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THE HEARING EXAMINER OF THE CITY OF KIRKLAND

IN RE:

Goat Mountain LLC and Modern Shelter
LLC

Hearing on Notice of Violation

Case No. COM21-00071

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL DECISION.

Overview

Goat Mountain LLC and Modern Shelter LLC shall each pay \$2,061.77 to the City of Kirkland by July 12, 2021. Failure to pay this amount by the July 12, 2021 deadline shall result in an additional fine of \$100 per day.

The \$2,061.78 fine includes a \$1,500 fine for illicit discharge into the City of Kirkland stormwater system on December 18, 2020. As a first violation of the City’s stormwater regulations, the City was authorized to impose a \$2,000 for this violation and \$561.78 in cost recovery to each of the two LLCs for City abatement of the violation. The \$2,000 fine was reduced by \$500 to \$1,500 due to the extenuating circumstances of the violation as testified by Joel Lavin.

Exhibits

The June 17, 2021 staff report with its 17 attachments was admitted as Ex. No. 1 during the hearing.

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Findings of Fact

1. Notice of Civil Violation. Goat Mountain LLC and Modern Shelter LLC were cited with a Notice of Civil Violation (NOCV) on May 11, 2021. The NOCV cited the companies with violating KMC 15.52.090, which prohibits the discharge of sediment into Kirkland’s storm drainage system. See Ex. 1, att. 1. The NOCV seeks \$2,000 in fines for each company plus an additional \$561.77 in cost abatement for failure to pay the fines by due dates set in a February 9, 2020 Notice of Surface Water Fines and Cost Recovery, Ex. 10, which set a payment deadline of February 26, 2021.
2. Responsible Parties. Goat Mountain LLC owns the violation site, 10827 108th Ln. NE, Kirkland, WA 98033. Modern Shelter LLC is the contractor for the site. City staff testified that they reviewed the construction plans for the site, which showed Modern Shelter as the contractor. Tr. 4. The property is under development as a three lot short subdivision. Tr. 3.
3. Illicit Discharge. On December 18, 2020 sediment contaminated waters were discharged into the City stormwater system. The waters were discharged from property owned by Goat Mountain LLC at 10827 108th Ln. NE, Kirkland, WA 98033, a site under construction.
4. Cost Abatement. The costs of abating the violation totaled \$1,123.55. These were the costs incurred by the City for cleaning out stormwater facilities contaminated with sediment laden waters as shown in Att. 6 to the NOV. The costs were split in half to be assessed at \$561.77 each for Goat Mountain LLC and Modern Shelter LLC.
5. Payment/Cost Recovery Nonpayment. The City issued Goat Mountain LLC and Modern Shelter LLC a Notice of Surface Water Fines and Cost Recovery for the illicit discharge identified in Finding of Fact No. 3. The Notice set a fine and cost abatement totaling \$2,561.78 for each company to be paid by February 26, 2021. As of the date of the hearing, the companies have not yet paid the fines.
6. Hearing. A virtual hearing on the NOCV was held on 9:30 am, June 17, 2021 by the Zoom meeting application. Joel Lavin testified he was at the hearing to represent both Goat Mountain LLC and Modern Shelter LLC. Mr. Lavin testified he serves as the “manager” of both LLCs. Tr. 9.

Conclusions of Law

1. Jurisdiction. KMC 1.12.050 provides that the hearing examiner shall conduct a hearing and issue a final decision on the validity of Notices of Violation.

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2. Alleged Code Violations. The Notice of Civil Violation asserts a violation of KMC 15.52.090, which is quoted in pertinent part below and applied via a corresponding conclusion of law.

