

March 15, 2011

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

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STIPULATED REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0900908**

STEFAN MOMOTYUK
Code Enforcement Appeal

Location: 31019 – 152nd Avenue SE

Appellant: Stefan Momotyuk
represented by Yuriy Momotyuk
27327 – 48 Avenue South
Kent, Washington 98032
Email: yvmch@yahoo.com
Telephone: (253) 332-2177

King County: Department of Development and Environmental Services (DDES)
represented by Holly Sawin
900 Oakesdale Avenue SW
Renton, Washington 98055
Telephone: (206) 296-6772
Facsimile: (206) 296-6604
Email: holly.sawin@kingcounty.gov

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal/sustain Notice and Order
Department's Final Recommendation:	Sustain Notice and Order (remaining violation) with revised compliance schedule
Examiner's Decision:	Sustain Notice and Order (remaining violation) with revised compliance schedule

EXAMINER PROCEEDINGS:

Pre-Hearing Conference held: October 21, 2010
Hearing opened: January 13, 2011
Hearing closed: January 13, 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 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 issued August 30, 2010 to Stefan and Lyubov Momotyuk.
2. At hearing, DDES acknowledged the removal of the offending structures addressed by violations 1.B (attached carport/storage shed) and 1.C (greenhouse and storage shed). DDES stipulates to those matters therefore being resolved.
3. DDES also withdrew violation 1.D of the Notice and Order regarding the conversion of a garage into living space as it has been unable to determine its conversion date, which may precede zoning regulations governing it; and 1.E regarding construction of a two-story structure on the west side of the property, as DDES has been unable to determine its date of construction and therefore cannot confirm that a building permit was required. DDES noted that it is a possible non-conforming use.
4. The remaining issue for consideration therefore is violation 1.A regarding the construction of a three-bay detached garage of approximately 864 square feet in the southwestern portion of the site, partially lying within the street setback established KCC 21A.12.030. In working with Public Health's drainfield adviser, the Appellant has been unable to find suitable area on the property in which to place a new drainfield for such structure. Accordingly, the Appellant has decided to remove the three-bay garage structure. The Appellant and DDES have agreed upon a compliance schedule timeframe, with a six-month deadline for demolition and removal. DDES stated at hearing that a demolition permit is not being required by DDES and that DDES will attempt to provide vouchers for disposal of the demolition debris.

CONCLUSIONS:

1. By stipulation as noted, the remaining violation found by the Notice and Order is to be sustained, with a stipulated revised compliance schedule for resolution. The other matters have been stipulated by DDES to have been resolved and/or withdrawn by DDES and shall be dismissed.

DECISION:

As stipulated by DDES as resolved, violations 1.B and 1.C of the instant Notice and Order are **DISMISSED**.

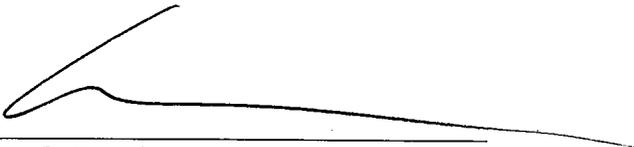
As stipulated as withdrawn by DDES, violations 1.D and 1.E of the instant Notice and Order are **DISMISSED**.

As stipulated by the parties, violation 1.A of the instant Notice and Order is SUSTAINED, with the exception that the COMPLIANCE SCHEDULE for correction is REVISED as set forth in the order below.

ORDER:

1. *By no later than September 15, 2011*, the three-bay detached garage in the southwest area of the property shall have been demolished and removed, with the demolition debris removed from the property to an approved disposal facility.
2. DDES is authorized to grant an extension of the above deadline if warranted, in DDES's sole judgment, by circumstances beyond the property owner's diligent effort and control. DDES is also authorized to grant extensions of work completion requirements for seasonable and/or adverse weather or environmental impact reasons.
3. No civil fines or penalties shall be assessed by DDES against the Momotyuks and/or the property if the above compliance requirement and deadline is complied with in full (noting the possibility of deadline extension pursuant to the above allowance). However, if the above compliance requirement and deadline are not complied with in full, DDES may impose penalties as authorized by county code retroactive to the date of this decision.

ORDERED March 15, 2011.



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 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 JANUARY 13, 2011, PUBLIC HEARING ON THE CODE ENFORCEMENT APPEAL OF STEFAN MOMOTYUK, DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0900908

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin representing the Department and Yuriy Momotyuk representing the Appellant.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | Department of Development and Environmental Services (DDES) staff report to the Hearing Examiner for E0900908 |
| Exhibit No. 2 | Copy of the Notice and Order issued August 30, 2010 |
| Exhibit No. 3 | Copy of the Notice and Statement of Appeal received September 14, 2010 |
| Exhibit No. 4 | Copies of codes cited in the Notice and Order |
| Exhibit No. 5 | Aerial photograph of subject property, annotated |

PTD :gao
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