

August 28, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Department of Local Services file no. **ENFR180632**

JAMES AND CLAIR MURRAY
Code Enforcement Appeal

Location: [REDACTED] Duvall

Appellants: **James and Clair Murray**

[REDACTED]
Duvall, WA 98019

Telephone: [REDACTED]

Email: [REDACTED]

King County: Department of Local Services
represented by **Holly Sawin**
Department of Local Services
35030 SE Douglas Street Suite 210
Snoqualmie, WA 98065
Telephone: (206) 477-0291
Email: holly.sawin@kingcounty.gov

FINDINGS AND CONCLUSIONS:

1. This started out as a fairly garden-variety code enforcement case, and continued that way until the end of the hearing, when things took an unusual turn. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we grant the Murrays' appeal.
2. On June 7, the Department served a notice and order alleging:

- (1) Accumulation of inoperable vehicles, vehicle parts and tires throughout the external premises... Parking/storage of vehicles on non-impervious surface (unimproved) [and]
 - (2) Accumulation of assorted rubbish, salvage and debris... throughout the premises...
3. The Murrays' June 27 appeal did not dispute that they were in violation as of June 7, and it did not even assert they had sufficiently cleaned up by the time of their appeal. Instead, they noted their ongoing efforts to come into compliance, and they requested more time. We went to hearing on August 15, seven weeks after they filed their appeal. The thrust of the Murray's argument at hearing was that they had sufficiently cleaned up in the interim, including removing over 300 tires and over a dozen inoperable vehicles.
 4. As to the (1) vehicle-related violation, the Murrays attempted to enclose several vehicles under a makeshift awning. That will not fly. Nailing some 2x4s together and putting a tarp over them is not a "building." Even if they constructed an actual building to park a vehicle in, that would get them out of one regulatory box (exposed inoperable vehicles or vehicle parts) but into another, because that new building would require a building permit. Residential accessory buildings under 200 square feet are exempt from the permit requirement when "used as tool and storage sheds," but this exemption is *not* applicable for "garages or other buildings used for vehicular storage." KCC 16.02.240(1).¹
 5. However, the Murrays explained that they had (by the time of hearing) removed all the inoperable vehicles, and that the vehicles under the tarps are *operable* ones parked on gravel. Operable vehicles must be parked on gravel or other impervious surfaces, but they need not be kept indoors. If so, the tarp configuration is an unnecessary use of wood and vinyl, but it is not a violation.
 6. The Department representative declined to stipulate that the remaining vehicles are all operable. Fair enough. Trying to get at the truth, we attempted to arrange a time where she could go to the site and confirm or rebut. As discussed below, ultimately she elected not to do that.
 7. As to (2) the accumulation of rubbish, salvage, and debris, at hearing the Murrays walked-through the Department's three-month old pictures and ticked off items they had gotten rid of—cars, refrigerators, tires, all the metal they recycled, breezeway materials, other (former) storage areas, etc. Some admittedly remained, but the allegation was an "accumulation of assorted rubbish, salvage, and debris...throughout the premises." Exhibit 2 at 001. The May pictures show a significant accumulation and violation (exhibits 5 and 6), but on the other end of the spectrum a Good Housekeeping Seal of Approval is not required. Accumulation means a quantity of something that has gradually gathered or been acquired, so a few remaining items is not an "accumulation."

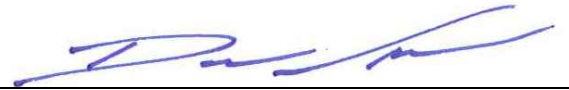
¹ We clarify that we are not here talking about the ancient and decrepit wooden shed on the property. Ex. 5 at 003. Storing autos or parts of autos in there is acceptable and does not trigger the need for a building permit.

8. We offered to keep the record open for the parties to provide more accurate evidence than the Department’s three-month-old photos. As we went back and forth trying to arrange this, the Department representative shut things down and stated for the record that she wanted us to just issue a decision. We cautioned that this was an “all or nothing” strategy, but she reaffirmed her request. We honor that. We respect Code Enforcement’s huge caseload burden and need for closure on a given file.
9. In light of the Murrays’ testimony regarding their ongoing cleanup efforts (August 15), the Department’s three-month-old photos do not carry the Department’s burden of showing either violation existed as of August 15.
10. The Murrays should not take their foot off the gas but should continue with their efforts. Even more importantly, the Murrays should not bring *new* vehicles, vehicle parts, or salvage onto the property, lest a neighbor files another complaint, we will wind up right back here again. That would not be in anyone’s interest.

DECISION:

1. We GRANT the Murrays’ appeal.

ORDERED August 28, 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.

MINUTES OF THE AUGUST 15, 2019, HEARING IN THE APPEAL OF JAMES AND CLAIR MURRAY, DEPARTMENT OF LOCAL SERVICES FILE NO. ENFR180632

David Spohr was the Examiner. Participating in the hearing were Holly Sawin, James Murray, and Clair Murray. A verbatim recording of the hearing is available in the Examiner’s Office. The following exhibits were offered and entered into the record:

- | | |
|---------------|---|
| Exhibit no. 1 | Department of Local Services staff report to the Hearing Examiner |
| Exhibit no. 2 | Notice and order, 1558100230, issued June 7, 2019 |
| Exhibit no. 3 | Appeal, received June 27, 2019 |
| Exhibit no. 4 | Codes cited in the notice and order |
| Exhibit no. 5 | Photographs of subject property, dated May 16, 2019 |
| Exhibit no. 6 | Aerial photographs of subject property, dated May 5, 2019 |

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CERTIFICATE OF SERVICE

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JAMES AND CLAIR MURRAY
Code Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** 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 August 28, 2019.



Jessica Oscoy
Legislative Secretary

Deraitus, Elizabeth

Department of Local Services

Lux, Sheryl

Department of Local Services

Murray, James and Clair

Hardcopy

Sawin, Holly

Department of Local Services

Williams, Toya

Department of Local Services