September 30, 2009

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 hearingexaminer@kingcounty.gov

ORDER OF DISMISSAL

SUBJECT: Department of Development and Environmental Services File No. **E0700116**

FLETCHER ZUFELT
Code Enforcement Appeal

Location: 15475 SE Lake Moneysmith Road

Appellant: **Fletcher Zufelt**
15475 SE Lake Moneysmith Road
Auburn, Washington 98092

King County: Department of Development and Environmental Services (DDES)
represented by **Mary Impson**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7226
Facsimile: (206) 296-6604

1. On June 2, 2009, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Fletcher B. Zufelt of the subject property on Lake Moneysmith Road, citing certain code violations and requiring correction thereof.

2. On June 22, 2009, Mr. Zufelt filed with DDES a DDES standard form entitled Notice and Statement of Appeal on which the case number was typed and upon which he placed his signature. Otherwise, the form was not filled out and is void of any substantive content.

3. The deadline for filing a notice of appeal was June 22, 2009. The deadline for filing a statement of appeal was June 29, 2009. No documents other than the aforementioned Notice and Statement of Appeal form have been filed by Mr. Zufelt in response to the Notice and Order; specifically, no other appeal documents have been filed.

4. King County Code requires that a statement of appeal "identify the decision being appealed and the alleged errors in that decision…state specific reasons why the decision should be reversed or modified…state the harm suffered or anticipated by the appellant; and…identify the relief sought." [KCC 20.24.090.D]

5. The Hearing Examiner Rules of Procedure (ROP), promulgated under county code authority set forth in KCC 20.24.170, essentially restate the code requirements for content of a statement of appeal, requiring that "the statement of appeal must identify clearly and specifically:

   - The errors which the appellant believes were made in the action or decision which is being appealed, or the procedural irregularities associated with that action or decision.
   - Specific reasons why the county's action should be reversed or modified.
   - The harm suffered or anticipated by the appellant as a result of the action or decision being appealed. (If the appellant is a group or organization, the harm to any one or more members of the group or organization must be stated.)
   - The desired outcome of the appeal."

   [ROP IV.C.2, p.7]

6. The document filed by Mr. Zufelt does not contain the required content of a statement of appeal in that it: lacks identification of what action is being appealed; contains no statement of alleged error in the decision, or procedural irregularity; makes no statement of any reason why the action should be reversed or modified; makes no identification of the harm suffered or anticipated by the appellant; and makes no statement of the relief sought or the desired outcome of the appeal. It thus fails on all counts to provide the code- and rule-specified content elements for a statement of appeal

7. As the statement of appeal filed by the Appellant does not meet the content requirements of county code and the ROP, it is substantively insufficient and defective.

8. In addition, the statement of appeal also does not meet fundamental due process requirements of stating a claim of appeal with sufficient specificity to give notice to a respondent and any other parties of the intended cause of action.

9. As there is no identification of a cause of action, and the statement of appeal is fatally defective on its face by failing to provide the vast majority of the required content and to provide for adequate due process, Mr. Zufelt's filing is not actionable as an appeal.

10. As the appeal is not actionable, it must be dismissed.

ORDER:

The appeal filed by Fletcher B. Zufelt in this matter is DISMISSED for the above-noted reasons.

"Enforcement of any notice and order of a director issued pursuant to this title shall be stayed as to the appealing party during the pendency of any administrative appeal under this title, except [under circumstances not applicable here]." [KCC 23.36.020.B] As the appeal is dismissed, such stay is no longer in effect.

ORDERED September 30, 2009.

_____
Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

The Examiner's summary dismissal order 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 final order or decision is issued by the Hearing Examiner as three days after the written document is mailed.)

PTD:vsm
E0700116 ORD