by the respondents on the exterior property and premises, and the interior of the carport structure where two inoperative or unlicenseable motor vehicles are currently stored violate the Kirkland Property Maintenance Code regulating rubbish, junk and inoperative and unlicenseable motor vehicles?
- C. Regarding Violation #1, Are the respondents required to remove weeds, grass, and blackberries in excess of eighteen inches from all premises and exterior property at the above address?
- D. Regarding Violation#2, Are the respondents required to remove rubbish, junk, and two inoperative or unlicenseable motor vehicles from all exterior property and premises, and the interior of the carport structure at the above address?
- E. Are the respondents responsible for monetary penalties of \$100.00 per day for both Violation #1 and #2 if they fail to comply with the applicable provisions of the Kirkland Property Maintenance Code herein referenced after a

compliance date is set by the Hearing Examiner if the Notice of Civil Violation is affirmed?

### III. STATEMENT OF FACTS

- A. The site is zoned RSX 7.2. The subject property is owned by respondent Eric Chen and has been occupied for approximately 3 years by respondent Frank Manning and his family. The City received a written complaint from a realtor dated April 26, 2012 and April 30, 2012, stating (in part)..... "the property is in very poor condition with a large amount of debris and bags of garbage in plain sight of anyone walking or driving by the house which is a main north/south arterial, 4 cars in driveway, 2 or 3 of them are non-working with stacks of garbage and junk piled on top of them, and the property being frequently overgrown with brambles. The neighbors have made many requests of the landlord and the tenants to clean up the debris, remove the dead cars and junk piled on them but they have not responded to their requests".
- B. A second complaint was received June 30, 2012 from a concerned neighbor stating: (1) that the items and debris in the yard and exterior of 8554 rental house and items were placed around the carport approximately 3 years ago, including 2 cars in carport that have not moved and have debris stacked on them that still remain on the site and are very much unsanitary and an eyesore, and (2) that the overgrowing blackberry bushes and unmowed backyard grasses were growing thru and over the fence.
- C. I conducted a site visit on May 2, 2012, and confirmed (1) current violations of excess grass and weeds, and (2) rubbish and junk. I called Eric Chen the property owner and informed him of the complaints and violations, and asked him to remove excess grass and weeds from and exterior yard areas including the rear east yard, and to remove all rubbish and junk from the carport and adjoining areas in the west and north exterior yards. Eric Chen was leaving on a trip to India the next day and asked his father Richard to inform the tenants of the violations.
- D. I visited the violation site on May 8, 2012, AM, and observed that only the west front yard had been mowed. The large amount of rubbish and junk, trash, debris and wastes in the carport remained in place with overflow rubbish and debris spilling out onto west driveway and also partially onto the yard on north side of carport and two inoperative and unlicenseable vehicles with rubbish, trash and debris stacked on these two vehicles remained. I sent an email to Eric and Richard Chen on May 8, 2012, detailing the deficient rubbish and junk removal, and indicating that only the west front yard had be mowed ignoring the rear east yard grass, weeds, and blackberries over eighteen inches in height, and the lack of

required regular lawn care maintenance of the entire site on a continuing basis in the Spring of 2012.

- E. After Eric Chen returned from India, and I made several requests both in person at the violation site or via telephone to Frank Manning in May and early June, 2012 requesting compliance. My compliance requests to Frank Manning have been consistently ignored.
- F. I sent an email dated June 12, 2012, to Eric Chen detailing the violations together with the applicable sections of the Kirkland Property Maintenance Code and on June 11, 2012 under separate cover via US Mail at his Redmond address. On June 13, 2012, AM I sent another email to Eric Chen to correct a violation site address typographical error, and requesting a firm date for compliance of the several violations of the KPMC referenced in my email of June 12, 2012, AM.
- G. Over the next several summer months I observed sporadic mowing of the excess grass and weeds by the tenants limited to the west front yard and a portion of the unfenced north front yard adjacent to NE 87th St. with no efforts to maintain the east rear yard. There has been no significant effort to clean-up the carport.

#### **IV. LEGAL ANALYSIS**

- A. With respect to inoperative or unlicenseable motor vehicles, KZC 21.41.202 provides general definitions which states the term inoperative motor vehicle ... "means a vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned in a state of disrepair or incapable of being moved under its own power".. .
- B. KZC 21.41.302.h., prohibits storing or parking an inoperative or unlicenseable motor vehicle on any premises unless parked or stored in a building complying with the Kirkland Building Code.
- C. The KPMC requires that all premises and exterior property free from weeds and grass in excess of eighteen inches, and that all premises and exterior property, and the interior of every structure be free from any accumulation of rubbish or junk, and that no inoperative or unlicenseable motor vehicle shall be stored or parked on any premises unless parked or stored in a building complying with the Kirkland building Code.
- D. Violation#1 and Violation#2 are on-going on the violation site and are subject to abatement pursuant to the KPMC by respondents Eric Chen and Frank Manning as the persons responsible for the two violations.

- E. If the respondents fail to complete the required Corrective Action in a timely manner, applicable code KMC 1.12.040 designates that a monetary penalty of \$100.00 per day for each of two violations be assessed on the respondents.
- F. Eric Chen and Frank Manning are the persons responsible for the two violations of the KPMC violations at parcel #123310-0838 because KMC 1.12.020 defines that term , in part, as .....” any person who is required by applicable regulation to comply therewith, or commits any act or omission which is a civil violation or causes or permits a civil violation to occur or remain upon the property in the city, and includes but is not limited to owner(s), ..... tenants, or other persons entitled to control, use, or occupy a property where a civil violation occurs” .....