KMC 15.52.090 Illicit discharges and Connections: (a) *Prohibition of Illicit Discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system and/or surface and ground waters any materials other than storm water. Illicit discharges are prohibited and constitute a violation of this chapter. Examples of prohibited contaminants include, but are not limited to, the following:*

...
(26) *Silt, sediment, concrete, cement or gravel.*

3. Goat Mountain LLC and Modern Shelter LLC in Violation of KMC 15.52.090: Goat Mountain LLC and Modern Shelter LLC violated KMC 15.52.090(26). As determined in Finding of Fact No. 2, on December 18, 2020 Goat Mountain LLC and Modern Shelter LLC were responsible for the discharge of sediment laden waters into Kirkland’s municipal stormwater drainage system in violation of KMC 15.52.090(a)(26) as quoted above. As identified in KMC 1.12.020, responsible parties for code violations include the owner of the violation site and the contractor responsible for the violation.

KMC 1.12.060(d): *Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city at the permit center within ten calendar days. The term “incidental expenses” includes but shall not be limited to personnel costs, both direct and indirect, including attorney’s fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing.*

4. Cost Recovery. As determined in Finding of Fact No. 4, the costs for the City clean up total \$1,123.55. The NOCV equally allocates the cost recovery amongst the two responsible parties for \$561.77 each.

1 **KMC 1.12.200(a):** *General Requirements. This section applies to violations of*
2 *Chapter 15.52, including illicit discharges and connections that discharge into the*
3 *municipal storm drain system and/or surface and ground waters.*

4 5. Stormwater Fines. Goat Mountain LLC and Modern Shelter LLC have each
5 incurred fines of \$2,000 as cited in the NOCV.

6 KMC 1.12.200 assesses stormwater discharge fines upon a point system regulated by a
7 matrix in Table 1 of KMC 1.12.200. Kirkland staff showed its work in Ex. 1 att. 7,
8 which established that application of the matrix yielded seven points, which according
9 to Table 2 of KMC 1.12.200 results in a \$4,000 fine for a first time offense. The NOCV
equally allocates the \$4,000 fine amongst the two responsible parties.

10 **KMC 1.12.060(d)(4):** *Determining Monetary Penalty. Monetary penalties assessed by*
11 *the hearing examiner shall be in accordance with the monetary penalty schedule in*
12 *Section 1.12.040; provided, that the hearing examiner may assess no monetary*
13 *penalties or may assess up to double the monetary penalty schedule. In determining the*
monetary penalty, the hearing examiner shall consider the following factors:

14 (A) *Whether the person responded to staff attempts to contact the person and*
15 *cooperated with efforts to correct the violation;*

16 (B) *Whether the person appeared at the hearing;*

17 (C) *Whether the violation was a repeat violation;*

18 (D) *Whether the person showed due diligence and/or substantial progress in*
19 *correcting the violation;*

20 (E) *Whether a genuine code interpretation issue exists; and*

21 (F) *Any other relevant factors.*

22
23
24 6. Fine Reduction. The fines for Goat Mountain and Modern Shelter are each
25 reduced by \$500.

26 Mr. Lavin established that project delays and internal corporate problems resulted from
27 the COVID pandemic and were reasonably beyond his control. The City established
28 that it had already factored in some leniency by not taking into account a prior BMP
29 violation and an incident with another company associated with Mr. Lavin. See Tr. 8.
30 However, the prior BMP violation was shortly before the illicit discharge violation and
likely resulted from the same COVID problems and the incident with another company

1 appears to be the result of an accident as testified by Mr. Lavin. All of the code
2 violations committed by Mr. Lavin appear to be from matters beyond his control and do
3 not exhibit any gross negligence or intentional indifference to the City's code
4 requirements. Since this is the third incident of a code violation it would not be
5 justified to waive the fines entirely or to even waive a substantial portion of them.
6 However, some recognition is due for Mr. Lavin's readiness to admit fault and the
impacts of the COVID pandemic. For all these reasons, the fines for both Goat
Mountain and Modern Shelter will each be reduced by 25%, from \$2000 to \$1500.

7 **KMC 1.12.040 (e)(1):**

8
9 (A) *The penalty for first-time violations is one hundred dollars per day for each
10 violation;...*

11 7. Failure to Pay Stormwater Fine. The City's code enforcement regulations
12 qualify failure to timely pay a civil fine as a continuing code violation. Consequently,
13 failure to timely pay the fines required by this Decision shall subject the Applicant to a
\$100/day fine.

