



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, CCEO
Code Enforcement Officer

Date: October 13, 2011

Subject: HEARING FOR ENF 11-045, NOTICE OF CIVIL VIOLATION FOR VIOLATION OF THE Chapter 115, Sections 115.10 and 115.150 REGULATIONS, KZC, LOCATED AT 11113 NE 68th St, Kirkland, WA (King County Parcel 169240-0085); PLANNING DEPARTMENT FILE NO. COM11-00064

I. INTRODUCTION

City of Kirkland staff ("staff") offer this staff report with regard to the above-referenced Code Enforcement matter.

II. ISSUES PRESENTED

- A. Whether the continuing long-standing storage of 1 oversize sailboat both more than 22 feet in length and 9 feet in height in the SE corner of the unimproved site at 11113 NE 68th St, Kirkland, WA byowners Ray Larsen and Mina Larsen constitutes a violation of Section 115.150, KZC.
- B. Whether the continuing long-standing storage of 1 oversize sailboat at the SE corner of the unimproved site at 11113 NE 68th St., Kirkland, WA, together with 1 8 foot white boat, 1 37 foot long wood sailboat mast, 4-5 a-frame signs, many pieces of 6-8 foot length white plastic pipe, scrapwood , 1 large brown plastic tarp, and 1 ladder in the SW corner of the unimproved site constitute a storage yard use that is non-accessory to a dwelling unit use, and thereby a non-permitted use prohibited by Chapter 20, Sections 20.10.010 and 20.10.020, RM Use Zone Chart, KZC, and in violation of Section 115.10, KZC.
- C. Whether Ray Larsen and Mina Larsen are responsible for monetary penalties of \$100.00 per day for on-going violations of the KZC as referenced in A. or B. above, per Chapter 115. Section 115.150, KZC, Chapter 115, Section 115.10., KZC, or Chapter 20, Sections 20.10.010 through 20.10.020, RM USe Zone Chart, KZC, from the date this Notice of Civil Violation is upheld by the Hearing Examiner and continuing until such time as the violation(s)are certified as corrected by the code enforcement officer assigned to this case.

III. STATEMENT OF FACTS

- A. Complaint Investigation Request (Response #455) was submitted to the City on March 18, 2011, by a neighbor who has a full view of the stored oversize sailboat covered with torn and dirty blue tarps, together with the "junk" and other items originally stored under the sailboat cradle structure in 2006, which continuing unauthorized storage yard use she characterized as a real eyesore and mess visible from the living room and kitchen window of her condominium unit, as well as from her neighbors's units adjacent to the unimproved lot at 11113 NE 68th St, Kirkland, WA since the former single-family rental residence located at the 11113 site burned down in December, 2005, and has not been rebuilt.
- B. I investigated the complaint on March 18, 2011 and confirmed 1 sailboat hull with cabin atop a wood frame cradle structure measuring: 25 feet 1 inch in length; 12 feet 3 inches in height at the northmost bow portion of the sailboat with attached 2" X 4" wood beam structure over the sailboat cabin; and 8 feet 11 inches in height at the southmost stern portion of the sailboat with attached 2" X 4" wood beam structure over the sailboat cabin , together with 1 small red metal 2-wheel flat bed trailer, 1 white 8 foot length boat, scrap wood , and 5 5 gallon containers, scrap wood, 4 metal ladders, 4-5 a-frame signs, 1 37 foot long wood sailboat mast, and many pieces of white plastic pipe 6-8 feet in length stored at the unimproved RM zoned lot at 11113 NE 68th St, Kirkland, WA.
- 1) I contacted Ray and Mina Larsen by telephone on March 25, 2011, and left a message explaining that I was investigating a complaint and that I had confirmed violations of the Kirkland Zoning Code involving unauthorized storage on their unimproved residentially zoned property, and requesting that they promptly remove the oversize sailboat, together with all other items above-referenced stored under or adjacent to the oversized sailboat at the unimproved Kirkland lot. I left several subsequent phone messages for Ray and Mina Larson at their Mercer Island residence asking them to contact me about zoning code violations at the Kirkland Planning Dept. I received a telephone message from Mina and Ray Larsen on 3-31-11 responding to my 2-3 prior phone messages left at their Mercer Island home, and indicating that Ray Larsen was trying to locate a sailboat trailer to remove the sailboat from the Kirkland property, but he did not indicate a firm date for the removal of the sailboat.
- C. On April 28, 2011, I issued a Voluntary Correction Notice to Ray Larsen at 7831 SE 71st St, Mercer Island, WA 98040 via regular US Mail with a Corrective Action and Compliance Date of 8:00AM, May 5, 2011. Ray Larsen did not subsequently sign the Voluntary Correction Notice and return it to the City. On May 4, 2011, 3:05 PM I received an email from Mina Larsen indicating in part: "that they are trying to donate the sailboat and have it removed from the property as soon as possible (and also remove the other items discussed earlier in an earlier 5-04-11 AM telephone conversation with me) . My son will remove the trailer"... . On August 8, 2011, I received a 1-page hand-delivered letter with 2 photos of sailboat from Ray Larsen at the Planning Dept counter dated July 30, 2011, indicating that he had located a trailer to haul the sailboat, but that it would not be available until the 2nd week of September, that he also needs 6 tripod supports for the sailboat to be trailered, that he has not been able to locate or rent the 6 tripod supports as of July 30, 2011, and also that he would be out of

town until August 30, 2011, and would call me when he gets back. I did not receive any further communications from Ray or Mina Larsen in August or September, 2011.

