December 1, 1998

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND DECISION ON
APPEAL OF NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. **E9800346**
H.O. AND JUDITH STORMAN
Code Enforcement Appeal

Location: 22509 Dorre Don Way SE, Maple Valley

Appellant: H.O. Storman
1601 Ruddock Street
Covina, California 91724
and
General Delivery
Maple Valley, WA 98038

SUMMARY OF DECISION:

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

PRELIMINARY MATTERS:

Notice of appeal received by Examiner:	September 9, 1998
Statement of appeal received by Examiner:	September 9, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	November 13, 1998
Hearing Closed:	November 19. 1998

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.

ISSUES/TOPICS ADDRESSED:

- Code violations
  - Building and Housing Codes
  - Zoning Code
- Permitted uses

- Code interpretation

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

FINDINGS:

1. In 1980 Hector and Judith Storman purchased Lot 83 within the Dorre Don Camp Site subdivision. This plat is located along the Cedar River near Maple Valley and comprises nearly 200 narrow recreational lots created in 1927 along with ancillary community parks, beaches, roads and trails. Over the years Dorre Don has undergone a haphazard conversion from a recreational development to a more full time community. Although camping uses remain, many of the small lots have been consolidated into larger parcels and constructed with permanent single family homes. In addition, the channel of the Cedar River continues to meander, affecting over time the size and usability of various lots. Lot 83 appears to have been originally platted at about 7,400 square feet, but even though the river bank is heavily riprapped, perhaps no more than half of that amount now remains usable.

2. The Stormans made little use of their Dorre Don lot until 1996, when they had a survey performed to establish its boundaries. At that time the Appellants seem to have become embroiled in a major dispute with the owner of Lot 81 over boundary lines and the use of the community tract lying between the two parcels. This property line dispute degenerated into lawsuits and resulted in myriad police complaints.

3. Although maintaining a residence in California where his wife and daughter reside, Mr. Storman and his three teenage sons have remained at Dorre Don in order to pursue their legal disputes. Mr. Storman is retired and home-schools his boys, circumstances that have enabled them to remain in the area indefinitely. The legal ramifications of this prolonged stay have given rise to the instant code enforcement appeal.

4. Beginning in the summer of 1997, King County Code Enforcement officers began to receive complaints concerning the Stormans' occupancy of Lot 83. At that time Mr. Storman and his sons were camping on the property in tents. By the following winter the Stormans had also obtained the use of a travel trailer on adjacent Lot 84, and their occupancy at that time consisted of the tents on Lot 83 and the travel trailer on Lot 84. As described by Mr. Storman and depicted within photographs taken by Code Enforcement Officer Betty Silvati, the travel trailer is 8 feet wide by 23 feet long, with an interior height of seven feet. It contains a sleeping area, a kitchen, and a lavatory containing a toilet and a shower. The kitchen and lavatory are serviced by two holding tanks.

5. In March 1998 the travel trailer was moved onto Lot 83, and in the summer it was blocked for stability. During the past summer water, electrical and telephone services were also provided to the travel trailer, with the water being supplied from a campsite hookup on the adjoining lot and connected to the travel trailer by a garden hose.

6. In April 1998, County Code Enforcement staff became sufficiently concerned about the Stormans' use to open a file for the property based on complaints of improper sewage disposal and a site inspection that disclosed evidence of onsite dumping of gray water. When an August 18, 1998, inspection led to discovery of the utility hookups to the travel trailer, staff concluded that the Stormans were no longer engaged in camping or entitled

to qualify as a temporary occupancy. The County issued a Notice and Order to the Stormans on October 24, 1998, which order was replaced by a Supplemental Notice and Order issued September 9, 1998. The Supplemental Notice and Order cites the property for the unlawful occupancy of a travel trailer and tents that do not meet minimum building and housing code standards for dwelling units. The property was ordered vacated by September 30, 1998, including removal of the trailer, tents and all appurtenances. The Stormans have filed a timely appeal of the Notice and Order.