14 KMC 1.12.020n defines a violation to include acts or omissions contrary to conditions
15 imposed for violating City development regulations. KMC 1.12.040 imposes civil fines
16 for violating development regulations. Consequently, failure to pay civil fines when
17 due is considered to be a condition imposed violating a development regulation. KMC
18 1.12.020 provides that each day during which a violation occurs qualifies as a separate
19 violation. Given these provisions, each day past the payment deadline set by this
20 Decision constitutes a separate violation subject to the \$100 fine imposed by the quoted
21 provision above, KMC 1.12.040e1A. As requested by code enforcement staff, the
responsible parties shall incur a daily fine of \$100 for failing to comply with the
payment deadlines set by this decision.

22 **Decision**

23 Goat Mountain LLC and Modern Shelter LLC shall each pay the City \$2,061.78
24 (\$1,500 fine and \$561.78 cost recovery) by July 12, 2021.

25 ORDERED this 1st day of July 2021.

26
27 
28 Phil A. Olbrechts
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30 City of Kirkland Hearing Examiner

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Appeal

An appeal of this Decision must be filed with superior court within twenty-one calendar days from issuance as required by the Land Use Petition Act, Chapter 36.70C RCW.

Appendix A

June 17, 2021 Hearing Transcript

Goat Mountain LLC and Modern Shelter LLC – COM21-00071

Note: This is a computer generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available from the Planning Department should anyone need an accurate rendition of the hearing testimony.

Phil Olbrechts:

For the record, it's June 17th 2021, 9:30 AM. I'm Phil Olbrechts, hearing examiner for the City of Kirkland for code enforcement actions. This morning, we have a couple on the agenda. The first one will be for Goat Mountain. Then the second one will be the... Let's see. What do we call that? What's the name of the second code enforcement action? I was just trying to bring that up. [crosstalk 00:00:32]. Oh, Schumer. Okay. All right. Does the city want to go ahead with Goat Mountain first? Does that go along with the agenda? Is that what we're planning to do today? Okay.

Ms. Sedlacek:

Sure.

Phil Olbrechts:

All right.

Phil Olbrechts:

So, the hearing format for both will be the same. The city has the burden of proof, so they get to go first and last, essentially, to establish that their allegations are correct; the code violations have occurred. For the first hearing, that will be Ms. Sedlacek. I'll give us an overview of Goat Mountain and then Mr. Lund will give us the overview on the second code violation.

Phil Olbrechts:

After Ms. Sedlacek and Mr. Lund are done with their presentations, we'll then move on to the property owners, the persons who have been cited with the violation. It's just limited to the property owners. Also, the contractor, I believe, in the Goat Mountain case. You'll have your chance then, that's your opportunity to give your side of the equation. Then after that, we'll move back to the city for rebuttal evidence and concluding comments. I'll have 10 business days to issue a final decision. All parties to the hearing will have an opportunity for cross examination. That simply means that for every witness that provides testimony, the other side can ask questions of them.

Phil Olbrechts:

And I think with that, I've covered all the important parts. Now, as a matter of state law, I'm not allowed to talk about any of these cases outside of the hearing today. That means that I haven't been talking to the code enforcement officers or anyone else in the city about the case. All the information I have about the case is that information that will be made available to everybody else in this hearing as well.

Phil Olbrechts:

Ms. Sedlacek has sent me a staff report in advance of the hearing. I'm trying to pull that up right now in my screen. Let me make sure I've got the right one. Here we go. It's a staff report dated June 17th 2021, and scroll down to the exhibit list and then share that screen. Okay.

Phil Olbrechts:

All right. So what you should be seeing in front of you at this point is pages four and five of the staff report identifies the documents that Ms. Sedlacek wanted me to look over before the hearing, so that would include the staff report plus attachments one through 17. Actually, let me ask, who is here on the Goat Mountain case, then?