- 1) In the meantime the oversize sailboat atop its wood frame cradle together with 1 white 8 foot boat, 1 37 foot long sailboat mast, 1 ladder, 4-5 a-frame signs, many 6-8 foot long pieces of white plastic pipe, scrap wood, and 1 large brown plastic tarp remained stored at the unimproved site at 11113 NE 68 St, Kirkland, WA in continuing violation of Section 115.150, KZC, or constituting a non-accessory and non-permitted storage yard use prohibited by Sections 20.10.010 or 20.10.020, RM Use Zone Chart, KZC, and in violation of Section 115.10, KZC. On September 23, 2011, I issued a Notice of Civil Violation to Ray Larsen and Mina Larsen, with a hearing date of October 20, 2011, 9:00AM.

IV. LEGAL ANALYSIS

- A. Despite repeated requests by the Planning Dept that Ray and Mina Larsen remove the oversize sailboat and other items stored in the SW corner of the unimproved RM zoned site at 11113 NE 68th St, Kirkland, WA, Ray Larsen and Mia Larsen have failed to take prompt and effective action for nearly 7 months since March 25, 2011, to remove 1 oversize sailboat, together with 1 white 8 foot long boat, 1 37 foot long sailboat mast, 1 ladder, 4-5 a-frame signs, many 6-8 foot long pieces of white plastic pipe, scrap wood, and 1 large plastic tarp following the receipt of a complaint dated March 18, 2011, which was investigated and confirmed on or about March 25, 2011, by the Planning Dept as (1) an oversize sailboat storage in violation of Section 115.150, KZC, and (2) an a non-accessory and non-permitted storage yard use prohibited by Sections 20.10.010 or 20.10.020, RM Use Zone Chart, KZC, and in violation of Section 115.10, KZC
- B. Section 115.150, states that parking or storing any boat on any lot in a residential zone that is both more than 9 feet in height and 22 feet in length for more than 48 hours in any consecutive 7 day period without Process I permit approval (as described in Chapter 145, KZC) is a violation of the KZC. The Planning Dept has investigated and confirmed that the sailboat currently stored at the SE corner of the RM zoned lot at 11113 NE 68th St, Kirkland, WA is 25 feet, 1 inch in length measured along the sailboat hull, and 12, 3 inches in height measured from grade to the top of the approximately 29 foot long 2" X 4" wood beam structure constructed and attached to the sailboat over the sailboat cabin commencing from/at the bow end (north end) of the sailboat., as currently configured in storage cradle status, southward to a point approximately 4 feet south of the stern of the sailboat.
- C. The storage of the sailboat in the SE corner of the 11113 site, together with 1 white 8 foot long boat, 1 37 foot long sailboat mast, 1 ladder, 4-5 a-frame signs, many 6-8 foot long pieces of white plastic pipe, scrap wood, and 1 large brown plastic tarp at the SW corner of the 11113 site corner of the unimproved site also constitutes a non-accessory storage yard use at the RM zoned site at 11113 NE 68th St, Kirkland, WA in violation of permitted uses authorized by Sections 20.10-010, and 20.10.020, RM Use Zone Chart, KZC, which limits the permitted uses to detached dwelling units, or to detached, attached or stacked dwelling units, respectively, at the RM zoned lot at 11113 NE 68th St, Kirkland, WA. Because no current residential structure or use thereof exists at the unimproved Ray and Mina Larsen site in Kirkland, no accessory

storage yard use is allowed at this site per Section 115.10, KZC. The current storage yard use is clearly not secondary to the former (now extinguished) detached dwelling unit use as of December, 2005, when the former rental detached dwelling unit was destroyed by fire and was not subsequently rebuilt. Rather, the current storage yard use of the 11113 site is not incidental or subordinate to the permitted former rental detached dwelling use, but is now the primary use – albeit a non-permitted use. Section 20.10.010, RM Use Zone Chart, KZC, does not affirmatively authorize or permit a storage yard use in an RM zone. Chapter 5.10.015, KZC, defines “accessory” as “ A use, activity, structure or part of a structure which is subordinate and incidental to the main activity or structure on the subject property”..... .. This definition of accessory suggests that the current storage yard use or activity at the subject unimproved site is a violation of the Kirkland Zoning Code because the use is not incidental to the permitted detached, attached, or stacked dwelling unit used authorized by Sections 21.10.010, and 20.10.020, RM Use Zone Chart, and is prohibited by Section 115.10, KZC, and subject to abatement by the City.

