

June 24, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0400891**

JAMES AND KIMBERLY EDWARDSON
Code Enforcement Appeal

Location: 5123 South 312th Street

Appellant: **James and Kimberly Edwardson**
5123 South 312th Street
Auburn, Washington 98001

King County: Department of Development and Environmental Services
represented by **DenoBi Olegba**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 205-1528
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

| | |
|--|--------------------------------------|
| Department's Preliminary Recommendation: | Deny appeal; extend compliance dates |
| Department's Final Recommendation: | Deny appeal; extend compliance dates |
| Examiner's Decision: | Deny appeal; extend compliance dates |

EXAMINER PROCEEDINGS:

| | |
|-------------------------------------|----------------|
| Hearing Opened: | April 14, 2005 |
| Hearing Continued Administratively: | April 14, 2005 |
| Hearing Closed: | May 5, 2005 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On February 10, 2005, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to James Edwardson that alleges code violations at property located at 5123 South 312th Street in the unincorporated Auburn area. The Notice and Order cites the property for violations by:

“1. Operation of a roof cleaning/repair/pressure washing business from a residential site that exceeds the standards for a home occupation in violation of King County Code Sections 21A.30.080 and 21A.08. Parking and storage of commercial vehicles (pressure washing) in an R-4 zone in violation of King County Code 21A.08.060(H).”

The Notice and Order required that by March 14, 2005, the operation of the business on the property be ceased, or that it be reduced so as to conform to home occupation regulations.

2. Appellants James and Kimberly Edwardson, owners of the property, filed a timely appeal of the Notice and Order. The appeal raises the following claim:
 - A. The Edwardsons state that in looking for a residential site that would permit the outdoor parking of their business vehicles, they mistakenly sought approval from the City of Auburn for such occupancy on the subject property, which is in the unincorporated area. Based on the City's erroneous assumption of location within the City and what the Edwardsons perceived as an indication of approval, the Appellants purchased the site, took residence there, and commenced to park their commercial business vehicles there. They assert they do not conduct the business out of their home but only park their work trucks at the location.
3. DDES conducted research to explore the possibility of the operation's qualifying under the home occupation code sections, but without interior parking of the vehicles (within an enclosed structure), that appears impossible.
4. The evidence in the record supports a finding that the charge of violation in the Notice and Order is correct.

CONCLUSIONS:

1. As the parking of work-related vehicles in exterior parking on the property is in violation of County code, the charge of the Notice and Order is correct and shall be sustained.
2. Since the Notice and Order deadlines for compliance have been obviated by the time take up by the appeal, the dates shall be modified accordingly.

DECISION:

The appeal is DENIED except that the deadline for regulatory compliance is revised and extended as stated in the following Order.

ORDER:

- 1. Cease operation of the roof cleaning/repair/pressure washing business, particularly the parking of business-related work vehicles from the subject property *by no later than September 26, 2005*,

OR

Reduce the business operation, including the parking of work-related vehicles operation on the site, if possible so that it conforms to King County home occupation regulations *by no later than September 26, 2005*.

- 2. No penalties shall be assessed against the Appellants or their property if the above condition is met. If the deadline stated in the above condition is not met, DDES may assess penalties against the Appellants and the property retroactive to the date of this order.

ORDERED this 24th day of June, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 24th day of June, 2005, via certified mail to the following:

James & Kimberly Edwardson
5123 S. 312th St.
Auburn, WA 98001

TRANSMITTED this 24th day of June, 2005, to the following parties and interested persons of record:

James & Kimberly Edwardson
5123 S. 312th St.
Auburn WA 98001

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
Code Enf. Supvr.
MS OAK-DE-0100

Patricia Malone
Code Enf. Section
MS OAK-DE-0100

DenoBi Olegba
Code Enforcement
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 14, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0400891.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were DenoBi Olegba, representing the Department; and James Edwardson, the Appellant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report for 4/14/05
- Exhibit No. 2 Copy of Notice and Order issued 2/10/05
- Exhibit No. 3 Copy of Notice and Statement of Appeal dated 2/24 and 2/25/05
- Exhibit No. 4 Copies of codes cited in the Notice and Order
- Exhibit No. 5 Photographs (9 color copies) of subject property
- Exhibit No. 6 a Notice of Violation dated 11/04/04
- b Letter to James Edwardson dated 10/06/04

PTD:ms
E0400891 RPT