Joel Lavin:

That is me, Joel Lavin.

Phil Olbrechts:

Okay. Anyone else here other than Mr. Lavin here for this case? All right.

Joel Lavin:

Not on my side, no.

Phil Olbrechts:

Okay. All right. And Ms. Sedlacek, let's see, who were the parties to this code violation? I believe it was the contractor and the property owner, right?

Ms. Sedlacek:

Correct.

Joel Lavin:

Correct.

Phil Olbrechts:

Okay. And Mr. Lavin, are you representing both?

Joel Lavin:

Correct.

Phil Olbrechts:

Okay. All right. Good. We're set then. All right. Mr. Lavin, do you have any objection to entry of the exhibits listed on the staff report?

Joel Lavin:

I do not.

Phil Olbrechts:

Okay. Well, I'll go ahead then. I'll go ahead and admit exhibit one as a staff report with attachments one through 17. Any other issues before we jump into the presentation in chief?

Ms. Sedlacek:

I did send over the PowerPoint to everyone this morning a little bit ago and that's what I'll be putting up on the screen for my presentation.

Phil Olbrechts:

Mr. Lavin, have you received a copy of the city's PowerPoint?

Joel Lavin:

Yeah, I saw it just half an hour ago. I looked at it. I mean, Shannon doesn't even need to open it up. I'm not going to contest anything that she has on it.

Phil Olbrechts:

Okay. All right. So I take it that's no objection entry in the record. I don't think it was listed in the witness and exhibit lists, but if there are no objections, I'll admit the PowerPoint as exhibit 18 then. Ms. Sedlacek, then, go ahead.

Phil Olbrechts:

Oh, let me stop my share screen for you. There we go. That helps, yeah.

Ms. Sedlacek:

And everybody can see that now?

Phil Olbrechts:

Yes.

Joel Lavin:

Yeah.

Ms. Sedlacek:

Okay. So, this is for case number COM21-00071 for a violation of the Kirkland municipal code, which regulates illicit discharges and connections into the public street and storm system. The subject property is located at 10827 108th Lane, Northeast Kirkland, Washington 98033 and is zone RSA 8.5. There's currently a permit issued for a three lot short flat under BSF 18-06108.

Ms. Sedlacek:

On December 7th 2020, public works construction inspector, Chris Keel, posted a correction notice at the property located at 10827 108th Lane. The corrections called for proper BMPs, which are best management practices, to be put in place. Specifically, that they install a silt fence on the low side of the lot to prevent runoff to the street or neighboring properties, that they stabilize all disturbed soil with plastic or straw, and install a construction entrance off the end of the asphalt driveway.

Ms. Sedlacek:

On December 18th 2020, a complaint was received by [inaudible 00:05:53] and the public works stormwater crew responded and cleaned a newly installed structure in the driveway. They also cleaned a downstream catch basin in the sidewalk located adjacent to Northeast 108th Street. A water sample was taken at the time from the newly installed structure prior to cleaning and provided to water quality specialist, DJ Bernard.

Ms. Sedlacek:

Discharges into the public stormwater drainage system must be below 25 NTU and not considered a prohibited discharge per KMC, 1552090. You can see in the photo to the right, that's the turbidity meter reading, and it was 792 NTUs. Public works construction inspector, Chris Keel, also informed the contractor, Joel Lavin, that he needed to prevent runoff and install a new wireframed catch basin sock.

Ms. Sedlacek:

On January 11th 2021, the surface water code enforcement team met to discuss the illicit discharge and complete the surface water enforcement matrix. The following day, I received an email from water quality coordinator, Ryan Murray, to Amisto stating that on December 18th 2020, when the violation was observed, there was an illicit discharge into the municipal storm system. She also requested that I send a notice of surface water fines to Goat Mountain LLC and Modern Shelter, LLC, which I did.

