June 23, 2008

OFFICE OF THE HEARING EXAMINER
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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0701187**

MARKUS, LLC
Code Enforcement Appeal

Location: 10426 – 8th Avenue Southwest

Appellant: **Dean Markus**
10426 – 8th Avenue Southwest
Seattle, Washington 98146
Telephone: (206) 244-2684

King County: Department of Development and Environmental Services (DDES)
represented by **Al Tijerina**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6653
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SUMMARY OF DECISION/RECOMMENDATION:

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

ISSUES AND TOPICS ADDRESSED:

Building open to entry, accumulation of inoperable vehicles, accumulation of rubbish and debris.

SUMMARY OF DECISION:

The property owner's appeal of a notice of code violation for maintaining a building open to entry, constituting an attractive nuisance; accumulation of inoperable vehicles; and accumulation of rubbish and debris, is denied, and a reasonable time is granted to correct the violations.

EXAMINER PROCEEDINGS:

Hearing opened: June 17, 2008
Hearing closed: June 17, 2008

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 March 27, 2008, the King County Department of Development and Environmental Services issued a notice of King County code violation, civil penalty order, abatement order, notice of lien, duty to notify ("Notice and Order") to Markus, LLC. The property subject to the Notice and Order is located at 10426 Eighth Avenue Southwest (Seattle) in unincorporated King County. Markus, LLC is the owner of the subject property.

   The Notice and Order alleged violation of the King County Code for maintaining a vacant garage open to entry; accumulation of inoperable vehicles, boat and vehicle parts; and accumulation of assorted rubbish, salvage and debris throughout the premises.

2. A timely appeal of the Notice and Order was filed by Dean Edward Markus, Sr. on April 14, 2008. The Statement of Appeal asserts that the property owner is financially unable to replace the garage door, and is in the process of selling the property. Appellant further states that he has removed vehicles, auto parts and garbage from the property. Appellant requests time to sell the property, without incurring penalties or liens.

3. The subject property is located within an urban area. The garage has no door or other barrier to entry. Within the garage are building materials, tools and other items. The garage, in its present condition (open to entry), constitutes a public nuisance and hazard to the public safety.

   Apparently inoperable vehicles and boats, building materials, equipment and debris remain on the property.

4. Fifteen days is a reasonable period of time to allow the Appellant to close the garage to public entry. Thirty days is a reasonable period of time to allow the Appellant to complete the removal of inoperable vehicles, boat and vehicle parts located throughout the premises, and to remove the accumulation of rubbish, salvage and debris on the premises.

CONCLUSIONS:

1. The subject property is in violation of the King County Code as alleged by the March 27, 2008 Notice and Order. The property owner is responsible to maintain the subject property in compliance with the applicable provisions of the King County Code. Failure to do so constitutes a nuisance and is a public hazard.

2. The Appellant should be allowed a reasonable time to bring the subject property into compliance with the King County Code. In light of the particular hazard created by the existing garage being open to entry, the time allowed to close the garage to public entry should be the minimum

reasonable time to adequately and appropriately preclude entry to the garage. Fifteen days from the date of this decision is a reasonable time to do so.

3. Thirty days is a reasonable period of time to complete a cleanup of the subject property, removing the inoperable vehicles, boat and vehicle parts and the accumulation of rubbish, salvage and debris.

DECISION:

The appeal by Dean Edward Markus, Sr. from the notice of King County Code violation issued March 27, 2008 is denied, and the property owner is allowed fifteen days from the date of this order (until July 8, 2008) to barricade the garage so that it is no longer open to public entry, and thirty days from the date of this order (July 23, 2008) to remove the inoperable vehicles, boat and vehicle parts and rubbish, salvage and debris from the subject property.

Failure by the property owner to meet the foregoing deadlines will result in the imposition of penalties as set forth in the March 27, 2008 Notice and Order, and King County may proceed to abate the violations as set forth therein.

ORDERED this 23rd day of June, 2008.

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James N. O'Connor
King County Hearing Examiner *pro tem*

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 JUNE 17, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0701187

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing was Al Tijerina representing the Department.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	DDES staff report to the Hearing Examiner for E0701187
Exhibit No. 2	Copy of the Notice & Order issued March 27, 2008
Exhibit No. 3	Copy of the Notice and Statement of Appeal received April 14, 2008
Exhibit No. 4	Copies of codes cited in the Notice & Order
Exhibit No. 5	Photographs of subject property taken by Al Tijerina on June 3, 2008

JNOC:vsm
E0701187 RPT