

April 3, 2017

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

King County Courthouse
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REPORT AND DECISION

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR120434**

MATTHEW RENGO
Civil Penalty Appeal

Location: 838 286th Avenue SE, Fall City

Appellant: Matthew Rengo
represented by **Samuel Rodabough**
11820 Northup Way Suite E200
Bellevue, WA 98004
Telephone: (425) 440-2593
Email: sam@rodaboughlaw.com

King County: Department of Permitting and Environmental Review
represented by **Jeri Breazeal**
35030 SE Douglas Street Suite 210
Snoqualmie, WA 98065
Telephone: (206) 477-0294
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal

EXAMINER PROCEEDINGS:

Hearing Opened:	March 21, 2017
Hearing Closed:	March 21, 2017
Record closed:	March 24, 2017

FINDINGS/CONCLUSIONS:Background

1. Matthew Rengo (Appellant) is the record owner of parcel no. 0624079027, the addresses of which are 838 and 842 286th Avenue SE, Fall City, in the RA zone in unincorporated King County (Property).
2. Appellant purchased the Property in 2012, at which time the Department of Permitting and Environmental Review (DPER) had open an enforcement case relating to construction without required permits. Exhibit D-1.
3. Appellant purchased the Property with knowledge of the outstanding violations. He testified that he spent many hours reviewing County records and that they revealed multiple prior violations over many years. He also spoke with Officer Jeri Breazeal before purchasing the Property regarding bringing the Property into compliance. Among other things, Officer Breazeal explained that he would need to submit current building plans and obtain Health Department approval. Testimony of Matthew Rengo (Rengo Testimony).
4. Appellant intended to run his existing business, Eastside Tree Works LLC, a tree service business, from the Property. Unfortunately, he apparently did not discuss that intent with Officer Breazeal before purchasing the Property, bringing his business onto to it, and taking various other actions which led to the Supplemental Notice and Order described in Finding/Conclusion 9. Rengo Testimony.
5. Eastside Tree Works LLC uses chippers, chip trucks, and climbers. Appellant variously testified that it has 10-20 employees, 2-3 of whom worked in an accessory building which he used as an office. Crews report to the office at 7 a.m., receive assignments and load trucks until approximately 7:30 a.m., and then leave for jobs sites. They return approximately 3:30-4:00 p.m. to drop off equipment. They leave personal vehicles at the Property during the work day. Rengo Testimony.
6. The accessory building which Appellant uses as the office for Eastside Tree Works LLC is an accessory dwelling unit (ADU) that apparently was properly permitted by the prior owner. Testimony of Officer (Breazeal Testimony) and Rengo Testimony.

Supplemental Notice and Order, Penalties, and Timely Appeal

7. In response to a complaint, DPER issued a Notice and Order alleging clearing within a critical area buffer and construction without required permits. Appellant did not appeal that Notice and Order. DPER received subsequent complaints regarding a number of issues resulting in the issuance of a Supplemental Notice and Order on November 14, 2014. Exhibits D-1 and D-2.
8. Appellant did not appeal the Supplemental Notice and Order. Therefore, the Appellant may not challenge findings, requirements, and other items that could have been challenged during an appeal of the Supplemental Notice and Order. KCC 23.32.120.A.

9. The Supplemental Notice and Order, Exhibit D-2, alleged:
 - A. Clearing and/or grading without required permits within an aquatic area and/or its buffers exceeding a cumulative area of 7,000 square feet and creation of 2,000 square feet or more of new and/or replaced impervious surface. (Violation 1.)
 - B. Use and occupancy of a structure(s) (additions to residence) without final inspections and approvals related to building permit ADDC 13-0069. (Violation 2.)
 - C. Accumulation of assorted rubbish, salvage and debris. (Violation 3.)
 - D. Placement or construction of an accessory structure over 200 square feet without required permits. (Violation 4.)
 - E. Conversion of an accessory dwelling unit into commercial office without required permits. (Violation 5.)
 - F. Operation of a contracting/landscaping business from a residential site that does not meet the requirements for home occupation. (Violation 6.)
10. DPER assessed penalties totaling \$19,800 for failure to comply with the Supplemental Notice and Order. Exhibit D-10. (Exhibit D-7 contained a mathematical error for Violation 6; however, DPER actually billed for the correct amount). Breazeal Testimony. Through his engineer, Clifford Bechtel, Appellant requested adjustments or waivers, which DPER ultimately denied. Exhibits D-6 and D-7. Appellant timely appealed. Exhibit D-8.

