



DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

Hearing Examiner's Office

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Subject: Appeal from a Notice of Violation

Gordon Sivley
Hearing Examiner

File No.: 13 104283 CT

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

Appellant(s): Teresia Korf

Respondent: Department of Planning and Development Services (PDS)

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

Decision: **Notice of Violation Affirmed in Part
New Compliance Date Set
Fine Imposed**

A. BACKGROUND INFORMATION

1. The Record. The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits 1 through 22). 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 June 26, 2013 at 10:30 AM. Witnesses were 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 14 and 14.A) Code Enforcement Officer Judy Wahl appeared on behalf of PDS. The Appellant, Teresia Korf appeared and presented testimony.

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 14 and 14.A)

3. Teresia Korf is the owner of certain real property located at 31520 Rivershore Lane, Granite Falls, WA 98252 (hereinafter referred to as "the subject property"). PDS issued a Notice of Violation to Ms. Korf on May 2, 2013, alleging violations of SCC 30.52.010, 30.52F.158,

30.52F.250 and 30.52F.266 for construction and occupancy of a residence on the subject property without the required building permits, inspections, approvals and certificate of occupancy. (Exhibit 3)

4. Ms. Korf timely filed a request to appeal the Notice of Violation on May 21, 2013.
5. A public hearing was held on the appeal at 10:30 AM on June 26, 2013 before the Hearing Examiner. At the public hearing, Ms. Korf appeared and presented testimony in support of her appeal. She purchased the subject property in late 2011. At the time she purchased the property, the structure at issue had already been built on the property. She did not undertake any additional construction. Ms. Korf currently resides in the residence on the subject property. She testified that she is disabled and has no funds available to spend on bringing the residence into compliance with the building code.
6. Ms. Wahl did not submit any additional evidence into the record at the hearing. The exhibits previously entered into the record show that a septic drain field had been installed on the subject property in the 1970's and that an open-sided pole structure was built on the site. By 2009, the Assessor's records show that a single story dwelling existed on the site. (Exhibit 9) Ms. Wahl testified that she was unable to find any record of building permits having been applied for or issued for the structure. From the historical photos of the pole structure and the current residence, it appears that the earlier pole structure has been converted to a residence by the addition of a floor and walls.
7. The Seller Disclosure Statement (Form 17) submitted by Ms. Korf (Exhibit 19) indicates "Yes", in answer to the question, "Have there been any conversions, additions or remodeling?" In answer to the question, "If yes, were all building permits obtained?" the Disclosure Statement indicates, "No." The Statement also indicates "No" to the question, "If yes, were all final inspections obtained?" The Disclosure Statement indicates there was a 2009 remodel. The Statement is dated September 30, 2010 and Ms. Korf indicated that she was given the Statement at the time of her purchase of the subject property.
8. The Examiner finds that PDS has proven, by a preponderance of the evidence, and by Ms. Korf's own admission, that a violation of SCC 30.52F. 250 and .266 has occurred – Ms. Korf has occupied a structure without a final inspection or certificate of occupancy. The Appellant failed to provide any facts or evidence controverting such facts. However, the Examiner does not find that Ms. Korf constructed the structure without permits in violation of SCC 30.52F.158. The evidence shows that all construction took place prior to Ms. Korf's ownership or occupancy of the subject property.
9. Any Finding of Fact in this Decision, which should be deemed a Conclusion of Law, is hereby adopted as such.

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 Notice of Violation issued on May 2, 2013, Ms. Korf is accused of violating SCC 30.52.010, 30.52F.158, 30.52F.250 and 30.52F.266 for construction and occupancy of a residence on the subject property without the required building permits, inspections, approvals and certificate of occupancy. (Exhibit 3) The Examiner concludes that PDS demonstrated by a preponderance of the evidence that Ms. Korf violated SCC 30.52F. 250 and 30.52F.266 as alleged. Ms. Korf failed to provide any evidence that such violation did not occur. The Examiner finds that the Notice of Violation was properly issued and should be affirmed in part, and that the appeal should be granted in part and denied in part.
3. The Notice of Violation was issued on May 2, 2013, with a 60-day compliance date of July 2, 2013. The appeal was filed on May 21, 2013. Penalties would have accrued on July 2, 2013; however, they were stayed pending the completion of this appeal.
4. The Hearing Examiner is authorized to specify a new compliance date pursuant to SCC 30.85.220. The Examiner finds that a new date should be established, granting Appellant approximately 60 additional days to achieve compliance.
5. A **new compliance date of Tuesday, September 3, 2013** is hereby established. Penalties in the amount of \$500.00 shall be imposed if compliance is not achieved by that date.
6. Any Conclusion in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

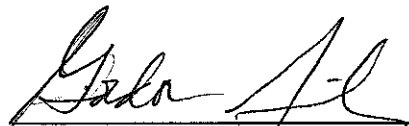
D. DECISION AND ORDER

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

1. The Notice of Violation is sustained, in part and the appeal is denied, in part.
2. Appellant is granted until **September 3, 2013 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. Monetary penalties shall begin to accrue as of the date of compliance stated above. If compliance is not achieved by the specified deadline, a non-commercial penalty in the amount of \$500.00 is hereby imposed without further hearing.
3. If imposed, penalties shall continue to accrue automatically according to Table 30.85.170 SCC up to a maximum of \$10,000.00. (SCC 30.85.170(5))
4. 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 July 2, 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 calendar 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 July 12, 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 is discovered which could not reasonably have been discovered prior to the hearing and which is material to the decision;

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:
Judy Wahl, PDS

PARTIES OF RECORD REGISTER
KORF 13 104283 CT
APPEAL NOTICE OF VIOLATION

TERESIA KORF
31520 RIVERSHORE LN
GRANITE FALLS WA 98252

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