

July 12, 2012

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

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0800333**

JANET AND RONALD MCGINNIS
Code Enforcement Appeal

Location: 63616 NE Index Creek Road

Appellants: **Ronald and Janet McGinnis**
63623 NE Index Creek Road
Goldbar, WA 98251
Telephone: (360) 793-3782

King County: Department of Development and Environmental Services
represented by **Jeri Breazeal**
900 Oakesdale Avenue SW
Renton, WA 98057
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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

EXAMINER PROCEEDINGS

Hearing Opened:	December 1, 2011
Hearing Closed:	December 1, 2011

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 Hearing Examiner's Office.

FINDINGS, CONCLUSIONS AND DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On May 3, 2010 a notice and order was issued by the King County Department of Development and Environmental Services (DDES) Code Enforcement Section to Ronald and Janet McGinnis, citing code violations on an 11,761-square foot property located at 63616 NE Index Creek Road. The first citation within the notice and order targeted an accumulation of vehicles on a site without a primary residential use and containing an aquatic area buffer. The second citation alleged the existence on the property of a hazardous and damaged structure in a state of partial collapse, also within an aquatic area buffer. The subject property is located adjacent to Index Creek.
2. The McGinnises filed a timely appeal of the notice and order, stating that the citation with respect to the vehicles had been corrected and requesting more time to pursue a process for permitting and repairing the existing hazardous structure. The appeal statement indicated that a critical area review for the property had been requested from DDES on December 11, 2009.
3. A pre-hearing conference on this appeal was held by the King County Hearing Examiner's Office on September 14, 2010, at which time it was agreed that the vehicles violation had been remedied. By an order issued September 15, 2010, the Hearing Examiner dismissed violation citation no. 1 from the notice and order and continued the hearing on citation no. 2 indefinitely to allow the Appellants to further pursue permit approval for repair of the collapsing cabin. A public hearing on the appeal was held on December 1, 2011, at which time it was agreed that a demolition permit to remove the cabin would be submitted and a removal timetable stipulated by June 2012.
4. The staff report and attendant exhibits indicate that there was an original cabin on the site dating back to the early 1930s, which collapsed in a 1949 snowstorm and was thereafter partially reconstructed. While the cabin footprint may have some continuing potential legal viability, the likelihood of obtaining Health Department approval for a septic system at this location appears to be remote. Exhibit no. 7 contains inspection notes from the King County Assessor's Office that document the obstacles faced by the Appellants. Within the Assessor's review history, note no. 10 indicates that a stop work order on structural construction was issued in July 1994, one surmises because of a lack of building permit approval. Note no. 2 tells us that in January 2008 the Assessor's Office deemed the site to be "unbuildable due to lack of enough area for septic system" and the site value was discounted by 75 percent. Finally, note no. 1 dated March 9, 2009 also deletes the assessment value for the collapsed cabin structure, observing that it "has only exterior framing and sheathing" and "has been exposed to the elements for a number of years." Note no. 1 further opines that "it is apparent that the building will never be completed to even a minimal living standard."
5. The extremely hazardous nature of the cited structure is also documented within the photographs in the record appearing at exhibit no. 6. The two photographs on sheet 6b are especially worrisome. They show the upper story of the unfinished structure about to topple and only restrained by a hardware store come-along anchored to the base of a nearby tree. These photographs depict a disaster waiting to happen.

CONCLUSIONS:

1. The collapsing cabin cited in the notice and order constitutes an extreme hazard and must be removed immediately. No further delay can be justified based on the remote possibility that the Appellants may someday find a way to legally permit this deteriorating, unfinished and marginal structure.

DECISION:

The appeal is DENIED.

ORDER:

No penalties or fines shall be assessed against the Appellants or their property if the following deadlines are met:

1. A demolition permit shall be obtained by the Appellants within **30 days** of the date of this order.
2. Demolition of the collapsed cabin shall be completed and all materials removed from the site by **September 30, 2012**.
3. If the deadlines stated above are not met, DDES may assess penalties and fines against the property and Appellants retroactive to the date of this order.

ORDERED July 12, 2012.


Stafford L. Smith
King County Hearing Examiner *pro tem*

NOTICE OF APPEAL

Pursuant to King County Code Chapter 20.24, 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 King County Superior Court within 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 DECEMBER 1, 2011, PUBLIC HEARING ON DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0800333.

Peter T Donahue conducted the public hearing in this matter. Participating in the hearing were Jeri Breazeal representing the Department of Development and Environmental Services and Ronald McGinnis, the Appellant.

The following Exhibits were offered and entered into the record:

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| Exhibit no. 1 | Development and Environmental Services staff report to the Hearing Examiner for file no. E0800333. |
| Exhibit no. 2 | Copy of the Notice and Order issued May 3, 2010 |
| Exhibit no. 3 | Copy of the Notice and Statement of Appeal received May 17, 2010 |
| Exhibit no. 4 | Copies of codes cited in the Notice and Order |
| Exhibit no. 5 | Copy of aquatic buffer overlay from GIS |
| Exhibit no. 6A-C | Photographs of property |
| Exhibit no. 7 | Assessors data |

SLS/vsm