Scope of Examiner's Review/Burden of Proof

11. The Examiner's decision is limited to deciding whether penalties were assessed after Appellant achieved compliance or whether the penalties are otherwise erroneous or excessive under the circumstances. KCC 23.32.110. The burden is on the Appellant to demonstrate by a preponderance of the evidence that one or more of these circumstances exists. KCC 23.32.110.

Code Provisions Governing Penalties

12. KCC 23.32.010.A. provides that civil fines and civil penalties for civil code violations *shall* be imposed for remedial purposes and *shall* be assessed for each violation identified in a Notice and Order pursuant to the schedule contained in that provision. The penalty *shall* be assessed daily for the first 30 days following the date of the Notice and Order; if after 30 days the person responsible for code compliance has failed to satisfy the Notice and Order, penalties *shall* be assessed daily at a rate double the rate for the first 30 days. KCC 23.32.010.B. (emphasis supplied).
13. To encourage compliance with Chapter 21A.24 KCC, critical areas, and to further the remedial purposes of Title 23 KCC, persons responsible for code compliance will not only be required to restore damaged critical areas, insofar as that is possible and

beneficial, but will also be required to pay a civil penalty for the redress of ecological and other values lost or damaged due to their unlawful action. KCC 23.32.040.A.

14. Although penalties may be assessed until the person responsible for code compliance has fully complied with the Notice and Order, it is DPER's practice to assess penalties for only 60 days. KCC 23.32.010.B; Exhibit D-1; Breazeal Testimony.
15. The basic penalty for violation of a Notice and Order is \$25 per day. Additional penalties may be added based on certain risks or economic benefit. The additional daily penalties pertinent to this case are \$15 each for environmental damage, public health, and damage to property risks; and \$25 for economic benefit to the person responsible for the violation. KCC 23.32.010.A.
16. Although not assessed in this case, the Examiner notes that KCC 23.32.010 authorizes initial daily penalties of \$25-75 in cases in which there have been previous similar code violations.
17. The Supplemental Notice and Order advised Appellant of the amount of daily civil penalties that would be charged for each violation in the event of failure to correct the violation by the dates specified.

Violation 1

18. The Supplemental Notice and Order established a deadline for submitting a pre-application packet by December 17, 2014 and for submitting a complete restoration/clearing grading permit within 45 days of the pre-screening meeting. Exhibit D-2. Appellant submitted the packet on December 18, 2014. DPER did not assess penalties for the packet being submitted one day late. Exhibit D-4 and Breazeal Testimony.
19. Appellant attended a pre-application meeting on March 9, 2015, with Mr. Bechtel and DPER staff. Exhibit D-1. Based on that meeting, DPER extended the deadline for submitting the required clearing/grading permit to 90 days after the meeting or June 8, 2015. Exhibits D-1 and D-4.
20. Appellant submitted the clearing/grading application on August 27, 2015, 80 days after the extended deadline.
21. Based on failure to submit the clearing/grading permit by the extended deadline, DPER assessed a penalty of \$80 per day for the first 30 days—comprised of \$25 base penalty, \$15 for environmental damage, \$15 damage to property risk, and \$25 for economic benefit—and \$160 for the subsequent 30 days. Exhibits D-1, D-3, and D-5.
22. Appellant argues that the penalties are excessive under the circumstances, including contentions that:
 - A. There was minimal or no environmental or property risk, and little or no benefit to his business.

