April 7, 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. **E0800028**

ESTATE OF BOYD COLEMAN
Code Enforcement Appeal

Location: 15950 Avondale Road NE, Woodinville

Appellant: Brendan Coleman
represented by **Charles Diesen**
8060 165th Avenue
Suite 230
Redmond, WA 98052
Telephone: (425) 885-2630
Email: diesen.johnson@frontier.com

King County: Department of Permitting and Environmental Review
represented by **LaDonna Whalen**
35030 SE Douglas Street Suite 210
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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 but extend and stagger compliance deadlines

EXAMINER PROCEEDINGS:

Hearing Opened:	March 30, 2017
Hearing Closed:	March 30, 2017

FINDINGS AND CONCLUSIONS:

1. In 2008, Department of Permitting and Environmental Review (DPER) received a complaint about occupancy of substandard dwelling units and about the accumulation of inoperable vehicles, junk, and debris on a residential lot owned by Boyd Coleman. Ex. 1 at 001. The original DPER officer did a fair amount of work on the case in 2008, but after she left DPER employment, the officer who assumed her duties apparently did little on the case over the next five or six years. Ex. 1 at 002. In the fall of 2016, Officer LaDonna Whalen took over and restarted enforcement.

2. On January 31, 2017, DPER issued a Notice and Order asserting (1) accumulation of inoperable vehicles and vehicle parts and parking or storage of vehicles on non-impervious surfaces, (2) accumulation of rubbish, salvage, and debris, and (3) conversion of an accessory building into habitable space. Ex. 2 at 001. An appeal was timely filed on February 23. Ex. 3. We went to hearing on March 30. We address the alleged violations in reverse order.

3. Turning to (3), the alleged building-related violation, there are five buildings on the property: (A) a duly-permitted main house, (B) a two-story structure that was permitted as a first floor garage/second story storage area, and three buildings that were never permitted: (C) a 450-square foot building, (D) a 550-square foot building, and (E) a 1600-square foot building. Ex. 7 at 003.

4. There were three sets of Colemans living on the property when the enforcement action started. The patriarch, Boyd Coleman, was living in the (A) main house. One son, Thomas Coleman, was living in the converted upstairs portion of (B). Another son, Brendan Coleman, was living in (C). Ex. 1 at 001. In 2008, Thomas moved out of (B). In 2014, the elder Mr. Coleman died, and Brendan now resides in the (A) main house.

5. Building-wise, DPER's Notice and Order covered only "3. Conversion of an accessory building into habitable space," i.e., building (B), the second story of which was converted into living quarters for Thomas Coleman. Buildings (C), (D), and (E) were never permitted and appear to exceed the 200-square feet of interior floor space (per structure) threshold above which a permit was required, even for construction of non-habitable space. KCC 16.02.240(1); Ex. 7 at 003. However, as those three were not covered by the Notice and Order, they are beyond the scope of this appeal. Our decision today neither finds buildings (C), (D), and (E) in violation, nor effectively legalizes them, nor makes any pronouncements about their long-run status, should a future complaint be filed.

6. Confining our building analysis to (B), there is no dispute that at some point the second story of (B) was converted into living quarters for Thomas Coleman. Ex. 9 at 005 (bottom entry). Absent the necessary permits, that was a violation. We found credible Mr. Coleman's testimony that in 2008 he moved out of (B) and removed the sink, shower, range, and heat source (pellet stove), basically leaving only four non-weight-bearing closet walls (along with a deck) as remnant additions to the second floor. The standard procedure for remedying originally-legal space converted into something else—without going through a building department and health department to legalize the later additions—is here to obtain from DPER a "demolition" permit to take the space back to its originally-permitted condition. This would include at least taking out the closet wall

additions. Mr. Coleman agreed at hearing to obtain a demolition permit and to complete the work.[1]

7. Turning to alleged violation (2) the accumulation of rubbish, salvage, and debris, the Colemans and Charles Diesen (the co-executor of the late Mr. Coleman's estate) testified that they had taken loads of debris to the dump. They appear to be on their way, but there is still more to accomplish to come into compliance. *Compare* Ex. 5 *with* Ex. 6; KCC 21A.32.230(A). Violation (2) is also sustained.

8. And that leaves (1), inoperable vehicles/parts and parking vehicles on non-impervious surfaces. This is not a single allegation, but contains two segments.

9. The first involves *inoperable* vehicles or vehicles parts—either standalone parts, say an individual fender, or even somewhat intact bodies way beyond their drivable days and being retained as a parts resource for other vehicles. Ex. 5 at 002 (bottom); Ex. 6 at 002 (bottom). Having these not enclosed within the building is a violation; they will need to be sold off or moved indoors. KCC 21A.32.230(C); KCC 23.10.040(A).

