

December 9, 2009

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

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ORDER OF DISMISSAL

SUBJECT: Department of Development and Environmental Services File No. **A09F0003**

BERNIE McKINNEY

Fee Appeal

Location: Parcel no. 1820079053

Appellant: **Bernie McKinney**
37922—244th Avenue SE
Enumclaw, Washington 98022
Telephone: (360) 825-1000
Email: b.mckinney@comcast.net

King County: Department of Development and Environmental Services (DDES)
represented by **Doug Dobkins**
900 Oakesdale Avenue SW
Renton, Washington 98055
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Email: doug.dobkins@kingcounty.gov

1. Clearing and grading permit L05CG129 was obtained from the Department of Development and Environmental Services (DDES) by Dennis Osborne for work on the subject property. At the time of such obtainment, Edward and Sulinda Lubiniecki were the property owners. KCC 20.20.040.A.2 requires formal designation of a permit applicant; county permit procedures also allow for a transfer of formal applicant status for pending or approved permits. Mr. Lubiniecki executed a formal transfer of applicant status to allow Mr. Osborne to apply for the clearing and grading permit.
2. Title 27 KCC allows for billing of permit review fees (for project review and approval, field inspections, etc., undertaken in the permit administration) to a permit applicant. Fees have accrued under the subject permit, and fees remain unpaid.
3. On March 20, 2007, Appellant Bernie McKinney purchased the property from the Lubinieckis.
4. Permit applicant status has not been formally transferred to Mr. McKinney.

5. Upon learning of outstanding fee billings associated with the clearing and grading permit for work on the subject property, Mr. McKinney filed an appeal of the billed fees.
6. DDES moved for dismissal of Mr. McKinney's appeal, contending he had no standing to make such claims on appeal given his lack of applicant status.
7. Chapter 27.50 KCC (see KCC 27.50.020 and .050 particularly) provides that a permit "applicant" has the right to dispute fee estimates and appeal fee estimates and permit billing fees. There is no provision that a person other than an "applicant" has any right of appeal.
8. DDES testified that its administrative procedure in pursuing payment of unpaid billed fees is to seek payment solely from the formally designated permit applicant; it resorts to referral to a collection agency in cases of final non-payment. It does not have the authority to encumber the property itself with any obligation, such as a property lien. Given such limitation, it can be concluded that it does not have authority for collection from a non-applicant property owner, past or present.
9. Given the above representations of DDES that a non-applicant property owner (and in particular in this case, a non-applicant successor owner) and the property itself are not placed under any obligation in the occurrence of unpaid permit fees, the Examiner concludes that there is no due process bar to concluding that Mr. McKinney lacks standing to bring the subject appeal.
10. As Mr. McKinney lacks standing to bring the appeal, it shall be dismissed.

ORDER:

The appeal filed by Bernie McKinney in this matter is hereby DISMISSED due to lack of standing.

ORDERED December 9, 2009.



Peter T. Donahue
King County Hearing Examiner

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NOTICE

County code provides that the Hearing Examiner decision on fee appeals under Chapter 27.50 KCC is the final decision of the county.