

February 21, 2007

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

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0500624**

JOHN, JERRY & JANET PROUTY
Code Enforcement Appeal

Location: 25614 348th Way Southeast, Ravensdale

Appellant: **Jerry Prouty**
P.O. Box 329
Black Diamond, Washington 98010
Telephone: (206) 949-9510

King County: Department of Development and Environmental Services (DDes)
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-6772
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:	Deny appeal with revised compliance dates
Department's Final Recommendation:	Deny appeal with revised compliance dates
Examiner's Decision:	Deny appeal with revised compliance dates

EXAMINER PROCEEDINGS:

Hearing opened:	February 6, 2007
Hearing closed:	February 6, 2007

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 OF FACT:

1. On November 15, 2006, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to John Prouty and Jerry W. and Janet R. Prouty that alleged code violations at property located at 25614 – 348th Way Southeast in the unincorporated Ravensdale area. The Notice and Order cited the Proutys and the property with one violation of County code:
 - A. Construction of a garage (approximately 24' x 34') without the required permits, inspections and approvals in violation of Section 16.02.240 and 21A.28.020 of the King County Code and Sections 1.05.1 and 113.1 of the 2003 International Building Code.

The violation was required by the Notice and Order to be corrected by application for and obtainment of the required permits, inspections and approvals with a complete application submitted by February 16, 2007 or, in the alternative, obtainment of a demolition permit and demolition of the non-permitted construction and removal of demolition debris from the premises by March 19, 2007. In the event that the building permit application was denied, such demolition and removal was required to be accomplished within 120 days from the date of permit denial.

2. Jerry W. Prouty filed a timely appeal of the Notice and Order, asserting lack of the Proutys' knowledge that the subject garage was built without a building permit as the Proutys were not informed of that by the seller. The appeal and testimony by Mr. Prouty state that the garage was constructed in place sometime in the years of 1998-2002, and the property was purchased by the Proutys in January of 2005. The appeal also notes that John and Jean Prouty, the residents and contract buyers of the property, are handicapped and limited financially, and seeks reduction of the inspection fees for the subject permit and related costs.
3. The noticees of the Notice and Order, the Proutys, are shown by the preponderance of the evidence in the record to be innocent purchasers of the property with an unpermitted garage. Pursuant to KCC 23.02.130(B), they are not subject to penalties for the permit violation; as the inheriting owners, however, they are responsible for bringing the property into compliance and/or paying any County "abatement costs necessary to bring the property into a safe and reasonable condition," should they not correct the violation themselves. DDES testified that it is willing to allow a relatively relaxed pre-permit application schedule and also gave information to Appellant Jerry Prouty about the means to seek fee reductions if possible.

CONCLUSIONS:

1. The charge of violation in the Notice and Order is shown by a preponderance of the evidence to be correct and is therefore sustained. The Proutys did not raise a basic defense to the fundamental charge; as noted, they qualify as innocent purchasers and are not subject to penalties. They are, however, liable to correct the matter as noted above.

DECISION:

The appeal is DENIED and the Notice and Order sustained, except that the deadlines for compliance shall be revised as stated in the following Order.

ORDER:

1. The Proutys and/or a representative working on their behalf to obtain the necessary building permit shall arrange for a pre-application appointment with DDES to be held *no later than April 9, 2007*.
2. The Proutys and/or a representative shall file a *complete* application for the necessary building permit *no later than May 31, 2007*.
3. No penalties shall be assessed against the Proutys and/or the property. If the above deadlines are not met, DDES may initiate abatement at its discretion; abatement costs are liable to be charged to the Proutys as provided by KCC 23.02.130(B), which limits the type of abatement costs which may be assessed by the County.
4. In the alternative, of course, the garage may be demolished, under a proper demolition permit and with removal of the demolition debris from the property. If such alternative is chosen, it shall be conducted and completed *by no later than July 31, 2007*.
5. If for some reason a building permit is denied, then demolition and removal shall be performed *by no later than 120 days from the date of permit denial*.

ORDERED February 21, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED February 21, 2007 via certified mail to the following:

Jerry Prouty	John Prouty
P.O. Box 329	25614 - 348th Way SE
Black Diamond WA 98010	Ravensdale WA 98051

TRANSMITTED February 21, 2007, to the following parties and interested persons of record:

Jerry Prouty	John Prouty	Deidre Andrus
P.O. Box 329	25614 - 348th Way SE	DDES/LUSD
Black Diamond WA 98010	Ravensdale WA 98051	MS OAK-DE-0100
Elizabeth Deraitus	Jo Horvath	Lamar Reed
DDES/LUSD	DDES/BSU	DDES/LUSD
MS OAK-DE-0100	MS OAK-DE-0100	MS-OAK-DE-0100
Holly Sawin	Toya Williams	
DDES/LUSD	DDES/LUSD	
MS OAK-DE-0100	MS OAK-DE-0100	

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 FEBRUARY 6, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0500624.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin representing the Department, and Jerry Prouty.

The following Exhibits were offered and entered into the record:

- | | |
|----------------|---|
| Exhibit No. 1 | DDES staff report to the Hearing Examiner for February 6, 2007 |
| Exhibit No. 2 | Copy of the Notice & Order issued November 15, 2006 |
| Exhibit No. 3 | Copy of the Notice and Statement of Appeal received December 4, 2006 |
| Exhibit No. 4 | Copies of codes cited in the Notice & Order |
| Exhibit No. 5A | 1998 aerial photograph of subject property from King County ArcView database |
| 5B | 2002 aerial photograph of subject property from King County ArcView database |
| 5C | Photograph (color copy) taken on August 17, 2005 by Holly Sawin of the garage on the subject property |
| Exhibit No. 6 | Printout of King County Assessor's record for the subject parcel |

PTD:ms

E0500624 RPT