November 22, 1999

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION ON APPEAL OF NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. **E9900625**

JOHN HOPKINS AND HECTOR STORMAN
Code Enforcement Appeal

Location: Lot 84, Dorre Don Campsites

Appellants: **John Hopkins**
18820 SE 134th
Renton, WA 98056

Hector Storman
22433 Dorre Don Rd. SE
Maple Valley, WA 98038
-and-
1601 Ruddock Road
Covina, CA 91724

King County: Department of Development and Environmental Services, *represented by*

Lamar Reed
900 Oakesdale Avenue SW
Renton, WA 98055
Telephone: (206) 296-7101 Facsimile: (206) 296-6604

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:	June 28, 1999
Statement of appeal received by Examiner:	June 28, 1999

EXAMINER PROCEEDINGS:

Hearing Opened:	October 6, 1999
Hearing Closed:	November 15, 1999

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
  - Zoning Code
  - Uniform Housing Code
- Permitted uses

SUMMARY:

The appeal of the notice and order is denied.

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

FINDINGS:

1. On June 9, 1999, a notice and order was issued by the King County Department of Development and Environmental Services under File No. E9900625 to John Hopkins and Hector Storman alleging the illegal "occupancy of a travel trailer which does not meet minimum housing code for a dwelling unit and does not have legal septic or water hook-ups." The code citations provided in the notice and order refer to the residential and recreational use tables of the Zoning Code, plus certain ancillary definitions, as well as provisions of the Uniform Housing Code dealing with substandard structures and occupancies. Mr. Hopkins is the owner of Lot 84 within the plat of Dorre Don, the location of the alleged violation, and Mr. Storman and his sons are the occupants of a travel trailer on Lot 84 alleged to have been unlawfully used. Mr. Hopkins is also the owner of the travel trailer, which he purchased in 1987. Mr. Hopkins and Mr. Storman have jointly filed a timely appeal of the notice and order.

2. This is not the first chapter of the Storman saga. On December 1, 1998, the Hearing Examiner's Office issued a decision in a code enforcement appeal (File No. E9800346) filed by Mr. Storman and his wife concerning the occupancy of the same travel trailer on adjacent Lot 83, a parcel owned by the Stormans. The earlier Examiner decision in File No. E9800346 has been admitted to this record, as have the 40 exhibits attached to the decision. The prior decision and its attached exhibits are mainly useful in describing the travel trailer at issue and providing the

broader context for the Storman occupancy at Dorre Don.

3. The Stormans, who maintain their primary residence in California, purchased Lot 83 in 1980 but made no serious use of the property until 1996, at which time they spent a summer camping on the property and soon got into a dispute with the owner of Lot 81 over the location of a property boundary and the appropriate use of an adjacent community tract. This dispute degenerated into a number of legal proceedings, some of which still continue.

   Dorre Don was platted in 1927 as a development of camp sites and community recreation areas located on the right bank of the Cedar River just upstream of the SR-18 crossing. Many of the long, narrow original lots have been consolidated into larger holdings and constructed with permanent residences. In addition, private encroachments onto the community tract areas appear to be an endemic problem.

4. The parties have stipulated to the primary dates of occupancy for the Stormans on Lot 84, and while such dates may not be precisely accurate in all respects, they are sufficient for purposes of determining this appeal. Long term residential occupancy by Mr. Storman and his sons at Dorre Don appears to have begun in the summer of 1997, when they commenced tent camping on Lot 83. By December, 1997, they had obtained the additional use of Mr. Hopkins' travel trailer on Lot 84, and their occupancy at that time consisted of tents on Lot 83 and the travel trailer on Lot 84. In mid-April 1998, Mr. Storman moved the travel trailer with Mr. Hopkins' permission from Lot 84 some 20 feet east onto Lot 83. The Stormans occupied the trailer on Lot 83 until the end of December, 1998, when it appears to have been moved at least temporarily onto Lot 84. While the status of the trailer in early 1999 has not been specified within the testimony, the parties have stipulated that it was located on Lot 84 and occupied by the Stormans from April 8, 1999 to July 20, 1999, at which time it was moved back to Lot 83 where it currently is situated. Since its return to Lot 83 the trailer seems to have been sporadically occupied by Mr. Storman, with at least one of his sons in full-time residence.