7. The Storman appeal poses a wide array of legal defenses to the Notice and Order predicated upon an asserted right to legally camp on the property without limitation or restraint. The Appellants also deny that their occupancy is permanent, arguing that their primary residence remains in California and that their presence at Dorre Don is necessitated by the ongoing legal disputes in which they are embroiled.

   On the other hand, they have been on the property continuously since at least the Fall of 1997, have steadily upgraded their presence in the direction of more permanent facilities, and have asserted that cessation of their camping occupancy would leave them homeless. This latter contention only makes sense within the context of an intent to establish a permanent occupancy and constitutes an admission that their stay is more than transitory. Nonetheless, the Stormans have made some progress towards the negotiated settlement of outstanding disputes with other Dorre Don property owners, and their claim that they will return to California after a complete settlement of their legal problems was uncontested.

CONCLUSIONS:

1. The code violations cited against the Stormans within the Supplemental Notice and Order are essentially of two types. First, there is the assertion that their occupancy of Lot 83 violates the use provisions of the Zoning Code; second, that the character of the occupancy violates the Uniform Building and Uniform Housing Codes.

2. Turning to the zoning issues, the question presented by the appeal is whether the camping use being practiced by the Stormans is consistent with the use provisions for the RA (Rural) zone. In this regard, we note initially that the more restrictive camping use standards contained within recently adopted Ordinance 13022 are not applicable to this property. Ordinance 13022 became effective on March 30, 1998, and the record clearly demonstrates that the Stormans were actively camping on the property on a regular basis at least since late 1997. Therefore, their camping use was established more than 60 days prior to the effective date of Ordinance 13022 and must be regarded as a legal nonconforming use with respect thereto.

3. Under the recreational use provisions of KCC 21A.08.040 as they existed prior to the adoption of Ordinance 13022, campgrounds were allowed outright as a permitted use within the RA zone. KCC 21A.06.160 defines a campground as follows: "An area of land developed for recreational use and temporary occupancy, such as: tents or recreational vehicles without hookup facilities."

4. Much of the confusion surrounding this appeal results from the paradox that a campground is a permanent use subject to a temporary occupancy. In other words, while the Stormans have established the right to use their property permanently for camping purposes, the actual exercise of that use is restricted in time and intensity.

5. While the basic legitimacy of the Stormans' camping use is not subject to dispute, the zoning issue raised by the Code Enforcement citation turns upon the nature and extent of the temporary occupancy that is legitimized under the Zoning Code. Although the applicable time limitation is not specifically defined, its reasonable parameters are not difficult to discern. Since within the RA zone the maximum length of stay at a recreational vehicle park is 180 days within a facility that possesses hookups, a campground use without legal hookups is necessarily subject to a similar maximum limitation.

   In like manner, a temporary occupancy is exceeded when a property owner takes actions that are inconsistent with the temporary quality of the activity, such as providing telephone and electrical hookups to a travel trailer. Moreover, at the time that the Notice and Order was issued, Mr. Storman and his sons had been residing on the property without an interruption of more than two or three days for the better part of a year. We conclude, therefore, that their campground occupancy was no longer temporary within the meaning of the Zoning Code definition and that the use restrictions for the Rural zone were violated by the more extended occupancy.

6. Once the Stormans' use of the property ceased to qualify as a temporary camping use under the Zoning Code, its continuance could only be justified if it met applicable requirements for a permanent dwelling unit. Clearly, this level of qualification has not been met by the Stormans' occupancy. First, under State law a recreational vehicle is not considered to be a mobile home, and therefore the occupancy cannot be justified as the permanent installation of a mobile home. Moreover, a mobile home installation requires compliance with a specific permitting process, and there is no contention that such a process has been pursued by the Stormans. Therefore, the Stormans travel trailer cannot be regarded as a legally established mobile home or any other form of permanent dwelling.

