



**DECISION AND ORDER
of the SNOHOMISH COUNTY
HEARING EXAMINER**

Millie Judge
Hearing Examiner

M/S 405
3000 Rockefeller Ave.
Everett, WA 98201

(425) 388-3538
FAX (425) 388-3201

DATE OF DECISION: February 2, 2011

RESPONDENT: Marilyn Sanders

FILE NO.: 08-101641 CT

TYPE OF REQUEST: Monetary Penalties

DECISION (SUMMARY): Extension of 60 days granted to achieve compliance from date of hearing; If not achieved, penalties are imposed without further hearing.

COMPLIANCE DEADLINE: **March 14, 2011 at 4:00 p.m.**

LOCATION: 9529 66th Avenue NW, Marysville, WA (Tulalip Shores)

TAX ACCOUNT NO: 003845-000-034-02

This matter having come before the Hearing Examiner on January 13, 2011, and the testimony of witnesses having been heard and all exhibits admitted into evidence having been considered, the Hearing Examiner enters the following order based on a preponderance of the evidence:

FINDINGS OF FACT

Based on a preponderance of the evidence of record, the following findings of fact are entered:

1. Marilyn Sanders, Respondent, is the owner of record of the property located at 9529 66th Avenue NW, Marysville, Washington (in Tulalip Shores), (hereinafter, the "subject property"). Ms. Sanders is in poor health and has been consistently represented in this matter by her son, Tim Sanders. (Exhibits 1-10)
2. On May 5, 2008 Ms. Sanders signed a Voluntary Correction Agreement (VCA) in which she stipulated to the existence of certain violations on the subject property, specifically, allowing the construction of a new foundation and retaining walls on the subject property without first obtaining the required permits in violation of the International Residential Code. The corrective action was to obtain the necessary permits or remove the construction activity/structures from the property. (Exhibit 11) These violations are ongoing.

3. The Respondent has been working with PDS and professional consultants to resolve the violations, although progress has been slow. PDS Code Enforcement Officer Judy Wahl granted the Respondent numerous extensions of time to achieve compliance between June of 2008 and October 5, 2009, the last compliance date. (Exhibits 11, 12, 13, 14, 15, 16, 17, 18, and 19)
4. The Respondent has been working with several professional consultants related to achieving permits for the foundation and retaining wall. PDS requires that all remaining submittals be gathered and delivered together in a single submittal in order for final review and permits to be issued. Mr. Sanders must submit a targeted drainage plan, an approved septic design, a critical area site plan (CASP) for recording relating to the geologic hazard area, an approvable site plan, and meet any other specified requirements of PDS. It appears that the septic design has already been approved by the Snohomish Health District.
5. Although the violation in this case pre-dated the 2008 code enforcement regulations which adopted a new penalty structure, PDS is requesting to use the newer penalty authorized in Ch. 30.85 SCC since it is seen as more equitable. PDS is requesting \$500 in penalties for the violations.
6. The Hearing Examiner will grant the Respondent one last extension of time to submit the remaining documents and studies to PDS to achieve the required permits and approvals. If the Respondent does not achieve compliance within the time prescribed (and PDS does not notify the Examiner's Office that the inability to achieve compliance was caused by a time delay on the part of PDS), then the penalty shall be imposed.

CONCLUSIONS OF LAW

Based on the findings of fact entered above, the following conclusions of law are entered:

1. The Hearing Examiner is authorized to hear and decide this matter pursuant to SCC Title 2 and SCC 30.85.
2. Marilyn Sanders has admitted to the violations alleged by the County in the VCA.
3. The imposition of monetary penalties is governed by Chapter 30.85 SCC.
4. The penalty for the violation is set by Table 30.85.170 at \$500 for days 1-20. The maximum penalty that may be imposed for violations existing up to 100 days is \$10,000. The violation in this matter has extended beyond 100 days. Therefore, a penalty of \$10,000 can be requested. PDS is only requesting the imposition of a \$500 penalty at this time pursuant to SCC 30.85.180.
5. The penalty documented above herein should be imposed if compliance is not achieved within the additional time prescribed by the Examiner.

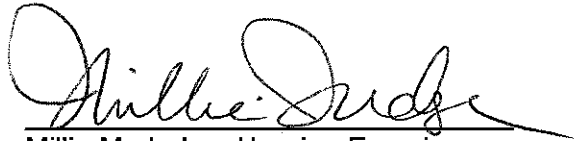
DECISION AND ORDER

Based on the Findings of Fact and Conclusions of Law entered above, the decision and order of the Hearing Examiner on the request for imposition of a monetary penalty is as follows:

1. Marilyn Sanders is granted until March 14, 2011 at 4:00 p.m. to achieve compliance to the satisfaction of PDS Code Enforcement in this code enforcement matter. If compliance is achieved the case before the Hearing Examiner shall be dismissed. If compliance is not achieved by the specified deadline, a penalty in the amount of \$500.00 is hereby imposed without further hearing.
2. If imposed, penalties shall continue to accrue automatically according to Table 30.85.170 SCC up to a maximum of \$10,000.00.
3. A lien for any civil penalty imposed or the cost of abatement, or both, may be claimed by Snohomish County in accordance with SCC 30.85.300.

Note: Penalties are payable to the Department of Planning and Development Services and submitted to Code Enforcement at 3000 Rockefeller Avenue, M/S 604, Everett, WA 98201.

Decision issued this 2nd day of February, 2011.


Millie M. Judge, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner **within 10 days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or before, FEBRUARY 14, 2011.** There is no fee for filing a petition for reconsideration. "The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing." [SCC 30.72.065]

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or

of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the Applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner's decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The Applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

EXPLANATION OF APPEAL PROCEDURES

The following paragraphs summarize the appeal process. For more information about appeals to Superior Court, please see Chapter 36.70C RCW, RCW 43.21C.075, WAC 197-11-680, Chapter 30.85 SCC and applicable court rules.

Pursuant to Chapter 30.85 SCC and Chapter 36.70C RCW, any person having standing under RCW 36.70C.060 may file a Land Use Petition in Superior Court. Service on parties must be as required by RCW 36.70C.040.

The cost of transcribing the record of proceedings, of copying photographs, video tapes, and oversized documents, and of staff time spent in copying and assembling the record and preparing the return for filing with the court shall be borne by the petitioner. [RCW 36.70C.110] Please include the county file number in any correspondence regarding this case.

Staff Distribution:

Department of Planning and Development Services: Judy Wahl, Code Enforcement Officer

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.

PARTIES OF RECORD REGISTER
SANDERS 08 101641
MONETARY PENALTY

MARILYN SANDERS
10035 WALLINGFORD AVE N
SEATTLE WA 98133

DEPT OF PLAN & DEV SERV
JUDY WAHL
3000 ROCKEFELLER AVEN/S 604
EVERETT WA 98201

TIM SANDERS
t.sanders@suddenvalues.com

WA ST DEPT OF FISH & WILDLIFE
RUTH MILNER
PO BOX 1100
LA CONNER WA 98257