



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: June 21, 2012

Subject: HEARING FOR MICHAEL L.SUMMER FOR VIOLATION OF THE (A) PERMITTED USE AND ACCESSORY USE REGULATIONS, KZC 18.10.010 AND 115.10, AND (B) JUNK AND RUBBISH REGULATIONS, KMC 21.41. 301, .302, AND .308, LOCATED AT 6928 NE 134th ST.; FILE NO. COM 11-00245.

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 Michael L. Summer ("respondent.")

II. ISSUES PRESENTED

- A. Does the large accumulation of junk and rubbish stored at the above address constitute a non-permitted salvage storage yard use at the uninhabited site that is non-accessory to a required residential use in an RSA 4 zone?
- B. Has the respondent failed to comply with the requirement that all exterior property and premises, and the interior of any structure at the above address be kept free from any accumulation of junk or rubbish (as defined by KZC 21.41.202)?
- C. Is the respondent responsible for fines of \$100.00 per day if he fails to comply with the applicable portions of the Kirkland Zoning Code or the Kirkland Property Maintenance Code after the date to be set for compliance by the Hearing Examiner, and continuing until the assigned Code Enforcement Officer certifies that the required corrective action in the confirmed Notice of Civil Violation has been achieved?

III. STATEMENT OF FACTS

- A. The site is zoned RSA 4 per KZC 18.10.010, RSA Use Zone Chart. The site is uninhabited and the residence is unoccupied. The lot is 14,850 square feet in size.
- B. The City received a written complaint dated August 25, 2011, complaining about the storage of junk vehicles, and large amounts of stored junk and

- rubbish including scrap building materials and supplies, tools and equipment at the uninhabited site at the above address.
- C. My investigation confirmed several junk vehicles and a large accumulation of junk and rubbish (as described in the Description of Violation, Notice of Civil Violation dated June 7, 2012) stored in outside yard areas, in the unoccupied residence, in 1 unauthorized 200 square foot white tent structure, and also in the 2-vehicle attached garage structure. My investigation confirms the subject property is operating as a salvage storage yard use on an uninhabited RSA 4 zoned lot.
- D. I was unable to contact the respondent at his uninhabited property or elsewhere from September, 2011, to the end of April, 2012. When I issued the first Notice of Civil Violation on April 26, 2012, the respondent saw it posted on the violation site, and contacted me. He indicated he is a successful construction contractor who resides with his girlfriend in Kirkland at another location. At that time I notified him of the code violations and asked him to correct the salvage yard storage use violation, and junk and rubbish violation. The respondent stated he would begin work on the violations and work every day to remove and clean up and remove the large accumulation of junk and rubbish.
- E. The respondent removed 3 junk vehicles in May, 2012, but has otherwise been burdened by working sporadically and in part because of his busy work schedule as a construction contractor. He has generally worked alone for 1 or 2 days per week without adequate assistance from other workers to expedite the large scale junk and rubbish removal on the violation site, and without adequate motorized equipment to efficiently move the many large piles of scrap building materials, supplies, scrap wood, scrap metal, wastes, trash and debris from the rear yard into a large metal dumpster in the front yard for removal. The junk and rubbish removal has gone very slowly.
- F. I recently told the respondent he needed to speed up the removal of junk and rubbish on the violation site. I issued another Notice of Civil Violation on June 7, 2012 with the compliance date of June 18, 2012. He stated he could save money by doing it himself. I asked on several occasions to provide me with a firm date in writing when all the junk and rubbish collected over 7 years on the violation site would be removed. He declined to provide me with a firm removal date. The respondent has brought much of the stored scrap building materials and supplies, tools and equipment to the violation site on a regular basis from his construction jobs and sites.

IV. LEGAL ANALYSIS

- A. KZC 115.10.1. provides:“General – Accessory uses, facilities and activities normally associated with a use in a zone are permitted as part of that permitted use. The accessory use, facility, or activity must be clearly secondary to the permitted use.”
- B. The current salvage storage yard use is not clearly secondary to the current unoccupied detached dwelling unit use at the violation site. Rather than a subordinate or incidental use to the permitted dwelling unit use in an RSA 4 zone, the respondent’s long standing salvage storage yard use at the violation site is now the primary use at the uninhabited site. KZC 18.10.010, does not affirmatively authorize or permit a salvage storage yard use in an RSA 4 zone. KZC Chapter 5.10.015 defines “accessory” as“a use, activity or structure

or part of a structure which is subordinate and incidental to the main activity or structure on the subject property".

