

October 8, 2019

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

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: Department of Local Services file no. **E9901068 Supp**

**ROBERT AND MARISE SCHADER**

Code Enforcement Appeal

Location: 14169 and 14211 Carnation-Duvall Road NE, Duvall, WA 98019

Appellants: **Robert and Marise Schader**

  
Lakewood, WA 98498

King County: Department of Local Services  
*represented by* **LaDonna Whalen**  
Department of Local Services  
35030 SE Douglas Street Suite 210  
Snoqualmie, WA 98065  
Telephone: (206) 477-5567  
Email: [ladonna.whalen@kingcounty.gov](mailto:ladonna.whalen@kingcounty.gov)

RECOMMENDATIONS/DECISION:

Department's Recommendation:

Deny Appeal

Examiner's Decision:

Deny Appeal, but with Clarification

## FINDINGS AND CONCLUSIONS:

1. **Background.** King County Department of Permitting and Environmental Review issued a code violation notice to the property owners, Mr. and Ms. Schader, who appealed to the Hearing Examiner.
2. **Hearing.** The Hearing Examiner held an open record hearing on September 24, 2019, with sworn testimony from Mr. and Ms. Schader, and from the Department, through Ms. Whalen. Mr. Beach, from the County's Water and Land Resources Division, provided testimony outlining available possible compliance avenues, which would support the Appellants' farm uses. Mr. Beach's role in the proceeding was not to side with one party or the other. The position he holds was designed to support smaller farmers, including with resolving permitting questions.
3. **Summary, Structures at Issue.** The Department contends County permitting must be completed for these structures.
  - **Alleged Violation 1: Greenhouse / Barn Space Conversions.** A greenhouse was installed and barn space was converted to office and habitable space. A building permit was applied for, but never issued.
  - **Alleged Violation 2: Relocated Structures (House, Garage, Chicken Coop, and Shed).** The Department issued a building permit, but the final inspection was never completed.<sup>1</sup>
4. **History.** Enforcement efforts date back two decades, with a lengthy and acrimonious history. However, the issues now before the Examiner are narrow, relating only to whether certain structures must complete building permit review processes. Despite the history, Mr. Beach testified that he had reviewed the matter and consulted with Mr. Chan, the Division Director, and achieving compliance should be readily achievable. Ms. Whalen supported this view, and the evidence is consistent.
5. **Alleged Violation 1 Compliance Path, as the Department Outlined in Exhibit 17.**
  - **Greenhouse and Retail Portion.** Building permit required. "If the floor space accessible to the public is limit[ed], it would greatly minimize permitting requirements and simplify review. The zoning code limits retail square [*sic*] to 2,000 SF, otherwise, a conditional use permit is [also] required...."
  - **Converted Barn Space.** "The upstairs/downstairs units appeared to be storage only and may already be compliant. The space with the bedroom, toilet, sink and wood stove can be converted back to storage. This work can be included in combined building permit so proper inspection and sign off occurs. There is a path to converting these to habitable units, but there would be additional requirements...."

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<sup>1</sup> See e.g., IBC 105.1; IBC 111.1; IBC 114.1; KCC 16.02.280, 470 and .480; KCC 21A.28.020.

6. **Alleged Violation 2 (Residence, Garage, Shed and Chicken Coop) Compliance Path, as the Department Outlined in Exhibit 17.** "These structures were previously addressed under a building permit, but had not officially received final inspection approval. ... To resolve this quickly, I suggest an Over-the-Count[er] permit to allow a building inspector to inspect the structures, confirm safe conditions, and final the permit for these structures."
7. **Appellants' Permitting Concerns.** The Appellants documented their permitting difficulties, and their views of the matter, with particular detail provided in Exhibits 16 and 19, and in their testimony. The Appellants believed they had met County requirements.
8. **Permitting.** The Department substantiated that the Appellants had applied for the required building permits, but did not complete County review processes. The Department documented this through its permitting records and testimony. It is not clear how this situation resulted, but it could have been due to mixed messages over next steps. Regardless, the structures are present, building permits need to be finalized, and the evidence substantiates that these review processes, though initiated, were not completed. While the appeal should be denied, given the troubled history, some clarification is warranted.

DECISION:

The Examiner denies the appeal and requires that the building permit processes be completed. Given the history, rather than detailing multiple steps and deadlines, as outlined in the Notice of Violation, the Examiner instead orders that the necessary permit applications be submitted within 60 days of this Decision. The Appellants are to bring the structures into compliance by completing the building permit review processes and/or through other measures, within 180 days from this Decision, except as necessary to accommodate delays associated with Department permit review processes and/or appeals. On Violation 1, as much of the review was previously completed, this should be a relatively simple process. On Violation 2, this should be a quick "over-the-counter" process.

**To expedite resolution, the Hearing Examiner recommends that the Appellants and Department consult with Mr. Beach.** To assist with compliance, the Department should expedite the matter as is feasible and is directed to respect its earlier review processes to the maximum extent feasible to ensure duplicative compliance measures and unnecessary costs are avoided. Although this Decision is final, the Examiner retains limited jurisdiction for 180 days, should questions related to these deadlines arise.

ORDERED October 8, 2019.



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Susan Drummond  
Hearing Examiner pro tem

## NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County’s final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

### MINUTES OF THE SEPTEMBER 24, 2019, HEARING IN THE APPEAL OF ROBERT AND MARISE SCHADER, DEPARTMENT OF LOCAL SERVICES FILE NO. E9901068 SUPPL

Susan Drummond was the Hearing Examiner. Hearing participants were LaDonna Whalen, Robert and Marise Schader, and Eric Beach. A verbatim recording is available in the Hearing Examiner’s Office. These exhibits were admitted:

Exhibit no. 1	Department of Local Services staff report to the Hearing Examiner
Exhibit no. 2	Notice and order, issued August 31, 2018
Exhibit no. 3	Appeal, received September 21, 2018
Exhibit no. 4	Codes cited in the notice and order
Exhibit no. 5	Permitting record for property
Exhibit no. 6	E-mail from Eric Beach, dated April 10, 2019
Exhibit no. 7	Assessor Records, post 1972
Exhibit no. 8	Assessor Records, post 1973
Exhibit no. 9	Current Assessor Records
Exhibit no. 10	Aerial photographs of subject property, 2000-2019
Exhibit no. 11	Critical area overlays
Exhibit no. 12	Violation letter, dated October 13, 2000
Exhibit no. 13	Selection of documents from B00M2225
Exhibit no. 14	Selection of documents from B00L1532
Exhibit no. 15	Selection of documents from B00I0176
Exhibit no. 16	Appellant’s response to proposed action, received September 24, 2019
Exhibit no. 17	E-mail from Jim Chan on September 19, 2019, received September 24, 2019
Exhibit no. 18	Notice of Intent to Dismiss Without Prejudice from June 24, 2013, received September 24, 2019
Exhibit no. 19	Appellant’s additional narrative, received September 24, 2019

SD/jo

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**CERTIFICATE OF SERVICE**

SUBJECT: Department of Local Services file no. **E9901068 Supp**

**ROBERT AND MARISE SCHADER**  
Code Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington I transmitted the **REPORT AND DECISION** to those listed on the attached page:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 8, 2019.



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Jessica Oscoy  
Legislative Secretary

**Beach, Eric**

Department of Natural Resources and Parks

**Breazeal, Jeri**

Department of Local Services

**Deraitus, Elizabeth**

Department of Local Services

**Lux, Sheryl**

Department of Local Services

**Schader, Robert/Marise**

Hardcopy

**Whalen, LaDonna**

Department of Local Services

**Williams, Toya**

Department of Local Services