

January 14, 2005

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

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E9701329**

IRVIN E. HARRIS

Code Enforcement Appeal

Location: 22526 Southeast May Valley Road

Appellant: Irvin E. Harris
represented by **Richard Pierson**, Attorney
505 Madison Street, Suite 300
Seattle, WA 98104
Telephone: (206) 622-1264

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

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation: Deny appeal
Department's Final Recommendation: Deny appeal; extend time for compliance
Examiner's Decision: Deny appeal in part, grant appeal in part and extend date for compliance

EXAMINER PROCEEDINGS:

Hearing Opened: January 4, 2005
Hearing Closed: January 4, 2005

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.

ISSUES/TOPICS ADDRESSED:

- Outdoor storage (home occupation)
- Junk and debris
- Landscaping of storage area

SUMMARY OF DECISION: Code Enforcement notice and order is modified, affirmed as modified, and extension of time granted.

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

FINDINGS:

1. On November 17, 2004, the King County Department of Development and Environmental Services, issued a notice of King County Code Violation, Civil Penalty Order, abatement order, notice of lien, duty to notify (“notice and order”) to Irvin E. Harris. The property subject to the notice and order is located at 22526 SE May Valley Road in unincorporated King County. Irvin E. Harris is the owner of the subject property.
2. The notice and order alleged violations of the King County Code as specifically set forth in the notice and order (exhibit no. 2). The substance of the alleged violations are: operation of a business that exceeds the standards for a home occupation; and accumulation of junk, salvage and debris.
3. A timely appeal of the notice and order was filed by Mr. Harris through his attorney. The statement of appeal contests the substance of the allegations, and also states the Appellant’s agreement to remove all equipment stored on the site.
4. The Appellant owns and operates a refrigeration business known as “Mobile Cooler Rentals, Inc.” at a separate location in Seattle.
5. The subject property is zoned RA-5. The Appellant’s use of the subject property for any business activity is minor and incidental to his residential use of the property. However, he has used the subject property for the storage of parts and equipment associated with the refrigeration business.
6. The use of the subject property for storage of parts and equipment is a permitted accessory use of the subject property only pursuant to the standards of the King County code for a home occupation (KCC 21A.30.080). Current standards limit the outdoor area of a home occupation in the RA zone to not more than 1% of the size of the lot, up to a maximum of 5,000 square feet. Any such outdoor storage is required to have 10 foot wide type 2 landscaping. KCC 21A.30.080.C.2 and 3.
7. The items and materials stored on the subject property have substantial value for their use as parts and equipment necessary and appropriate to the operation of a mobile refrigeration business. As of the date of the hearing, the parts and equipment which are the subject of the notice and order have been substantially removed from the site, although some items still remain. The Appellant has stated that the remaining parts and equipment will be removed within 30 days from the close of the hearing. The Department of Development and Environmental Services concurs that 30 days is a reasonable time in which to remove the remaining items.
8. The Department of Development and Environmental Services has determined that existing landscaping on the subject property meets the requirements for 10 feet of type 2 landscaping to screen parts and equipment stored on the property.

CONCLUSIONS:

1. Ancillary use of the subject property for the storage of parts and equipment associated with the Appellant’s business is a permitted use only to the extent it complies with the standards for a home occupation. The storage of parts and equipment on the subject property has exceeded those standards with respect to the area of storage.
2. The items stored on the subject property constituted parts and equipment appropriate to the Appellant’s business, and were not junk and debris.
3. Thirty days from the close of the hearing on this appeal is a reasonable time within which the Appellant can remove the remaining parts and equipment associated with his business or reduce the storage to an area that does not exceed 1% of the property area (2,221.5 square feet).

DECISION:

The appeal of Irvin E. Harris is granted in part and denied in part, and the notice and order dated November 17, 2004 is modified as follows:

1. The ancillary use of the subject property for a home occupation exceeded the area authorized for outdoor storage in violation of King County code section 21A.30.080. The Applicant shall reduce the outdoor storage area to comply with the applicable standards of a home occupation not later than February 4, 2005.
2. The allegation of accumulation of assorted junk, salvage and debris throughout the premises is dismissed.

ORDERED this 14th day of January, 2005.

James N. O’Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 14th day of January, 2005, via certified mail to the following parties:

Irvin Harris
22526 SE May Valley Rd.
Issaquah, WA 98027

Richard W. Pierson
Attorney at Law
505 Madison St., #300
Seattle, WA 98104

TRANSMITTED this 14th day of January, 2005, to the parties and interested persons of record:

Irvin Harris
22526 SE May Valley Rd.
Issaquah WA 98027

Richard W. Pierson
Attorney At Law
505 Madison Street #300
Seattle WA 98104

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
Code Enf. Supvr.
MS OAK-DE-0100

Patricia Malone
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

Holly Sawin
DDES/LUSD
Code Enf. Section
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 JANUARY 4, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9701329.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing was Holly Sawin, representing the Department; Richard Pierson representing the Appellant; and Irvin E. Harris.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner
- Exhibit No. 2 Copy of the Notice & Order issued November 17, 2004
- Exhibit No. 3 Copy of the Appeal received December 3, 2004
- Exhibit No. 4 Copies of codes cited in the Notice & Order
- Exhibit No. 5 Photographs of the site taken July 2, 2004 and September 13, 2004
- Exhibit No. 6 Photographs taken by Mr. Harris of the site showing cleanup on January 4, 2005

JNOC:gao
E9701329 RPT