



**DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER**

Hearing Examiner's Office

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Gordon Sivley
Hearing Examiner

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Subject: Contested Citation
File No.: 12-105109 CT
Appellant: Jacqueline Wilks
Respondent: Snohomish County Department of Planning and Development Services (PDS)
Decision: **Citation Affirmed – Fine Imposed**

A. BACKGROUND INFORMATION

1. The Record: The official record for this proceeding consists of the Exhibits entered into evidence. (Exhibits 1 through 11) The entire record was admitted into evidence and considered by the Examiner in reaching the decision herein.

NOTE: For a complete record, an electronic recording of the hearing in this case is available in the Office of the Hearing Examiner.

2. Parties of Record: The Parties of Record are set forth in the Parties of Record Register.
3. Public Hearing: The Hearing Examiner held a public hearing on April 17, 2013 at 9:00 AM. Witness was sworn, testimony was presented, and exhibits were entered into the record at the hearing. Notice of the appeal hearing was provided as required by Chapter 2.02 SCC. (Exhibits 8 and 8.A) Code Enforcement Officer Ed Soderman appeared on behalf of PDS. The Appellant failed to appear.

B. FINDINGS OF FACT

The following Findings of Fact are supported by a preponderance of the evidence presented in the record pertaining to this matter.

1. All of the Exhibits shown on the master list of exhibits were entered into the record as evidence, along with the Hearing Log. The entire record was considered by the Examiner in reaching this decision.
2. The Examiner finds that proper public notice of the public hearing on the Citation was provided by the Hearing Examiner's Office as required by the County Code. (Exhibits 8 and 8.A)
3. Jacqueline Wilks is the owner of certain real property located at 50326 Mt. Index Drive, Gold Bar, WA 98251-9220 (hereinafter referred to as "the subject property"). PDS issued a Citation

to Ms. Wilks on February 21, 2013, alleging violations of SCC 30.22.100 and 30.22.130(19)(b)(c) for allowing the placement and occupancy of a recreational vehicle on the subject property for more than 180 days in a 12 month period. (Exhibit 1)

4. Ms. Wilks timely filed a request to contest the Citation on March 13, 2013.
5. A public hearing was held on the Citation at 9:00 AM on April 17, 2013 before the Hearing Examiner. At the public hearing, Ms. Wilks failed to appear. The Examiner postponed the hearing until 9:10 AM to provide the Appellant additional time to appear. The Examiner reconvened the hearing at 9:12 AM and the Appellant was still absent and she had not contacted Officer Soderman or the Examiner's Office. No members of the public were in attendance.
6. At the hearing, Code Enforcement Officer Soderman submitted additional Exhibits 9 through 11 (photos of the subject property taken by Officer Soderman) which were admitted into evidence.
7. The evidence submitted by Officer Soderman consisted of photos taken on July 10, 2012, September 18, 2012, February 6, 2013, March 13, 2013, April 9, 2013 and April 16, 2013 which all clearly show the presence of a recreational vehicle ("RV"), described as a 5th wheel Terry travel trailer, at the same location on the subject property on each occasion.
8. SCC 30.85.125 provides that;

Failure to appear for a requested hearing will result in a decision being entered finding that the person cited committed the violation stated in the citation and assessing the fines specified in the citation.
9. The Examiner finds that a prima facie case of a violation has been demonstrated by the facts in evidence based on Exhibits 1 through 11. The Appellant failed to provide any facts or evidence controverting such facts.

C. 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 Chapter 2.02 SCC and Chapter 30.85 SCC.
2. According to the Citation issued on February 21, 2013, Ms. Wilks is accused of violating SCC 30.22.100 and 30.22.130(19)(b)(c) for allowing the placement and occupancy of a recreational vehicle on the subject property for more than 180 days in a 12 month period. (Exhibit 1) The Examiner concludes that PDS demonstrated by a preponderance of the evidence that the violation occurred as alleged. Ms. Wilks failed to provide any evidence that the violation did not occur. The Examiner finds that the Citation was properly issued and should be affirmed.
3. Because Ms. Wilks failed to appear at the public hearing, the Examiner is required by SCC 30.85.125 to enter an order finding that Ms. Wilks committed the violation stated in the citation and assessing the fine specified in the citation.

4. Any Conclusion in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

D. DECISION and ORDER

Based on the Findings of Fact and Conclusions of Law entered above, the Hearing Examiner hereby affirms the Citation and \$150.00 fine assessed by PDS.

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 April 18, 2013.



Gordon Sivley, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with a right of appeal to Superior Court. 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 30.85 SCC, the Snohomish County Hearing Examiner Rules and Superior Court Civil Rules.

Reconsideration

Any party of record may request reconsideration by the Hearing 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 April 29, 2013**. 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 30.85.210]

A petition for reconsideration shall meet the requirements of SCC 30.85.210(3). 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; and/or
- (e) New evidence which could not reasonably have been discovered prior to the hearing and which is material to the decision has been discovered;

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.85.210.

Appeal

An appeal to Superior Court may be filed by any aggrieved party of record **within 21 days from the date of this decision** pursuant to Chapter 36.70C RCW, the Land Use Petition Act. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the Superior Court.

NOTE: *Please include the County file number in any correspondence regarding this case.*

Staff Distribution:

Ed Soderman, PDS

PARTIES OF RECORD REGISTER
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CONTESTED CITATION

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