7. Mr. Storman has also argued that the 1927 plat which created the Dorre Don Camp Sites somehow created for all time permanently permitted camping uses. This is an incorrect legal interpretation. A plat is simply a division of land, and the legitimization of uses remains a matter for Zoning Code control. The fact that the Dorre Don subdivision was described within its plat map as creating campsites does not preclude appropriate regulation of uses under Zoning Code authority. The recitations on the face of the 1927 Dorre Don plat do not provide a defense to the Notice and Order.
8. For purposes of both the Uniform Building and Uniform Housing Codes, a building is defined as "any structure used or intended for supporting or sheltering any use or occupancy". This definition is not time-restricted and applies to the Stormans' camping use once it extended beyond the scope of the temporary occupancy permitted within the Zoning Code. While speculation occurred within the hearing concerning whether travel trailers meet Uniform Code light and ventilation standards, the only dimensional requirement of the Housing Code that appears to be clearly violated by the Stormans' occupancy is UHC Section 503.1, which requires a habitable space to have a ceiling height of not less than 7 feet, 6 inches. Both staff and Mr. Storman estimated the ceiling height of his travel trailer to be about 7 feet.

9. The more serious Housing Code violation issues raised by the Notice and Order are that the travel trailer lacks satisfactory sanitation as required by UHC Section 1001.2 as a consequence of its failure to be connected to a legally adequate sewage disposal system. Once a travel trailer becomes blocked and installed on a property for more than a

temporary occupancy, it will be only a matter of time until the capacity of the holding tanks is exceeded and onsite sewage disposal issues arise. It is beyond dispute that Mr. Storman's travel trailer is not connected to an approved sewage system, and incidents of fugitive onsite sewage disposal have begun to occur. This is a serious public health concern arising out of conversion of a temporary facility into a permanent structure, and the Stormans' use violates the provisions of UHC Section 1001.2 in this regard.

10. Finally, while we conclude that Mr. Storman has moved from a temporary to an attempted permanent dwelling occupancy on his lot in violation of applicable codes, we agree with him that he is entitled under his established camping use to the reasonable storage of camping equipment on the site. However, in order to successfully terminate the unlawful occupancy, the travel trailer must be removed from the site for at least a substantial period. Further, while we have no reason to doubt that Mr. Storman will return to California once his legal issues at Dorre Don are settled, a quick resolution of these issues seems unlikely, and Mr. Storman should pay serious attention to the health and safety needs of his children during the coming winter months. While last winter was unusually mild, the predictions for the coming winter are far more severe. Legal niceties aside, Mr. Storman should not submit his children to the risk of a snowstorm stranding them within a poorly heated travel trailer for a week or more at temperatures within the mid- to upper teens.

DECISION:
The appeal is DENIED. The Supplemental Notice and Order is upheld with respect to citations for a camping use in excess of temporary occupancy limitations and for the violations of the Uniform Housing Code stated in the conclusions above. Subject to the terms stated below, the Stormans have an established right for the use of Lot 83 in temporary occupancy as a campsite.

ORDER:
No fines or penalties shall be imposed upon the Appellants if the following corrective actions are instituted by December 15, 1998, and remain in effect thereafter for a period of at least 90 consecutive days:

A. All travel trailers and tents are removed from the property, and

B. No overnight use of the property occurs.

ORDERED this 1st day of December, 1998.

_____
Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 1st day of December, 1998, by certified mail and first class mail, to the parties and interested persons named on the attached list.

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 within twenty (20) days from the date of the decision an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the decision.

MINUTES OF THE NOVEMBER 13 and 19, 1998, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES' FILE NO. E9800346 – STORMAN CODE ENFORCEMENT APPEAL.

Stafford L. Smith was the Hearing Examiner in this proceeding. Participating at the hearing were Ken Dinsmore and Betty Silvati, representing the County; H.O. Storman, Carolyn Dodd, Gary Gallagher and Stan Lorenson.

