

September 27, 2019

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

King County Courthouse  
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**SUMMARY ORDER**

SUBJECT: Department of Local Services file no. **ENFR170069-S**

**NEAL COY**

Code Enforcement Appeal

Location: [REDACTED] Duvall

Appellant: **Neal Coy**  
[REDACTED]  
Duvall, WA 98019  
Telephone: [REDACTED]  
Email: [REDACTED]

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  
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On July 11, 2019, the Department of Local Services (Department) issued a notice and order (Order) to Neal Coy and to Yvonne Michaud, alleging that there were each responsible for a clearing violation on the subject property. The Order closed by noting that:

A statement of appeal must be received in writing by [the Department]... **by August 5, 2019...** FAILURE TO FILE A TIMELY STATEMENT OF APPEAL WITHIN THE DEADLINE SET FORTH ABOVE RENDERS THIS NOTICE AND ORDER A FINAL DETERMINATION THAT THE CONDITIONS DESCRIBED IN THE NOTICE AND ORDER EXISTED AND CONSTITUTED A CIVIL CODE VIOLATION, AND THAT THE NAMED PARTY IS LIABLE AS [A] PERSON RESPONSIBLE FOR CODE COMPLIANCE.

This tracks the requirement that the department must receive an appeal within 24 days of the date the decision (here, the Order) was issued. KCC 20.22.080.B.

Ms. Michaud did not submit an appeal. Thus by August 6, 2019, the Order became “final and unreviewable” against her. KCC 20.22.080.H.

Mr. Coy’s tried to appeal, but his appeal did not make it to the Department until August 7, 2019. Where “a person fails to timely deliver the appeal statement..., the office of the hearing examiner does not have jurisdiction to consider the appeal and the decision of the department...becomes final and unreviewable.” KCC 20.22.080.H. So we DISMISS his appeal, putting him in the same boat as Ms. Michaud.

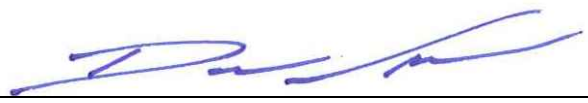
The Order required that Mr. Coy and Ms. Michaud submit a complete prescreening meeting request by August 12, lest the Department begin fining them each at \$40 a day for the first 30 days, bumping to \$80 a day thereafter. (By code, civil penalties stemming from and uncorrected notice and order “create a joint and several personal obligation in all persons responsible for code compliance.” KCC 23.24.070.B.)

A penalty recipient may seek a penalty waiver from the Department, KCC 23.32.050, and the waiver decision is itself appealable. KCC 23.32.100.A. However, in “an appeal of the assessment of civil penalties, the appellant may not challenge findings, requirements or other items that could have been challenged during the appeal period for a ... notice and order.” KCC 23.32.120.A. Neither party could, for example, assert in a penalty appeal that the Order incorrectly found them to be responsible for the violation; that finding became water under the bridge once the August 5 deadline for appealing the Order came and went.

Thus it would probably behoove Ms. Michaud and Mr. Coy to coordinate on permitting, because the situation will only get worse worse from here, if not addressed. Even penalties are not the end of the matter, because paying the “penalties does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation.” KCC 23.23.070.D. The responsible party does not complete the corrective work, the Department may proceed to abate the violation and recover its costs. KCC 23.24.120, .130.

Although the lack of a timely appeal statement deprives us of jurisdiction to address the merits of the Order, we note that the July 11 Order set a deadline 30 days out (August 12) for submitting the complete screening meeting request. That is obviously not a realistic deadline for Mr. Michaud and Mr. Coy to shoot or for the Department to hold off issuing penalties. We thus modify the Order to employ that same 30-day deadline. The Department should not issue penalties so long as it receives a complete prescreening meeting request by **October 28, 2019**, and thereafter the Order’s subsequent deadlines are met.

DATED September 27, 2019.

  
\_\_\_\_\_  
David Spohr, Hearing Examiner

### **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.

DS/jo

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**CERTIFICATE OF SERVICE**

SUBJECT: Department of Local Services file no. **ENFR170069-S**

**NEAL COY**  
Code Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **SUMMARY ORDER** to those listed on the attached page as follows:

- 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 September 27, 2019.



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Jessica Oscoy  
Legislative Secretary

**Breazeal, Jeri**

Department of Local Services

**Coy, Neal**

Hardcopy

**Deraitus, Elizabeth**

Department of Local Services

**Lux, Sheryl**

Department of Local Services

**Whalen, LaDonna**

Department of Local Services

**Williams, Toya**

Department of Local Services