10. The second involves *operable* vehicles, vehicles that one can actually get into, turn the key, and drive.[2] These may remain outside, but only if parked on an "approved impervious surface," with "direct and unobstructed driveway access." KCC 21A.18.110(I). Between the witnesses at hearing (including next door neighbor Antonia DeWees, who testified on the Colemans' behalf) and the exhibits, some of the cars are currently on non-pervious surfaces (a violation) and some appear to be on impervious surface (gravel). *Compare* Ex. 6 at 003 (middle and bottom photos). Any operable vehicles remaining on the property (see below) will need to meet KCC 21A.18.110(I).

11. Turning to the remedy for the violations, the real issue is one of timing. DPER sought compliance on all three violations within 30 days. Appellant countered with a request for six months. Given the amount of materials on the property, and Brendan Coleman's significant health limitations and economic destitution, the need to arrange to sell off many of the vehicle parts (both to get them off the property and to generate some funds, a process Brendan Coleman has already begun and Thomas Coleman agreed to pitch in and help expedite), we find Appellant's position on timing significantly more reasonable.

12. However, we agree with DPER, and past practice has borne out, that setting an unusually long deadline like six months comes with a significant downside. With the pressure off, things have a tendency to get left until the last minute, then is sometimes too much to complete at the end, the deadline gets missed, and DPER issues penalties. Thus we will stagger the deadlines, as stated below.

[1] The deck to the second floor of (B) (Exhibit 5 at 005), also added without permits, has apparently been removed. Field verification should be able to quickly establish the status of the deck and whether the second floor of (B) has been converted back to storage space.

[2] This does not mean a vehicle has to have its tags or be fully street legal. So something like a dead tail light would not be fatal, but neither would "I totally *could* get it running" optimism be sufficient.

DECISION:

1. The appeal is **DENIED.**

2. DPER may not assess penalties against Appellant or the subject property so long as the following actions are completed:

   A. By **May 8, 2017**, apply for and obtain a demolition permit, to convert (B) back into a two-story garage/non-habitable storage area.

   B. By **July 7, 2017**, complete the reconversion work on (B).

   C. By **August 7, 2017**, finish removing all (non-vehicle related) rubbish, salvage, and debris from the property and dispose of these items at an approved facility.

   D. By **October 7, 2017**, finish removing all inoperable vehicles and vehicle parts from the property or store them inside one of the on-site buildings.

   E. By **November 7, 2017**, park any remaining, operable vehicles either inside or on impervious surfaces.

ORDERED April 7, 2017.

David Spohr
Hearing Examiner

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 30, 2017, HEARING IN THE APPEAL OF ESTATE OF BOYD COLEMAN, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. E0800028.

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were LaDonna Whalen, Jeri Breazeal, Charles Diesen, Brendan Coleman, Thomas Coleman, and Antonia DeWees.

The following exhibits were offered and entered into the record:

Exhibit no. 1	Department of Permitting and Environmental Review staff report to the Hearing Examiner for file no. E0800028
Exhibit no. 2	Notice and order, issued January 31, 2017
Exhibit no. 3	Notice and statement of appeal, received February 23, 2017
Exhibit no. 4	Codes cited in the notice and order
Exhibit no. 5	Photographs of subject property, dated January 31, 2008
Exhibit no. 6	Photographs of subject property, dated December 6, 2016
Exhibit no. 7	Aerial photographs of subject property
Exhibit no. 8	King County Sheriff incident report no. 08-002567
Exhibit no. 9	Department of Assessments report for parcel no. 1774500030
Exhibit no. 10	Last Will and Testament of Boyd Coleman, dated June 5, 2007
Exhibit no. 11	Superior Court case no. 14-4-06085-5SEA, Order admitting will to probate and granting letters testamentary with non-intervention powers, dated October 24, 2014
Exhibit no. 12	2016 Social security benefit statement of Brendan Coleman
Exhibit no. 13	SilverScript prescription drug summary of Brendan Coleman, dated December 10, 2016
Exhibit no. 14	Puget Sound Energy bill of Brendan Coleman, issued March 14, 2017
Exhibit no. 15	West Coast Classic Cougar advertisement of parts wanted
Exhibit no. 16	Community cleanup assistance program voucher no. 4529, dated October 26, 2016

DS/ed

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **E0800028**

ESTATE OF BOYD COLEMAN
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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 7, 2017.

Elizabeth Dop
Legislative Secretary

All Parties of Record

Breazeal, Jeri
Department of Permitting and Environmental Review

Coleman, Brendan mailed paper copy

Coleman, Thomas mailed paper copy

Deraitus, Elizabeth
Department of Permitting and Environmental Review

DeWees, Antonia mailed paper copy

Diesen, Charles mailed paper copy
Diesen & Johnson PLLC

Lux, Sheryl
Department of Permitting and Environmental Review

Whalen, LaDonna
Department of Permitting and Environmental Review

Williams, Toya
Department of Permitting and Environmental Review