- B. Had he been aware of the need for a Technical Information Report (TIR), he would not have agreed to the extended deadline for submitting the clearing/grading permit application.
 - C. His number of employees necessitates a Conditional Use Permit (CUP) and the pursuit of that permit delayed submittal of the clearing/grading permit application.
23. The penalty for environmental damage is based on the clearing occurring within a critical area and on DPER's practice to assess the penalty for environmental damage whenever unauthorized work has taken place in a critical area and/or its buffer. Breazeal Testimony.
 24. Appellant argues that environmental damage was non-existent or minimal, Exhibit D-8, but presented no competent testimony to support that contention.
 25. The penalty for property risk is based on risk to other properties and the fact that the cleared and graded/impervious surface areas could cause runoff not in compliance with surface water regulations. Exhibit D-1 and Breazeal Testimony. Appellant argues that property damage was non-existent or minimal, Exhibit D-8, but does not contest the fact that the clearing and grading did not comply with surface water regulations. Nor did he present competent evidence of testimony supporting his contention.
 26. Mr. Bechtel testified that he recommended of his own accord in January 2015 (some two months after the clearing took place) that Appellant install erosion and sediment control measures. While his actions are to be applauded, the need for erosion and sediment control measures supports DPER's determination of risk to other properties.
 27. The penalty for economic benefit is based on the facts that: most of the impervious surfaces were used for parking for employees and various equipment; the shed that was the subject of Violation 4 was placed on an unpermitted gravel base; and fill that was brought in was related to the operation of the business. Breazeal Testimony.
 28. Appellant argues that there was no economic benefit to the activity conducted, Exhibit D-8, but does not contest that the impervious surfaces and cleared areas were used for his business. He also testified that, in his opinion, ceasing operations was not an option, that at the time of the hearing his business had 20 employees, and that he did not permit employees to drive their own vehicles to the job sites. In other words, they were required to park on the Property. Appellant's testimony supports DPER's determination of economic benefit.
 29. Mr. Bechtel argues that was led to believe at the March 9, 2015 meeting that a simple Small Site Drainage Review would be required and, that, had he understood that a Full Drainage Review with a TIR would be required, he would never have agreed to the dates agreed upon during that meeting. Exhibit D-5, August 25, 2015 letter from Clifford Bechtel and Associates, Inc.
 30. The appeal statement made a considerably stronger argument that the County represented that the Property would qualify for a Small Site Drainage Review. Exhibit D-8. Appellant presented no evidence or testimony to support this contention.

31. Mr. Bechtel first learned of the need for a TIR in a June 2, 2015 site visit with DPER staff. Testimony of Clifford Bechtel (Bechtel testimony). Mr. Bechtel variously testified that preparing a TIR is a one or two month undertaking.
32. While the Examiner can understand that the County's drainage regulations and requirements are complex, particularly for an engineer such as Mr. Bechtel encountering them for the first time, as Officer Breazeal testified and Mr. Bechtel acknowledged, the need for a TIR is determined by the quantity of impervious surface. Mr. Bechtel also testified that he was advised at the March 9 meeting that the County needed accurate measurements of impervious surfaces and clearing to determine the drainage requirements. The March 17, 2015 letter, Exhibit D-4, required the Appellant to submit the volume of fill and impervious surface calculations to Jon Pederson within 14 days so that the permit fees can be calculated. While the record does not reveal when Appellant actually submitted the volumes, Mr. Bechtel testified that he had not submitted them before the June 2, 2015 site visit.
33. Had Appellant complied with the deadline in the March 17, 2015 letter, he would have known of the need for a TIR much earlier and quite possibly in time to prepare the TIR by the June 8, 2015 extended deadline for submitting the clearing/grading permit.
34. After learning that that a TIR would be required, Mr. Bechtel did not request an extension in the deadline for submitting the clearing/grading permit. Bechtel Testimony. Nor does Officer Breazeal recall his requesting an extension. Breazeal Testimony.
35. In a subsequent request for a waiver/adjustment Mr. Bechtel argued that only after the March 17, 2015 meeting did Appellant determine that the number of his employees did not satisfy the home occupation requirements and would require a CUP. He contended that the pursuit of that permit delayed submittal of the clearing/grading application.
36. As discussed in Finding/Conclusion 72 below, the Examiner does not find arguments that Appellant was unaware of the employee limits for a home occupation credible.
37. Appellant submitted no evidence in support of his contention that pursuit of a CUP prevented or delayed his submittal of the clearing/permit grading application. Nor, frankly, is his contention credible. He submitted the clearing/permit grading application on August 27, 2015. He attended a pre-application meeting for the CUP nearly six weeks later, on October 8, 2015.
38. Appellant also argues that DPER erred in calculating the duration of the violation, Exhibit D-8, but submitted no evidence to support that contention.
39. After careful consideration of the entire record, the Examiner finds that Appellant has not borne his burden of demonstrating by a preponderance of the evidence that the penalties for Violation 1 are erroneous or excessive under the circumstances.