Ms. Sedlacek:

This illicit discharge was a violation of their permit conditions [inaudible 00:07:27] number 33 and was also on the approved plans under the erosion sedimentation control notes, number 30 and 31.

Ms. Sedlacek:

Letters went out to both parties on February 9th 2021, March 16th 2021, and May 11th, 2021. There are also emails exchanged regarding the incident and the fines and cost recovery due. In the most recent email exchange on June 7th 2021, Mr. Lavin stated that this was not something he was going to contest, and that he understood the city should be repaid for any costs incurred. He also expressed his understanding that it was their responsibility to keep the infrastructure clean. Mr. Lavin went on to state that if he and I worked this out over email, rather than dragging a bunch of more people into it, the city could have their cost reimbursement and penalty paid before the hearing date.

Ms. Sedlacek:

On June 8th 2021, I responded to Mr. Lavin that if the fines and cost recovery were paid by end of business on Friday, June 11th, the hearing would be canceled and the case officially closed. On June 8th 2021, Mr. Lavin responded via email stating that Modern Shelter was not even on the job site and was a company he ran five years ago. He also again stated that he knew the violation took place. I investigated the permit further and verified that Modern Shelter was listed on the plans. On June 9th 2021, I emailed Mr. Lavin back with a screenshot of the plans and Modern Shelter, which is here circled in blue, to verify.

Ms. Sedlacek:

As of today, June 17th 2021, Mr. Lavin has not responded nor have the fines and costs recovery been paid. In conclusion, the city is asking that Goat Mountain and Modern Shelter be required to pay \$2,000 each in fines within three days of the hearing examiner's decision. And that they'd be required to pay

\$561 and 78 cents and \$561 and 77 cents respectively for cost recovery within three days of the hearing examiner's decision. If the fines and cost recovery are not paid, the city asks that Goat Mountain LLC and Modern Shelter LLC each be assessed fines of \$100 per day from the date of the hearing examiner's decision and to continue until fines and cost recovery have been paid in full.

Phil Olbrechts:

Okay. Oh, shoot. Ms. Sedlacek, I didn't swear you in, did I? So I should do that post [crosstalk 00:09:57] swearing yourself retroactively.

Ms. Sedlacek:

Yes.

Phil Olbrechts:

Do you swear/affirm that the testimony you provided so far today and will provide in this proceeding are true and accurate to the best of your belief?

Ms. Sedlacek:

I do.

Phil Olbrechts:

Okay, great. Thank you.

Phil Olbrechts:

All right. Mr. Lavin, did you have any questions of Ms. Sedlacek?

Joel Lavin:

No. I mean, is this the opportunity for me to at least say what I think I'd have to say about it?

Phil Olbrechts:

Oh, no, that's coming up really shortly. Right now, it's just a cross-examination.

Joel Lavin:

Okay, then I do understand everything that Jen said.

Phil Olbrechts:

Okay. And Ms. Sedlacek, what I remember from your staff report is that the water was sent to someone else in the city to test for turbidity levels to see if a violation had occurred. I don't think [crosstalk 00:10:43] actually said whether or not they'd found it exceeded levels. So I just thought to kind of complete the record, if you could identify what the results were of that testing.

Ms. Sedlacek:

Yeah. So, the photo that I have in there and the attachment with a photo has a turbidity meter reading, which is 792.

Phil Olbrechts:

Okay. Okay.

Ms. Sedlacek:

Anything over 25 NTU is a violation of code.

Phil Olbrechts:

Okay, great. Okay. Thank you very much for that.

Ms. Sedlacek:

And DJ is here. DJ is the one that took the reading as well.

Phil Olbrechts:

Okay. All right. Yeah. Why don't we swear her in real quick and just have her confirm that? Just so we're not dealing with any hearsay issues or cross-examination issues. Let's see. What was your name again?

Speaker 4:

DJ Bernard.

Phil Olbrechts:

Oh, there you are, Mr. Bernard. Okay, let me swear you in, I remembered this time. Do you swear to tell the truth, nothing but the truth in this proceeding?

