

January 22, 2008

**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

STIPULATED REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0600164**

MELANI KENT
Code Enforcement Appeal

Location: 25441 Southeast 243rd Street, Maple Valley

Appellant: **Melani Kent**
4055 Honeycutt Street
San Diego, California 92109
Telephone: (619) 994-2323

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 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:

Scheduled hearing continued on call:	September 8, 2006
Hearing reconvened:	November 13, 2007
Hearing closed:	November 13, 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 July 21, 2006 the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Appellant Melani Kent that found two code violations on a Rural Area-5 (RA-5) zoned property located at 25441 Southeast 243rd Street, adjacent to the Cedar River in the unincorporated Maple Valley area. The Notice and Order cited Ms. Kent and the property with the following two violations of county code:
 - A. Remodel of a nonconforming cabin structure by the addition of a second floor level, a second level deck and sliding doors, located within a required setback from the Cedar River, without required permits and approvals.
 - B. Accumulation of assorted rubbish, salvage and debris in exterior storage on the property.

The found violations were required by the Notice and Order to be corrected by removal of the assorted rubbish, salvage and debris by October 23, 2006; and by the obtainment of the required permits, inspections and approvals for the remodeling work, with a complete application filing by October 23, 2006 or, alternatively, demolition and removal by November 27, 2006.

2. Ms. Kent filed a timely appeal of the Notice and Order, asserting that since the structure is a day-use fishing cabin with no utilities and there was no addition to the existing foundation perimeter, the remodeling work was exempt from building permit requirements. The appeal also noted that the accumulated rubbish, etc., would be cleared from the site before the Notice and Order's October 23, 2006 deadline.
3. DDES stipulated in hearing¹ that the rubbish, salvage and debris which was the subject of violation charge no. 2 in the Notice and Order has been cleared from the site and the property brought into compliance in such regard.
4. Appellant Kent, who resides in San Diego, California, did not attend the November 13, 2007 hearing session but made representations through DDES of agreeing to a stipulated report and decision establishing a compliance schedule for obtainment of the necessary building permit for the structural work done on the cabin. The cabin work has been scaled back with removal of the second floor area, resulting in the work subject to permit requirements being replacement roof framing, etc. The Appellant has attended a pre-application meeting with DDES for an Already Built Construction (ABC) permit for the building work. DDES testified that the work remaining is amenable to the issuance of a building permit.
5. DDES recommends a revised compliance schedule based on the scaled-back work and the Appellant's stipulation to obtaining a building permit.
6. The Appellant has not offered any evidence or testimony to support her claim that the subject structural work (even in its scaled-back form) is exempt from building permit requirements. The preponderance of the evidence in the record shows that the work is subject to building permit requirements as found in the Notice and Order.

¹ The initially scheduled September 7, 2006 hearing in this matter was continued on call with the agreement of the parties, in order that the Appellant could seek the building permit necessary for compliance.

CONCLUSION:

1. The activities found by the Notice and Order constitute violations of county regulatory code. Charge no. 2 has been resolved by the removal of the offending material. Charge no. 1 has been narrowed by the scaling back of the structural work and is now subject to a stipulated agreement to achieve compliance by obtaining the necessary permit.

DECISION:

The appeal is DENIED and the Notice and Order sustained, with the notation that charge no. 2 has been resolved by compliance and with the exception that the compliance requirements to resolve charge no. 1 shall be revised as stated in the following order.

ORDER:

1. The required permits, inspections, and approvals for the remaining structural work to the above referenced cabin shall be obtained, initially by filing a complete building permit application with DDES *by no later than April 1, 2008*, and then ongoing diligent compliance with all DDES-established deadlines for further requested information necessary for permit review and issuance, and finally, actual obtainment of the permit within required deadlines.
2. Any further construction work necessary to comply with the issued building permit shall be completed *by no later than April 1, 2009*.
3. Should the Appellant elect not to submit a complete building permit application by April 1, 2008, or if a complete building permit application is not actually filed by April 1, 2008, the non-permitted construction work shall be removed/demolished under the auspices of a demolition permit, if required, and any and all demolition debris removed from the premises, all *by no later than June 2, 2008*. (Demolition must be completed by the above deadline even though a demolition permit is normally valid for a one year period.)
4. If the building permit application is denied for whatever reason, demolition under the above requirements shall be completed **within sixty (60) days** of the issuance of written permit denial by DDES.
5. No penalties shall be assessed by DDES against Ms. Kent and/or the property if the above deadlines are complied with. If any one of the deadlines is not complied with, DDES may assess penalties against Ms. Kent and/or the property retroactive to the date of this order as provided by county code.

ORDERED January 22, 2008.

Peter T. Donahue
King County Hearing Examiner

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 NOVEMBER 13, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0600164.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was Holly Sawin, representing the Department. There were no other participants

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner for November 13, 2007
- Exhibit No. 2 Copy of the Notice & Order issued July 21, 2006
- Exhibit No. 3 Copy of the Notice and Statement of Appeal received August 1, 2006
- Exhibit No. 4 Copies of codes cited in the Notice & Order
- Exhibit No. 5 Photographs of subject property
- Exhibit No. 6 King County Geographic Information System Maps, 1-2

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