Violation 2

40. The Supplement Notice and Order and this Report and Decision refer to the structure that is the subject of Violation 2 as the residence.
41. Violation 2 was created by the prior owner of the Property. Although Appellant did not cause that violation, as owner, he is a person responsible for code compliance. KCC 23.02.010.K; September 20, 2016 Notice of Pre-Hearing Conference.
42. Appellant submitted application ADDC 13-0069, which included the ABC additions as well as new construction of a 300 square foot garage. Violation 2 relates only to the ABC portion of the structure. Breazeal Testimony.
43. The Supplemental Notice and Order required Appellant to request a building inspection for building permit ADDC 13-0069 by December 17, 2014, and make any required corrections and obtain a final approval for occupancy by March 28, 2015, the original expiration date of the permit. Exhibit D-2; Breazeal Testimony.
44. The record does not indicate whether Appellant requested a building inspection by the deadline. However, Officer Breazeal testified that the penalties relate solely to the *occupancy* of the residence without final approval. *See also*, Exhibit D-1.
45. DPER assessed the base penalty of \$25 per day for 30 days, doubled to \$60 per day for the second 30 days. Exhibits D-1, D-3, and D-5.
46. Appellant has continued to occupy the residence without final approval since the issuance of the Supplemental Notice and Order. Appellant did not obtain even a *temporary* certificate of occupancy until the week of March 13, 2017, nearly two years after the deadline in the Supplemental Notice and Order for *final* approval. Breazeal Testimony. The day before the hearing in this matter, he paid the fees necessary to extend permit ADDC 13-0069 and may occupy the structure under a temporary certificate of occupancy so long as he keeps the permit current. Breazeal Testimony.
47. Appellant contends that the penalties are clearly erroneous or excessive under the circumstances due to:
 - A. His contention that any items not corrected by the March 28, 2015 deadline were either minor or cost prohibitive.
 - B. DPER frustrated requests for final inspections by insisting that it would only inspect the ABC portion of the structure at the same time as the garage.
 - C. Other difficulties in obtaining inspections.
48. Appellant contends that the Notice of Violation identified seven specific items requiring correction for the ABC portion of the permit. Exhibit D-8; Rengo Testimony. There is nothing in the record to support this contention. The Supplemental Notice and Order does not identify the specific correction items required.

49. Appellant further contends that he had completed five of these seven items by the March 28 deadline and that one of the remaining items (provide install directions for gas heater) was minor and the other (sprinkler system) was not completed due to cost and the time required for resolving a potential alternative resolution.
50. The record does not support Appellant's contention that he had completed five the seven items identified in his appeal statement by the deadline. One of the items Appellant contends he completed is "gas piping and electrical approvals." His own emails indicate that electrical and plumbing inspections were not approved until April 13, 2016 and February 27, 2017, respectively. Exhibit A-38.
51. He also argues that the inspector insisted that he could not give final approval for the ABC portion of the permit alone. Exhibit D-8. Assuming this was the case, framing, electrical, and plumbing inspections, all required prior to final inspection, were not completed until February 5, 2016, April 13, 2016 and February 27, 2017, respectively.
52. Trista Chamberlin, Appellant's fiancé, testified that she had requested final inspections on a number of occasions, not understanding that a number of other inspections including those discussed in the prior Finding/Conclusion were required prior to a final inspection. The Examiner left the record open for Appellant to submit evidence of Appellant's requests for inspections. The records submitted are contained in Exhibit A-38. They indicate that, Appellant did request a final inspection several times before the deadline, but the inspections were cancelled on August 15, 2014, February 5, February 26, March 3, and March 23, 2015 as "not ready." The reason for first cancellation is not evident; the remainder were as "not ready."
53. It is apparent that, at some point, Appellant was able to determine the various inspections that were required and diligently pursued at least some of them.
54. Appellant also argued that the DPER erred in calculating the duration of the violation, Exhibit D-8, but submitted no evidence to support this contention.
55. Under these facts, Appellant has not shown by a preponderance of the evidence that the penalties were erroneous or excessive under the circumstances.