- C. This definition of accessory indicates that the current salvage storage yard use at is a violation of the Kirkland Zoning Code because the storage yard use is not incidental to an existing permitted detached dwelling unit use authorized by KZC 18.10.010, and is subject to abatement by the City.
- D. Junk and rubbish are defined by KMC 21.41.202 (Kirkland Property Maintenance Code). The respondent's duty to promptly remove all junk and rubbish from the yard areas of the violation site, the residence, 1 unauthorized 200 square foot tent structure, and from the 2-vehicle attached garage are required by KMC 21.41.301 (a), (b), and (c), 21.41.302 (a), and 21.41.308(a). "Salvage" is generally defined as ..."something extracted (as from rubbish) as valuable or useful."... The respondent has had nearly 2 months to comply from April 26, 2012, to June 21, 2012, but has not achieved the necessary junk and rubbish removal to comply with the June 7, 2012, Notice of Civil Violation.

V. CONCLUSION

- A. The facts of this case indicate a continuing violation of both (A) the non-permitted salvage storage yard use, and (B) the large junk and rubbish accumulation on the violation site. Staff seeks \$100.00 per day fines from the respondent if the Notice of Civil Violation is affirmed as to either or both violations (A) or (B) above-referenced from the date the violations are confirmed by the Hearing Examiner until the assigned Code Enforcement Officer certifies that the Corrective Action in the June 7, 2012, Notice of Civil Violation has been achieved.

Exhibit:

- A. Staff Report

Attachments:

- 1. Notice of Civil Violation
- 2. Affidavit of Service



Date: June 7, 2012		Case Number: COM11-00245
Property Owner Information Michael L. Summer 6928 NE 134th Street Kirkland, WA 98034		Violation Information Site Address: 6928 NE 134th Street Kirkland, WA 98034 Parcel #: 867790-0403
Code Provision(s) Violated:	KMC Sections 21.41.308 (a), 21.41.301 (a), (b), and (c), or 21.41.320 (a), Kirkland Property Maintenance Code, and KZC Code Sections 18.10.010, and 115.10, regulating permitted residential uses and accessory uses, and KMC Section 21.06.205, requiring a building permit for each structure.	
Description of Violation:	Maintaining a prohibited accumulation of rubbish and junk over many years such as piles of scrap building materials and supplies, piles scrap wood and pallets, scrap metal and beams, lawn mowers, wheelbarrows, barbecues, sink and toilet, many boxes of tiles, machinery, many hand tools, sheets of glass, construction equipment, vehicle parts, white plastic pipe, rolls of insulation metal shelving, wood cabinets, and 100 + 1 or 5 gallon metal and plastic containers of paint, varnish, sealant or unknown potentially hazardous materials, many black plastic bags fill of debris, trash, and wastes on the all sides of the exterior site property premises (land), and also stored and filling a 2-vehicle attached residential garage structure, and stored and filling 1 unauthorized 200 sq. foot tent structure which activity constitutes: (A) a non-permitted salvage storage yard use at the uninhabited site at 6928 NE 134th St, Kirkland, WA that is non-accessory to a residential use in an RSA zone; and (B) a failure to comply with the requirement that all exterior property and premises, and the interior of every structure at site at 6928 NE 134th St. Kirkland, WA site address be kept free from any accumulation of rubbish or junk.	
Inspection Dates:	June 4, 2012.	
Date(s) of Violation:	June 7, 2012, and each day or portion thereof the violation continues until the violation is certified as corrected by the Code Enforcement Officer.	
Person(s) Responsible For:	Michael L. Summer the nonresident property owner.	
Request for Voluntary Compliance:	Michael L. Summer refused on June 5, 2012.	
Corrective Action and Compliance Date:	(NOTE: The first Notice Civil Violation was issued in this matter on April 26, 2011). By 5:00 PM, June 18, 2012, (A) permanently stop and discontinue using the uninhabited property site, a 2-vehicle attached garage structure, and 1 unauthorized 200 sq. foot structure as a non-permitted salvage storage yard use that is non-accessory to a residential use in an RSA zone; and (B) permanently remove all rubbish and junk items listed in the "Description of Violation" referenced above retaining a certified, licensed and bonded hazardous waste management vendor to assess and remove the contents of the 100 + 1 or 5 gallon plastic or metal containers of paint, varnish, sealant, or unknown potentially hazardous materials from the violation site.	
Hearing Date:	June 21, 2012.	

HEARING NOTICE: On June 21, 2012 at 9:00 AM 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