The following exhibits were offered and entered into the hearing record **November 13, 1998**:

Exhibit No. 1 Staff report to Hearing Examiner
Exhibit No. 2 Copy of Notice and Order issued August 24, 1998
Exhibit No. 3 Copy of Appeal received September 8, 1998
Exhibit No. 4 Copy of Supplemental Notice and Order issued on September 9, 1998, to correct a clerical error referencing 21A.06.45 instead of correct reference 21A.06.345
Exhibit No. 5 Copy of certified return receipt signed by HO Storman on September 18, 1998
Exhibit No. 6 Copy of Assessor's map (portion NW 15-22-06)
Exhibit No. 7 Copy of GIS vicinity map
Exhibit No. 8 Copy of GIS parcel location map
Exhibit No. 9 Copy of SITUS file information on property characteristics
Exhibit No. 10 Copy of Department of Assessment's Legal Description and Tax Information
Exhibit No. 11 Copy of Zoning Code provision 21A.08.010 regarding permanently established uses
Exhibit No. 12 Copy of definition of "accessory" from Webster's Dictionary
Exhibit No. 13 Copy of the definition of "Accessory use, residential" from the Zoning Code
Exhibit No. 14 Copies of excerpts from the Zoning Code regarding campgrounds, dwellings, and accessory uses.
Exhibit No. 15 Copies of Summary of Adoption of Ordinance 13022 and excerpt from the ordinance
Exhibit No. 16 Copies of Uniform Housing Code regarding minimum code standards for dwelling units
Exhibit No. 17 Pictures taken of the Storman property by Betty Salvati on October 20, 1998, and directional location map for photos
Exhibit No. 18 Unsigned copy of the civil settlement agreement between Mr. & Mrs. Storman and Mr. Culhane dated October 1, 1998
Exhibit No. 19 Copy of the Notice of Hearing and signed Waiver of Time Limits
Exhibit No. 20 Letter dated February 12, 1990, from State of Washington Department of Health to Gary Gallagher
Exhibit No. 21 Plat map of Dorre Don Campsites
Exhibit No. 22 Order Setting Civil Case Schedule for King County Superior Court Cause No. 97-2-22778-OKNT
Exhibit No. 23 Subpoenas (3), State of Washington vs. Tanya Barstad, Aukeen Division, District Court Citation #P06167KPA
Exhibit No. 24 Summons on Complaint – King County Superior Court Cause #97-2-22778 OKNT Culhane vs. Storman
Exhibit No. 25 McDonald's receipt

The following exhibits were offered and entered into the hearing record **November 19, 1998**:

Exhibit No. 26 Copy of aerial photograph (1993)
Exhibit No. 27 Article entitled "The great outdoors – with restraining orders" by Dean A. Radford, March 24, 1998, South County Journal
Exhibit No. 28 Collection of materials from County Subdivision Code and Revised Code of Washington (RCW) – Storman comments in bold italics

Exhibit No. 29 Letter May 1, 1997, with attachment, from Ron Sims to Jane Hague
Exhibit No. 30 Title 21 excerpt on definitions, including 21.04.180 Camp, public.
Exhibit No. 31 Ordinance 12930
Exhibit No. 32 Excerpt from Title 21A, specifically 21A.08.040
Exhibit No. 33 RCW 9A.52.010 Definitions
Exhibit No. 34 RCW 4.24.210
Exhibit No. 35 RCW 5.44.070 Certification provision
Exhibit No. 36 Chapter 10 Substandard Buildings from 1997 Uniform Housing Code
Exhibit No. 37 Copy of Mr. Storman's California driver's license
Exhibit No. 38 Excerpt from August 7, 1998, South County Journal entitled "Dispute"
Exhibit No. 39 Order Setting Pretrial Conference
Exhibit No. 40 WAC 296-150B-015

SLS:daz
Attachment
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