Violation 3

56. No penalties were assessed for this violation; it was not the subject of the appeal before the Examiner.

Violation 4

57. Appellant placed a structure on the Property (shed) without required permits. Appellant had removed it at some time prior to the hearing. Further, at the hearing in this matter, DPER clarified that it had assessed no penalties for this violation and that this violation did not add to or in any way affect the penalties assessed for Violation 5. Breazeal Testimony.

Violation 5

58. Appellant converted the ADU into an office for his business without required permits. The Supplemental Notice and Order established deadlines for submitting a pre-application packet by December 17, 2014; a complete application to the Health Department within 14 days of the pre-screening meeting; and a complete building permit application within 14 days of Health Department approval. Exhibit D-2. Appellant submitted the pre-application packet on December 18, 2014. DPER did not assess penalties for the packet being submitted one day late. Exhibit D-4 and Breazeal Testimony.
59. As explained in Finding/Conclusion 19, Appellant and Mr. Bechtel attended a pre-application meeting on March 9, 2015. Exhibit D-1. Based on that meeting, DPER extended the deadline for submitting the Health Department application to 30 days or April 8, 2015, and the extended deadline for submitting the building permit to 30 days from Health Department approval. Exhibits D-1 and D-4.
60. Mr. Bechtel submitted the application to the Health Department on May 4, 2015, 24 days past the extended deadline. Exhibit D-1. DPER assessed a penalty of \$50 per day for that 24 days comprised of \$25 base penalty and \$25 for economic benefit. Exhibits D-1, D-3, and D-5. After reviewing records on September 8, 2015, and determining that Appellant had not submitted a building permit, DPER billed for the remaining 36 days. Exhibit D-5.
61. Mr. Bechtel testified that he called the Health Department approximately 30 days after submitting the application or approximately June 4, 2015, to inquire about its status and was told that the Health Department would be out to the Property in approximately two weeks.
62. In his September 21, 2015 letter to Jim Chan, DPER, Exhibit D-6, Mr. Bechtel states:
- Per my phone call with County on July 6, 2015, I was told that Health Department had completed their review and approved, which we should be receiving a letter of confirmation.....*
- The project architect and contractor will be submitting permits for the structures on Thursday September, 24, 2015 for building permit review.
- Again, the applicant has yet to receive any confirmation from the County Health Department, that his application has been approved, thus we feel the 30 day submittal requirement had yet to begin. (Emphasis supplied).
63. Despite acknowledging that he had been told on July 6 that the Health Department had approved the application, Mr. Bechtel continued to assert lack of knowledge of its approval and, at the hearing in this matter, testified that had he known the application had been approved, he would have been ready to submit the building permit within 30 days. *See, e. g.*, Exhibit A-21 and Bechtel Testimony.

64. The Health Department approved the application on July 1, 2015, which would have made the deadline to submit the building permit application July 31, 2015. Exhibit D-1. Using the date on which Mr. Bechtel learned of the approval, the deadline would have been August 5, 2015.
65. Appellant submitted the building permit application on October 26, 2015, 87 days past the deadline and 82 days after learning of the Health Department's approval. Exhibit D-1.
66. While the Examiner is troubled by the Health Department's apparent position that it is not obligated to send an applicant notice of its action on an application, the fact remains that Appellant's agent was aware of the approval and chose not to act on it because he had not received confirmation from the Health Department.
67. Appellant also argues that the use of the ADU itself never exceeded that which would have been allowed under the home occupation regulations. Exhibit D-8. The structure was permitted as an accessory *dwelling* unit. Appellant did not use it as a dwelling unit.
68. Appellant also argues that DPER erred in calculating the duration of the violation, Exhibit D-8, but did not present any evidence in support of that contention.
69. Appellant has not shown by a preponderance of the evidence that the penalties were erroneous or excessive under the circumstances.