5. The travel trailer owned by Mr. Hopkins and occupied by Mr. Storman is 8 feet wide by 23 feet long, with an interior height of 7 feet. It has a sleeping area, a kitchen, and a lavatory containing a toilet and shower. The kitchen and lavatory are serviced by 2 holding tanks. The trailer has never been provided with a septic hook-up. Complaints filed with Code Enforcement in April, 1998, were focused on issues of improper sewage disposal, and a site inspection conducted at that time reported evidence of on-site dumping of gray water. During the summer of 1998, the trailer obtained water via a garden hose attached to an outdoor faucet and also was provided with an electrical connection and telephone service.

6. Lot 84 is one of three contiguous parcels owned since 1984 by Mr. Hopkins at Dorre Don. Collectively, they consist of a small house on Lot 86, a garage on Lot 85 and storage and recreational use on Lot 84. Mr. Hopkins, who maintains a primary residence in Renton, leased out the house on Lot 86 from 1984 to 1994, reserving the right to make recreational use of Lot 84. He terminated the rental of the house on Lot 86 in 1994 and since that time has used it himself as an occasional residence.

7. Other usages of Lot 84 during Mr. Hopkins' ownership include RV camping on the property by his father during the summers of 1985 and 1986, occupancy of the travel trailer in 1993 for about 6 weeks by a friend of his wife's who was escaping domestic conflict, and camping use by a

friend for a few days in September, 1998.

CONCLUSIONS:

1. An important Zoning Code amendment affecting camping uses at Dorre Don occurred on March 30, 1998, when County Ordinance 13022 became effective. This amendment, codified at KCC 21A.08.040, had the effect of restricting campgrounds as permitted uses in the RA zone to facilities that are part of a county park, subject to an occupancy limitation of 180 days within any 365 day period. The earlier appeal decision in E9800346 ruled, based on an initial tent camping use established in 1996 and continued into 1997, that the Stormans' prior occupancy of Lot 83 was entitled to recognition as a legally established non-conforming camping use perfected prior to the effective date of Ordinance 13022. In like manner, much of the Appellants' effort in the instant appeal has been directed toward establishing that Mr. Hopkins has also perfected a legal non-conforming camping use on Lot 84.

2. This argument ignores the essential thrust of the evidence, which is that by the time Mr. Storman and his sons occupied Mr. Hopkins' travel trailer on Lot 84 in winter, 1997, the occupancy could no longer be accurately characterized as either recreational or temporary. As Mr. Hopkins himself stated, his offer of the trailer use to Mr. Storman was a humanitarian gesture motivated by the Stormans' plight in attempting to endure in tents the onslaught of winter weather.

   KCC 21A.06.160 defines a campground in terms of both recreational use and temporary occupancy. By April 8, 1999, the date upon which Mr. Storman's habitation of the trailer on Lot 84 subject to this proceeding is stipulated to have begun, the Storman occupancy at Dorre Don had become neither temporary nor recreational. As of that time, the Stormans had been residing at Dorre Don in various makeshift shelters for a period of nearly 2 years with only occasional breaks in occupancy, and Mr. Storman's primary purpose for being at Dorre Don had become engagement in legal combat with his neighbors. This is not to say that no recreational activities were ever performed, but rather that the primary purpose characterizing the use had become one evidencing permanent residency.

3. In view of our conclusion that the Stormans' occupancy of the travel trailer on Lot 84 between April and July, 1999, does not qualify as a recreational camping use, we have no need to reach the question of whether under the facts presented Mr. Hopkins is entitled to the establishment of a non-conforming recreational use of Lot 84. Similarly, the legality of storage of the travel trailer is not at issue in this proceeding. The issue is Mr. Storman's permanent residential occupancy of the trailer on Lot 84.

4. The Appellants have made no attempt to argue that the travel trailer complies with the standards for residential occupancy stated within the cited sections of the Uniform Housing Code. Without belaboring the point, the trailer appears to clearly violate UHC Section 503.1, requiring a habitable space to have ceiling height of not less than 7 feet 6 inches, and more critically, Section 505.4, which requires all plumbing fixtures to be connected to an approved sewage disposal system and served by a water supply provided with hot and cold running water.