## V. CONCLUSION

- A. The Planning Department’s investigation has confirmed two violations of the KPMC. The significant amount of weeds and grass, rubbish and junk, and two inoperative or unlicenseable motor vehicles allowed or maintained by the respondents on the subject property are subject to immediate removal and abatement per KMC 21.41.302.d.2, KMC 21.41.308.a. & b.1., or KMC 21.41, 302. h., Kirkland Property Maintenance Code.
- B. The City requests that if the Notice of Civil Violation is affirmed that monetary penalties of \$100.00 per day for Violation#1 and for Violation #2 be imposed on Eric Chen and Frank Manning, as the persons responsible for the violations, setting a compliance date that allows a reasonable time for the abatement of the two violations, and thereafter commencing monetary penalties of \$100.00 per day for each violation until the assigned code enforcement officer certifies that the violations have been corrected.

### Exhibit:

- A. Staff Report

### Attachments:

1. Notice of Civil Violation
2. Declaration of Service



**CITY OF KIRKLAND**  
 Planning and Community Development  
 Code Enforcement  
 123 5<sup>th</sup> Avenue, Kirkland, WA 98033  
 (425)587-3225 – Fax: (425)587-3232  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

**NOTICE OF CIVIL VIOLATION**  
 (Kirkland Municipal Code 1.12.040)

Date: September 6, 2012 <b>Property Owner Information</b> Name: Eric Chen Address: 13444 Old Redmond Rd City, State, Zip: Redmond, WA 98052	Case Number: COM12-00130 <b>Violation Information</b> Site Address: 8554 124th Avenue NE City, State, Zip: Kirkland, WA 98033 Parcel #: 123310-0838
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Code Provision(s) Violated:	Violation#1:KMC21.41.302.d.2. Violation#2:KMC21.41.308.a. &b.1., or KMC21.41.302.h., Kirkland Property Maintenance Code.
Description of Violation:	Violation#1: Failure to maintain all premises and exterior property free of weeds and grass in excess of eighteen inches. Violation#2: Failure to maintain all exterior property and premises, and the interior of every structure free from any accumulation of rubbish, junk, trash, debris or wastes, and 2 inoperative or unlicenseable motor vehicles at the violation site.
Inspection Dates:	June 27, 2012, August 13, 2012, and August 23, 2012.
Date(s) of Violation:	September 6, 2012, and each day or portion thereof thereafter until the 2 violations are certified as corrected by the assigned Code Enforcement Officer.
Person(s) Responsible For:	Eric Chen, the property owner, and Frank Manning, the tenant.
Request for Voluntary Compliance:	My past requests for voluntary compliance communicated to Eric Chen and Frank Manning have been unsuccessful.
Corrective Action and Compliance Date:	By 5:00 p.m., September 17, 2012, Violation#1:remove all grass and weeds in excess of eighteen inches from all premises and exterior property at parcel #123310-0838; and Violation#2: remove all accumulations of rubbish or junk consisting of bike parts, clothing, 1 child's car seat, toys, many cardboard boxes spilling out of carport, vehicle parts, scrap metal, broken furniture, 1 broken trampoline, discarded appliances, many plastic bottles and large plastic storage containers, 1 inoperative Chev Cavalier(expired Wash. License#154JOT),and 1 inoperative Chev Camaro(expired Wash. License#042PXO), and all debris, trash and wastes from all exterior property and premises, and the interior of the carport structure at parcel#123310-0838.
Hearing Date:	September 20, 2012.

**HEARING NOTICE:** On September 20, 2012, at 9:00 AM, the Kirkland Hearing Examiner shall hold a hearing in City Council Chambers, 123 5<sup>th</sup> Avenue, Kirkland, WA, 98033, 2<sup>nd</sup> floor, Kirkland City Hall relating to the above issued Notice of Civil Violation. If the required corrective action is completed AND written approval is obtained from the issuing party at least 48 hours prior to the hearing, the hearing shall be cancelled and no monetary penalty assessed. If you choose NOT to complete the required corrective action by that time, the hearing shall continue as scheduled.

**HEARING EXAMINER HEARING:** At the hearing, staff may request the Examiner to issue an order assessing the monetary penalties in the amounts described below. All costs and expenses of abatement incurred by the City pursuant to KMC 1.12.060(D) and monetary penalties in the amount per day for each violation as specified in KMC 1.12.040(E) may be assessed against the person responsible for the civil violation as listed above.

- First violation ..... \$100.00
- Second violation..... \$200.00
- Third violation..... \$300.00
- Additional violation in excess of three..... \$500.00

*Payment of a monetary penalty pursuant to Chapter KMC 1.12.040 does not relieve the person to whom the Notice of Civil Violation was issued of the continued duty to correct the violation.*

ISSUED BY: Judd Tuberg, Code Enforcement Officer  
 Phone: (425)587-3290 - Email: jtuberg@kirklandwa.gov

**METHOD OF SERVICE:**

- Hand Delivered
- Postal Mail
- Posted at Subject Property Site





**CITY OF KIRKLAND**  
**PLANNING AND COMMUNITY DEVELOPMENT**

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## DECLARATION OF SERVICE

I am an employee of the City of Kirkland, over eighteen years of age and competent to be a witness herein. On the date written below, I served copies of the Notice of Civil Violation upon the following parties by:

<p>Eric Chen, 13444 Old Redmond Rd Redmond, WA 98052</p> <p>Frank Manning, 8554 124th Ave NE Kirkland, WA 98033</p>	<p><input checked="" type="checkbox"/> U.S. Mail</p> <p><input checked="" type="checkbox"/> Posted on-site</p> <p><input type="checkbox"/> Served to person</p>
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED: September 6, 2012, by U.S. Mail and Posted on-site of violation.

DATED: September 14, 2012

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 Judd Tuberg, Code Enforcement Officer