Violation 6

70. The Supplemental Notice and Order established a deadline of January 31, 2015 for complying with the home occupation requirements. Exhibit D-2. DPER extended this deadline to April 17, 2015. Exhibits D-1 and D-4.
71. Based on site inspections on May 22, 2015 and July 27, 2015, which indicated that the business was still over the limit for area and for number of employees on site, DPER assessed a \$65 daily penalty—comprised of a \$25 base, a \$15 environmental risk (parking areas and outdoor storage within critical areas buffer), and a \$25 economic benefit for the first 30 days—and \$130 for the second 30 days. Exhibits D-1 and D-5 and Breazeal Testimony.
72. Appellant requested a waiver or adjustment of these penalties on August 25, 2015, asserting, in part, that following the March 17, 2015 meeting it was determined that staff level requirements for Appellant's business would not allow compliance with the home occupation requirements. Exhibit D-6, August 25, 2015 letter from Clifford Bechtel and Associates, Inc. Not only is this letter dated some five months after the referenced meeting, the suggestion that Appellant was not able to determine that his number of employees exceeded those permitted under the home occupation regulations is not persuasive. The Supplemental Notice and Order specifically cited the relevant regulations (KCC 21A.30.085 and KCC 21A.08.060). It also identified the ways in which the business exceeded the home occupation standards: exceeds the exterior area allowed; number of employees coming to and/or working at the site; the number and size of equipment on-site; it does not meet the requirement for setbacks and screening. Further, the March 17, 2015 letter specified the steps that need to be taken to achieve compliance:

By April 17, 2015 you will need to comply with the allowed outdoor storage area of 2,208 square feet, and *the allowed number of employees coming to the subject property of no more than three that remain on site and three that come to the property and then report for work elsewhere.* (Emphasis supplied.)

73. Appellant argues that environmental damage risk was non-existent or minimal, and there was little to no economic benefit to the activity conducted. Exhibit D-8. Findings/Conclusions 23, 27, and 28 address Appellant’s arguments regarding environmental damage risk and economic benefit.
74. Appellant also argues that the DPER erred in calculating the duration of the violation, Exhibit D-8, but presented no evidence in support of that assertion.
75. Appellant has not shown by a preponderance of the evidence that the penalties were erroneous or excessive under the circumstances.

Other circumstances

76. Finally, Appellant argues that the Examiner should reduce the penalties assessed because the DPER Director and/or the Councilmember from the District decided that this was a “hot button case” of which an example be made. The Examiner allowed Appellant to put on its case on this contention despite misgivings about her jurisdiction to consider them. While Appellant’s concerns are heart-felt and the process to come into compliance has been trying, the Examiner is not able to conclude that any such *animus*, if it existed, influenced the assessment of penalties. As explained in Finding/Conclusion 17, the amount of the daily penalties were set forth in the Supplemental Notice and Order which was issued long before the various communications contained in Exhibits A-8, A-9, A-10, A-13, A-22, and A-25 and the interest by the *Seattle Times*.

DECISION:

1. The appeal is DENIED.

ORDERED April 3, 2017.



Alison Moss
Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County’s final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE MARCH 21, 2017, HEARING IN THE APPEAL OF MATTHEW RENO, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. ENFR120434.

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal, Matthew Rengo, Samuel Rodabaugh, Clifford Bechtel, and Trista Chamberlin.

The following exhibits were offered and entered into the record on March 21, 2017:

- | | |
|------------------|--|
| Exhibit no. D-1 | Department of Permitting and Environmental Review staff report to the Hearing Examiner for file no. ENFR120434 |
| Exhibit no. D-2 | Supplemental notice and order, issued November 21, 2014 |
| Exhibit no. D-3 | Notice and order worksheet, dated November 21, 2014 |
| Exhibit no. D-4 | Letter from DPER to Appellant revising compliance deadlines, dated March 17, 2015 |
| Exhibit no. D-5 | Code Enforcement billing request forms, dated February 3, 2015, June 1, 2015, July 13, 2015, and September 8, 2015 |
| Exhibit no. D-6 | Letter from Appellant representative Clifford Bechtel and Associates to DPER requesting waiver, dated March 20, 2015 |
| Exhibit no. D-7 | Letter from DPER to Appellant and representative denying waiver request, dated October 5, 2015 |
| Exhibit no. D-8 | Revised notice and statement of appeal, received October 13, 2016 |
| Exhibit no. D-9 | Aerial photographs of the subject property, dated 2012 and 2015 |
| Exhibit no. D-10 | Code enforcement billing statement no. 1C-0310-5118, dated March 10, 2017 |
| Exhibit no. A-1 | Neighbor map of parcel no. 0624079027, dated March 7, 2017 |
| Exhibit no. A-2 | King County Assessor property information of parcel no. 0624079027 |
| Exhibit no. A-3 | King County Assessor property information of parcel no. 0624079030 |
| Exhibit no. A-4 | King County Assessor property information of parcel no. 0624079002 |
| Exhibit no. A-5 | King County Assessor property information of parcel no. 0624079026 |
| Exhibit no. A-6 | Letter from Appellant representative Rodabaugh requesting public records, dated April 4, 2016 |
| Exhibit no. A-7 | Letter from Bechtel to DPER regarding pre-screening questionnaire, dated December 15, 2014 |
| Exhibit no. A-8 | Email string between Jeri Breazeal to neighbors with subject: update and January 30th visit, dated February 12 through February 13, 2015 |
| Exhibit no. A-9 | Email string between Rob Christopher and neighbors with subject: additional information, dated February 12 through February 17, 2015 |
| Exhibit no. A-10 | Email string between neighbors and DPER with subject: Rengo site plan 0624079027, dated March 11, 2015 |
| Exhibit no. A-11 | <i>Not admitted</i> |
| Exhibit no. A-12 | <i>Not admitted</i> |
| Exhibit no. A-13 | <i>Reserved for Intra-DPER-departmental email string with subject: Rengo</i> |
| Exhibit no. A-14 | <i>Not offered</i> |
| Exhibit no. A-15 | <i>Not offered</i> |
| Exhibit no. A-16 | <i>Not offered</i> |
| Exhibit no. A-17 | <i>Not offered</i> |

- Exhibit no. A-18 Email from Lynn Thompson to Jim Chan with subject: Eastside Tree Works, sent August 25, 2015
- Exhibit no. A-19 Seattle Times article “Some illegal businesses in rural areas operate for years without King County Action,” published September 8, 2015
- Exhibit no. A-20 *Not offered*
- Exhibit no. A-21 Email from Bechtel to DPER with subject: 838 286th Avenue confusion, dated September 25, 2015
- Exhibit no. A-22 Emails to Dow Constantine with subject: King County Code Enforcement ENFR 12-0434, sent October 6, 2015
- Exhibit no. A-23 *Not offered*
- Exhibit no. A-24 *Not offered*
- Exhibit no. A-25 Intra-DPER-departmental email string with subject re: Rengo ENFR 12-0434, dated October 28, 2015
- Exhibit no. A-26 *Not offered*
- Exhibit no. A-27 Email string between Rodabaugh and DPER with subject: Notice and Statement of Appeal, ENFR 12-0434, dated October 23 through December 3, 2015
- Exhibit no. A-28 *Not offered*
- Exhibit no. A-29 *Not offered*
- Exhibit no. A-30 *Not offered*
- Exhibit no. A-31 *Not admitted*
- Exhibit no. A-32 *Not offered*
- Exhibit no. A-33 *Not offered*
- Exhibit no. A-34 *Not offered*
- Exhibit no. A-35 *Not offered*
- Exhibit no. A-35 *Not offered*
- Exhibit no. A-37 *Not offered*

The following exhibits were offered and entered into the record on March 24, 2017:

- Exhibit no. A-13 Intra-DPER-departmental email string with subject: Rengo, dated April 16 through April 20, 2016
- Exhibit no. A-38 Record of inspection attempts

AM/ed

April 3, 2017

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

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR120434**

MATTHEW RENGO
Civil Penalty Appeal

I, Elizabeth Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED April 3, 2017.



Elizabeth Dop
Legislative Secretary

All Parties of Record

Bechtel, Clifford mailed paper copy
Clifford Bechtel & Associates

Breazeal, Jeri
Department of Permitting and Environmental Review

Deraitus, Elizabeth
Department of Permitting and Environmental Review

Holsted, Larry-Jacalyn mailed paper copy

Lux, Sheryl
Department of Permitting and Environmental Review

Rodabough, Samuel mailed paper copy
Law Office of Samuel A. Rodabough

Tomsevics, Ilze mailed paper copy

Trista Chamberlin, Matthew Rengo mailed paper copy
Eastside Tree Works

Williams, Toya
Department of Permitting and Environmental Review