V. CONCLUSION

- A. There has been nearly a 7 month delay in this matter by Ray Larsen and Mina Larsen to take effective action to remove 1 oversize sailboat, together with 1 white 8 foot long boat, 1 37 foot long sailboat mast, 1 ladder, 4-5 a-frame signs, many 6-8 foot long pieces of white plastic pipe, scrap wood and 1 large brown plastic tarp comprising an unauthorized storage yard use at an unimproved RM zoned residential lot at 11113 NE 68th St, Kirkland, WA.
- 1) The City asks (1) that the Notice of Civil Violation issued on September 23, 2011, per ENF 11-045 be upheld by the Hearing Examiner, and (2) that Ray Larsen and Mina Larsen be held responsible for monetary penalties of \$100.00 per day for on-going violations of Section 115.150, KZC, or Sections 20.10.010 or 20.10.020, RM Use Zone Chart and section 115.10, KZC, from the date this Notice of Civil Violation is upheld by the Hearing Examiner and continuing until such time as the violation(s) are certified as corrected by the code enforcement officer assigned to this case.

EXHIBITS

Exhibit A Staff Report
Exhibit B Notice of Civil Violation
Exhibit C Affidavit of Service
Exhibit D Complaint
Exhibit E Photos



CITY OF KIRKLAND
 Planning and Community Development
 Code Enforcement
 123 5th Avenue, Kirkland, WA 98033
 (425)587-3225 – Fax: (425)587-3232
www.kirklandwa.gov

NOTICE OF CIVIL VIOLATION
 (Kirkland Municipal Code 1.12.040)

Date: September 23, 2011 Property Owner Information Name: Mina B. Larsen and Ray W. Larsen Address: PO Box 1173 City, State, Zip: Mercer Island, WA 98040	Case Number: ENF 11-045 Violation Information Site Address: 11113 NE 68th Street City, State, Zip: Kirkland, WA 98033 Parcel #: 169240-0085.
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Code Provision(s) Violated:	(1)Section 115.150, Kirkland Zoning Code limiting the size of stored boats in residential zones, or (2) a storage yard use that is non-accessory to a dwelling unit use, and thereby not permitted by Chapter 20, Section 20.10.010 and .020, RM Use Zone Chart, Kirkland Zoning Code, and in violation of Section 115.10, Kirkland Zoning Code.
Description of Violation:	(1)Storing 1 sailboat both more than 22 feet in length and 9 feet in height continuously at the SE corner area of a residential lot in violation of Section 115.150, KZC, or (2) storing 1 sailboat, 1 8 foot long boat, (and at SW corner) 1 37 foot long sailboat mast, 1 ladder, 4-5 a-frame signs, many pieces of plastic pipe, scrap wood, 1big brown plastic tarp continuously at the unimproved residential lot thereby creating an non-permitted non-accessory storage yard use at Parcel # 169240-0085.
Inspection Dates:	3-18-11, 4-18-11,4-27-11, and 9-12-11.
Date(s) of Violation:	3-18-11 continuing through the October 20, 2011, Hearing Date and all subsequent days of violation until the violation is certified as corrected by the City.
Person(s) Responsible For:	Mina B. Larsen and Ray W. Larsen
Request for Voluntary Compliance:	Yes – sent to Ray W. Larsen on April 28, 2011
Corrective Action and Compliance Date:	Permanently remove 1 oversize stored sailboat and all other stored items listed in the above-referenced "Description of Violation" from unimproved Parcel #169240-0085 on or before October 18, 2011, and notify the assigned Code Enforcement Officer. Pay \$100.00 per day penalties from the date this Notice of Civil Violation is affirmed by the Hearing Examiner until this violation is certified as corrected by the City.
Hearing Date:	October 20, 2011, 9:00 AM

HEARING NOTICE: On October 20, 2011 at 9:00AM 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
- Second Violation: \$200
- Third Violation: \$300
- Additional Violation In Excess of Three: \$500

Payment of a monetary penalty pursuant to Chapter KMC 1.12.040(E) 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

Caryn Saban

From: City Webmaster [ironpointadmin@kirklandwa.gov]
Sent: Wednesday, May 18, 2011 2:51 PM
To: PCDcomplaints
Subject: Complaint Investigation Request (response #485)

Complaint Investigation Request (response #485)

Survey Information

Site:	City Website
Page Title:	Complaint Investigation Request
URL:	http://www.kirklandwa.gov/depart/Planning/Code_Enforcement/Complaint_Investigation_Request.htm
Submission Time/Date:	5/18/2011 2:51:04 PM

Survey Response

IDENTIFICATION OF PROBLEM	
Address: (Specific address needed in order to investigate complaint)	10427 NE 110th Street
Occupant/Business:	<input type="text" value="Occupant"/>
City/State/Zip:	Kirkland, WA 98033
Phone Number:	
Does this complaint involve a permit or license issued by the City of Kirkland?	<input type="text" value="No"/>
If yes, please specify permit number and type.	
Details of Complaint (Be specific as to time, duration, location of violation, identities of responsible parties, actions of parties, and nature of complaint,	Abandoned property for a few months. Full trash cans in car port which is attracting rodents, and overgrown lawn. Also trash/debris on property.



HOME PHONE