Speaker 4:

I do.

Phil Olbrechts:

Okay. If you could just describe how you measured the water level and what your findings were.

Speaker 4:

Yes. I received the sample from Mike Nelson from the surface water crew. I tested it twice. I got 792 and 809 on both of my readings.

Phil Olbrechts:

Okay. And when was that about?

Speaker 4:

When?

Phil Olbrechts:

You called you about, when you did that?

Speaker 4:

It was the day of...

Speaker 4:

10:30 in the morning.

Phil Olbrechts:

Okay, great. Thank you.

Phil Olbrechts:

All right. And Mr. Lund, did you have any questions of Mr. Bernard?

Joel Lavin:

No.

Phil Olbrechts:

Okay, great. Thank you, Mr. Bernard. Appreciate your help there.

Phil Olbrechts:

Okay. Now, Mr. Lund, it's your turn, let me swear you in. Do you swear/affirm to tell the truth and nothing but the truth in this proceeding?

Phil Olbrechts:

Excuse me, not Mr...

Ms. Sedlacek:

Lavin.

Phil Olbrechts:

Mr. Lavin, yes. Mr. Lavin.

Joel Lavin:

Okay. You can't see me because my video's shutdown, but I'm raising my hand and I swear to tell the truth.

Phil Olbrechts:

Great. Thank you, Mr. Lavin. All right, go ahead.

Joel Lavin:

So, I'm a contractor. I'm not good at legal proceedings and this kind of stuff, so I'm going to be a little rough... I totally, like Shannon said... Yes, it's our responsibility to not discharge into the city stuff. The only reason that I'm here is just to state of case. It felt quite punitive to have \$4,000 in fines. I mean, I know the water quality sample was taken and I was unfamiliar with the chart, but I did see it in PowerPoint that there's a scale on how you come up with the fine amount. And I'm certain that DJ did

the test right. I mean, that was pulled right out of a storm drain at the bottom of a hill. That was a very concentrated spot, but regardless, it doesn't even matter because I need to keep the street clean. I totally get that.

Joel Lavin:

All I can say is we had an unusual year last year and we weren't allowed to work. I had some internal things going on with partnership about our perception of the future of business and life and working at all with the COVID thing. It's not your problem that my partner and I strongly disagreed on what was happening and whether the situation that we were all under with COVID-19 was real or not. I'm from this side of the mountains, I believe it's real, but we stopped our job. We just didn't know what was going on. We stopped our job. We were off of that thing for seven or eight months, and it got out of sorts and... we came together and started thinking about getting back to work and it looked like things were going to stabilize.

Joel Lavin:

And that was in December and we screwed that up. I was not in my regular workflow. I was a bit out of sorts. It's not my style. I totally think you guys need to be recovered for all your costs. And I'm just asking to take a look at the fine amount. It feels quite punitive since I've never had... I'm unfamiliar with civil fines. I totally get it and I should be punished. This needs to hurt. I need to know I'm not going to do it again. I just feel like 4,000 bucks is a pretty good beating for a small businessman in 2021. Things are tough and this doesn't happen when we start a job and we work all the way through, but last year was an odd year and I didn't get it right. That's my defense. I didn't get it right. And definitely had a strange situation around there. We're managing it now. We're not going to have those problems again. I'm by there every day, every other day. We're back to normal now. That's what I got.

Phil Olbrechts:

Okay. Thank you, Mr. Lavin. Ms. Sedlacek, did you have any questions?

Ms. Sedlacek:

I don't have questions, but I would like to respond to that. With regard to it being punitive, I do want to point out a couple of things. Because of the health crisis, we definitely are looking at our cases differently and we understand that everybody is experiencing this differently and they're obviously having to move through this differently. And in doing so, going through that matrix, when I put up the correction notice that was issued by Mr. Keel and the BMPs that were required to be put in place, we didn't use that when the team met for this to go through that matrix. We didn't use that correction notice because we all agreed it had taken place prior to the discharge. Had we have used that, it would have raised the fine to a higher amount, and we did not. We pushed that away.

