

June 18, 2010

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

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0601149**

SEAN CALLAHAN
Code Enforcement Appeal

Location: 17701 NE 143rd Place

Appellant: **Sean Callahan**
17701 NE 143rd Place
Woodinville, Washington 98072
Telephone: (206) 713-6050

King County: Department of Development and Environmental Services (DDES)
represented by **Erroll Garnett**
900 Oakesdale Avenue SW
Renton, Washington 98055
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SUMMARY OF RECOMMENDATIONS/DECISION:

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

EXAMINER PROCEEDINGS:

Hearing opened:	June 17, 2010
Hearing closed:	June 17, 2010

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. This matter involves the appeal of a code enforcement Notice and Order. Appellant Sean Callahan has not disputed the fundamental charge of violation in the Notice and Order, but instead requests additional time for achieving compliance. Mr. Callahan and DDES have reached agreement on the basic parameters of an appropriate compliance schedule.
2. On March 3, 2010, DDES issued the Notice and Order to Sean M. and Vicky L. Callahan that found a code violation on the subject RA-2.5-zoned property at 17701 Northeast 143rd Place, in the unincorporated greater Avondale area north of Redmond and east of Woodinville. The violation found by the Notice and Order is:
 - A. Construction of an accessory structure, two-story (40 feet by 60 feet) building without the required permits, inspections and approvals.
3. The structure in question, an already built structure requiring an Already Built Construction (ABC) permit, had been the subject of a building permit application in 2005 under file B05M0297, but the permit was never approved due to lack of necessary information and was eventually cancelled in September of 2006. The building permit process was recommenced under file B07M2364 (pre-application A07PM183), but that was later cancelled as well due to unmet requirements. The Notice and Order was then issued.
4. Mr. Callahan filed an appeal of the Notice and Order, noting that financial difficulties have impeded his ability to complete construction and obtain building permit final approval, and requesting an additional six months to complete the permit obligations.
5. Mr. Callahan's appeal does not substantially dispute the charge of violation in the Notice and Order, which charge is supported by a preponderance of the evidence in the hearing record.
6. DDES recommends a revised compliance schedule, to which the Appellant has agreed, allowing for necessary Public Health review (of sanitation compliance) and DDES building permit obtainment, as well as a reasonable time to complete the necessary work and obtain final building permit approval. Alternatively, demolition of the offending work would be required within a reasonable time.

CONCLUSIONS:

1. The Notice and Order is correct in its finding of violation, and shall therefore be sustained.
2. A revised compliance schedule is necessary given the time taken up by the appeal and to formally establish the agreed-upon compliance schedule.

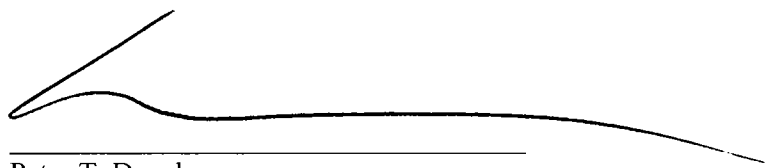
DECISION:

The instant appeal of the subject Notice and Order is DENIED, except that the COMPLIANCE SCHEDULE is REVISED as set forth in the order below.

ORDER:

1. *By no later than September 30, 2010*, a *complete* application shall be filed with DDES for a building permit for the subject structure. After application submittal, any necessary supplementation of application information and responses to any additional DDES review requirements shall be performed diligently. (Formal sanitation approval by Public Health is a necessary component of application *submittal*; the Appellant is encouraged to initiate Public Health review promptly, as it will require a period of time prior to approval.)
2. Upon DDES building permit approval, the permit shall be obtained promptly.
3. The construction work necessary for final inspection approval shall be **performed within the time period required by the building permit**. DDES has indicated that it intends to set a deadline of **six months** following building permit approval.
4. If either of the above deadlines is not met, **within 120 days** of the first failure to meet either of the above deadlines the subject structure shall be demolished and the demolition debris removed from the property to an approved disposal facility. In the event that either of the above approvals (Public Health and/or DDES permit approval) is not granted, then the demolition and removal shall be accomplished **within 120 days** from the date of the final decision to deny, running from the first final denial.
5. DDES is authorized to grant extensions to the above deadlines, if warranted (in DDES's sole judgment) by circumstances beyond the Appellant's diligent effort and control.
6. No penalties shall be assessed by DDES against Mr. Callahan and/or the property if the above compliance requirements and deadlines (noting the possibility of extension) are complied with in full. If they are not, DDES may impose penalties as authorized by county code retroactive to the date of this order.

ORDERED June 18, 2010.



Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

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, 2010, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO. E0601149

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Erroll Garnett representing the Department and Sean Callahan, the Appellant.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services (DDES) staff report to the Hearing Examiner for E0601149
Exhibit No. 2	Copy of the Notice & Order issued March 3, 2010
Exhibit No. 3	Copy of the Notice and Statement of Appeal received March 22, 2010
Exhibit No. 4	Copies of codes cited in the Notice & Order
Exhibit No. 5	Photographs of subject property taken on November 21, 2006 and May 25, 2010
Exhibit No. 6	Letters of violation sent to Sean & Vicky Callahan
Exhibit No. 7	Stop Work Order
Exhibit No. 8	Final cancellation notification for Sean & Vicky Callahan's building permit
Exhibit No. 9a	Printout of DDES notes from February 17, 2005 through January 23, 2007
Exhibit No. 9b	Printout of DDES notes from November 2, 2006 through May 27, 2010
Exhibit No. 10a	Printout of DDES notes from May 17, 2007 through May 14, 2008
Exhibit No. 10b	Printout of DDES notes from October 8, 2007 through March 18, 2010

PTD:gao
E0601149 RPT