5. Mr. Storman has again attempted to argue that the 1927 plat map for Dorre Don legitimizes for all time permanent camping uses. There is no legal authority for the proposition that recitations on a preliminary plat map preclude the later adoption of zoning ordinances that amend or change

the menu permitted uses on the property.

6. The Appellants have also questioned the level of the civil penalty imposed by the notice and order, which contains an initial assessment in the amount of $1,100. This amount is more than twice the basic initial penalty scheduled for a notice and order by KCC 23.32.010.A. This code provision, however, also authorizes additional initial penalties for public health risk and a history of similar violations and is sufficient to support the initial assessment imposed. Because Mr. Hopkins receives no obvious benefit from supporting Mr. Storman's mischief, and as the property owner who will be subject to a lien if the penalties are not paid, there are factors which argue for extending to Mr. Hopkins some leniency as to the amount of his penalty exposure. This might have been an appropriate extenuating consideration but for the fact that Mr. Hopkins continues to support and enable Mr. Storman's delinquency. As the hearing testimony demonstrated, Mr. Hopkins continues to allow Mr. Storman to occupy his travel trailer and shift it from lot to lot in his ongoing efforts to evade county enforcement action. Under such circumstances, no leniency in the penalty provisions is warranted.

DECISION:

The appeal is DENIED.

ORDER:

The notice and order issued by DDES on June 9, 1999 in File No. E9900625 is affirmed and its enforcement no longer stayed.

ORDERED this 22nd day of November, 1999.

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Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 22nd day of November, 1999, to the following parties and interested persons:

Gary and Joanne Gallagher
22825 Upper Dorre Don Wy. SE
Maple Valley, WA 98038

Hector Storman
22433 Dorre Don Rd. SE
Maple Valley, WA 98038

Hector Storman
1601 Ruddock Rd.

John Hopkins
18820 SE 134th
Renton, WA 98056

Elizabeth Deraitus
DDES/BSD
Code Enforcement Section
OAK-DE-0100

Ken and Susan Siren
22819 SE 225th St.
Maple Valley, WA 98038

Lamar Reed
DDES/BSD
Code Enforcement Section
OAK-DE-0100

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 NOVEMBER 15, 1999, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES' FILE NO. E9900625 – HECTOR STORMAN AND JOHN HOPKINS CODE ENFORCMENT APPEAL:

Stafford L. Smith was the Hearing Examiner in this proceeding. Participating at the hearing and representing the Appellants were Hector Storman and John Hopkins. Participating at the hearing and representing the Department of Development and Environmental Services Representatives was Lamar Reed. The only other participant in this hearing was Ken Siren, an Interested Person.

The following exhibits were offered and entered into the record on November 15, 1999:

Exhibit #1	Staff report to the Hearing Examiner, dated November 15, 1999
Exhibit #2	Copy of Notice & Order, issued June 9, 1999
Exhibit #3	Copy of Appeal received June 28, 1999
Exhibit #4	Copy of Assessor's map (portion NW 15-22-06)
Exhibit #5	Copy of letter from Dorre Don Community Club, Inc., dated August 13, 1999
Exhibit #6	Copy of Zoning Code Provision 21A.08.010 regarding permanently established uses.
Exhibit #7	Copy of the definition of "accessory use, residential" from the zoning code.
Exhibit #8	Copy of excerpts from the zoning code regarding campgrounds, dwellings and accessory uses.
Exhibit #9	Copy of SITUS file information on property characteristics
Exhibit #10	Copy of Department of Assessor's legal description and tax information
Exhibit #11	Copy of Report and Decision on Appeal of Notice and Order
Exhibit #12	Exhibits 1-40 from E9800346
Exhibit #13	Various declarations entered by Storman
Exhibit #14	Portion of King County Resolution #6494, dated 1937
Exhibit #15	1998 survey of Lots 83 and 84.
Exhibit #16	California ballot receipt, dated November 2, 1999