



CITY OF KIRKLAND

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033
425.587.3225 - www.kirklandwa.gov

To: Hearing Examiner

From: Judd Tuberg
Code Enforcement Officer

Date: August 28, 2012

Subject: HEARING FOR THERESA L. PREKASKI, NOTICE OF CIVIL VIOLATION FOR VIOLATION OF THE KIRKLAND PROPERTY MAINTENANCE CODE REQUIRING THAT ALL PREMISES AND EXTERIOR PROPERTY BE MAINTAINED FREE OF WEEDS AND GRASS IN EXCESS OF EIGHTEEN INCHES, KMC 21.41.302.d.2, LOCATED AT 6115 133rd AVENUE NE, KIRKLAND, WA; PLANNING DEPARTMENT FILE NO.COM12-00218.

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 violation is Theresa L. Prekaski ("respondent").

II. ISSUES PRESENTED

- A. Do the weeds, grass, and blackberries currently allowed or maintained on the premises and exterior property at the above address (the subject property) violate the Kirkland Property Maintenance Code regulating weeds and grass in excess of eighteen inches in height?
- B. Is the respondent required to remove weeds, grass, and blackberries in excess of eighteen inches from all premises and exterior property at the above address?
- C. Is the respondent responsible for monetary penalties of \$100.00 per day if she fails to comply with the Kirkland Property Maintenance Code 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 35. The subject property is owned by the respondent and is unoccupied. The City received a complaint on July 18, 2012, about grass, weeds, and brambles in the yard and pasture areas which then exceeded 2 feet in height allowed or maintained by the respondent property owner residing in Hawaii.

- B. On July 24, 2012, I confirmed a considerable amount of tall weeds, grass, and blackberries in excess of eighteen inches growing vigorously at a 3-4+ foot height in all exterior premises throughout the 35,003 square foot site and pushing out at site boundary areas, in violation of KMC 21.41.302.d.2.
- C. I issued a Notice of Civil Violation to the respondent on August 15, 2012, posted 2 laminated copies (1 on the east entrance wood door, and 1 on a 20 inch diameter conifer tree in the rear SW yard), and sent Theresa L. Prekaski a copy by USPS mail at her last known address in Hilo, Hawaii.
- D. I personally served the respondent with a copy of the Notice of Civil Violation on August 20, 2012, PM, (together with a copy of KMC 21.41. 302. d. 2.) when I discovered she had recently returned from Hawaii and was working to clean-up her unoccupied rental property at 6035 132nd Avenue NE. At that time I asked her to remove all weeds, grass, and blackberries maintained in excess of eighteen inches at the nearby violation site at 6115 133rd Avenue NE, which she agreed to undertake in the near future. I again contacted the respondent on August 27, 2012, AM, at her 6035 132nd Avenue NE rental property and asked her when she would remove the weeds, grass and blackberries in excess of eighteen inches at the 6115 133rd Avenue NE violation site. The respondent indicated she and her work crew would start working on violation involving weeds, grass, and blackberries over eighteen inches at the 6115 site on August 28, 2012. I checked the 6115 violation site on August 28, 2012, AM, and observed that no work was currently being conducted, or had been previously conducted to correct the overgrown weeds, grass, and blackberries in excess of eighteen inches at the 6115 site.
- E. More than 1 week after the Notice of Civil Violation was served to the respondent in Kirkland, and the violation of KMC 21.41.302.d.2 continues at the 6115 133rd Avenue NE site.

IV. LEGAL ANALYSIS

- A. KMC 21.41.302,d.2 requires that all premises and exterior property be maintained free from weeds and grass in excess of eighteen inches.
- B. Because a significant amount of weeds, grass and blackberries exceed eighteen inches, the weeds, grass, and blackberries must now be removed from the large subject property by the respondent as the person responsible for the violation.
- C. If the respondent fails to complete the removal in a timely manner, applicable code KMC 1.12.040 designates a monetary penalty of \$100.00 per day be assessed on the respondent.
- D. Theresa L. Prekaski is the "person responsible for the violation" of KMC 21.4.302.d.2 at parcel # 108810-0130 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 property in the city, and includes but is not limited to owner(s), or other persons entitled to control, use, or occupy a property where a civil violation occurs”
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V. CONCLUSION

- A. The Planning Department’s investigation confirmed a clear and continuing violation of the KMC. The significant amount of weeds, grass, and blackberries currently allowed or maintained in excess of eighteen inches on the unoccupied 35,003 square foot site are subject to immediate removal and abatement per KMC 21.41.302.d.2.
- B. The City requests that if the Notice of Civil Violation is affirmed that monetary penalties of \$100.00 per day be imposed on Theresa L. Prekaski, as the person responsible for the violation, setting a compliance date that allows a reasonable time for the removal, and thereafter commencing monetary penalties of \$100.00 per day until the assigned code enforcement officer certifies that the violation has been corrected in this matter.

Exhibit:

- A. Staff Report

Attachments:

- 1. Notice of Civil Violation
- 2. Affidavit of Service
- 3. Photo Documentation



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

Date: August 15, 2012 <u>Property Owner Information</u> Name: Theresa L. Prekaski Address: 101 Aupuni Street Unit 114 City, State, Zip: Hilo, Hawaii 96720 UNITED STATES	Case Number: COM12-00218 <u>Violation Information</u> Site Address: 6115 133rd Avenue NE City, State, Zip: Kirkland, WA 98033 Parcel #: 108810-0130
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Code Provision(s) Violated:	Section 21.41.302.d.2, Kirkland Property Maintenance Code, Kirkland Municipal Code.
Description of Violation:	Maintaining or allowing grass, weeds and blackberries in excess of eighteen inches in height on the 35,003 square foot premises and exterior property with an unoccupied residence at 6115 133rd Avenue NE, Kirkland, WA, in violation of Section 21.41.302.d.2, Kirkland Property Maintenance Code.
Inspection Dates:	August 1, 2012, and August 13, 2012.
Date(s) of Violation:	August 15, 2012, and each day or portion thereof thereafter until the violation is certified as corrected by the Code Enforcement Officer.
Person(s) Responsible For:	Theresa L. Prekaski.
Request for Voluntary Compliance:	Not Issued. No confirmed contact with property owner.
Corrective Action and Compliance Date:	By 5:00 PM, September 3, 2012, remove all grass, weeds, and blackberries in excess of eighteen inches in height from all premises and exterior property at 6115 133rd Avenue NE, Kirkland, WA (Parcel #108810-0130), and subsequently maintain this site in compliance with Section 21.41.302.d.2, Kirkland Property Maintenance Code.
Hearing Date:	September 6, 2012.

HEARING NOTICE: On September 6, 2012, at 9:00 a.m., the Kirkland Hearing Examiner shall hold a hearing in City Council Chambers, 123 5th Avenue, Kirkland, WA, 98033, 2nd 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



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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 per COM12-00218 upon the following parties by:

Theresa L. Prekaski	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Posted on-site <input checked="" type="checkbox"/> Served to person
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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: August 15, 2012, by U.S. Mail and Posted on-site, and served to Theresa L. Prekaski on August 20, 2012, at 6035 132nd Avenue NE, Kirkland, WA.

Judd Tuberg
 Code Enforcement Officer
 City of Kirkland







Attachment 3





Attachment 3