Ms. Sedlacek:

The other thing is that Mr. Lavin is also associated with another company, Princeton, that was listed as a contact. Well, Princeton has had a previous violation. So we did not use Princeton, we used Modern and Goat because they were on the plans and one is the property owner. We could have used Princeton and we did not because that would have made it a repeat violation and these fines would have been doubled. So, that would be my response as far as us being punitive. That was not the intent and we did everything we could to not have these be one, a repeat violation, and then also the fines would have

been higher in general had we had used that correction notice, because it would have stated that it was willful and knowing.

Phil Olbrechts:

Okay. Okay. Mr. Lavin, did you have any questions of Ms. Sedlacek?

Joel Lavin:

No. I mean, I guess I can clarify Princeton's civil violation.

Phil Olbrechts:

Yeah, if you want. Like Ms. Sedlacek said, the city's not using Princeton against you, so I don't think there's-

Joel Lavin:

[crosstalk 00:18:20] That was an employee hit a water main. It was not a surface runoff thing. It was a disaster, I'll give you that, but it was not a runoff. It was not a run off thing and it was pre-COVID.

Phil Olbrechts:

Just to clarify, Mr. Lavin, you're here on behalf of Modern Shelter, is that correct?

Joel Lavin:

Right.

Phil Olbrechts:

And what role do you play in Modern Shelter?

Joel Lavin:

I'm the manager.

Phil Olbrechts:

Okay. All right. And I take it you're not here on behalf of Goat Mountain. Is that correct?

Joel Lavin:

I am here, I'm manager for both.

Phil Olbrechts:

Oh, okay. Okay. Oh, you are. Okay. So you're affiliated with both.

Joel Lavin:

I am, and it's a little convoluted because Modern Shelter started years ago when I first applied for the permit. That's on the surveys that have Modern Shelter's information on there. That's why it's on there.

Phil Olbrechts:

Okay. Okay. Got it. All right. Okay. And Ms. Sedlacek, I'm taking it the staff is still recommending the full amount of the fine. Is that the position of it right now?

Ms. Sedlacek:

It is, yes.

Phil Olbrechts:

All right. Okay. All right. Yeah.

Phil Olbrechts:

Mr. Lavin, this is one I can't say where I'm going with it right now. We haven't held a whole lot of these code enforcement hearings for Kirkland yet, so I want to take a close look at how much discretion I have to lower fines, that kind of thing. But whatever fine is imposed against you, there'll be a detailed explanation in the written decision that I mail out and that'll be out within the next couple of weeks. So, I appreciate you participating today and cooperating with us and admitting to the violations. That saved us all a lot of time, I think, and we'll get that decision out real quick.

Phil Olbrechts:

I appreciate your participation, Ms. Sedlacek as well, and we're done on this hearing for today.

Ms. Sedlacek:

Thank you.

Joel Lavin:

I do have one more comment [crosstalk 00:20:15] that the fines get paid within three days of your decision and I'm prepared to do that.

Phil Olbrechts:

Okay. Okay. And Ms. Sedlacek, I think it's 30 days, isn't it?

Ms. Sedlacek:

No.

Phil Olbrechts:

Oh, okay.

Ms. Sedlacek:

Yeah, it's three.

Phil Olbrechts:

Okay.

Ms. Sedlacek:

It's varied depending on the case and how long it's been, but for this one, it was within three days, yes.

Phil Olbrechts:

Okay. Got it. All right. Okay.

Joel Lavin:

I got that. I'm prepared to deal with that. I wanted a chance to say, "You guys, it was COVID and I screwed up. I'm sorry. I apologize."

Phil Olbrechts:

Okay. Yeah. And certainly, Mr. Lavin, like I say, your degree of cooperation is certainly positive factor in the evaluation of the fine. Again, thank you for everybody's participation today. Let's move on to the next one at this point. Next, Ms. Sedlacek.