

December 19, 2022

**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. **ENFR210813 (Waiver)**

QINGHUA ZOU

Code Enforcement Appeal

Location: [REDACTED] Redmond

Appellant: **Qinghua (Victor) Zou**

[REDACTED]
Issaquah, WA 98027

Telephone: [REDACTED]

Email: [REDACTED]

King County: Department of Local Services
represented by **Jeri Breazeal**
Department of Local Services
919 SW Grady Way Suite 300
Renton, WA 98057
Telephone: (206) 477-0294
Email: jeri.breazeal@kingcounty.gov

RECOMMENDATIONS/DECISION:

Department's Recommendation: Uphold assessed fine.

Examiner's Decision: Fine reduced by a minimum of half, with jurisdiction retained for further consideration until June 30, 2023, or other date should an extension be requested and granted.

FINDINGS AND CONCLUSIONS:

1. A hearing was held December 9, 2023. Appellant Qinghua (Victor) Zou and Inspector Jeri Breazeal, representing the Department, appeared. Both individuals provided sworn testimony. 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 find as follows.
2. The Department imposed civil penalties totaling \$9,660 for failure to submit a permit for clearing/grading and impervious surface creation, and failure to remove a substandard housing occupancy by established dates. Violation substance is not before the Examiner.
3. There is no longer a substandard occupancy violation. The camping has ceased and associated vehicles removed. The only remaining violation is the incomplete permitting, which includes addressing wetland protection requirements.
4. Mr. Zou partially completed an application, but the Department found it incomplete due to the lack of certain technical materials (*e.g.*, SEPA Checklist and wetland restoration/mitigation plan). Mr. Zou had retained a wetlands consultant who prepared a wetlands delineation, so much of the wetlands work is complete. Given this work, it would not take considerable effort to complete the application.
5. Mr. Zou's ability to timely complete the application was impeded due to a series of hardships this year, including addressing colon cancer, a divorce, and a neighbor dispute. Due to these issues, coupled with losing his job on October 18, 2022, he is in financial distress. Though a feasible figure was not identified, Mr. Zou provided testimony which raised concerns over his ability to pay the assessed fine. Also, though he declined provision of an interpreter, Mr. Zou may face some language barriers, which may have impeded his ability to complete the more technical documents required to submit a complete application.
6. The code authorizes the Examiner to modify a penalty assessment in certain circumstances.

The burden is on the appellant to demonstrate by a preponderance of the evidence that civil penalties were assessed after achieving compliance or that the penalties are otherwise erroneous or excessive under the circumstances. If the hearing examiner grants the appeal, in whole or in part, the examiner shall modify the assessment of civil penalties accordingly.¹

7. In determining whether a fine is "erroneous or excessive" it is appropriate to look to both proportionality (relationship between harm caused and the fine) as well as ability to pay.²

¹KCC 23.32.110.

² See *e.g.*, *City of Seattle v. Long*, 198 Wn. 2d 136, 168 (2021).

8. Mr. Zou’s code violations have been partially corrected and unique circumstances are present. In addition to the language barrier, serious health concerns slowed compliance and financial difficulties are present. Given this situation, the assessed amount is excessive. As opposed to fund collection, the enforcement structure is targeted at achieving property compliance.³ Based on Mr. Zou’s testimony, including on violation scope, the assessed amount is likely unnecessary to secure compliance.

DECISION:

1. Based on the limited nature of the violation and significant progress made towards compliance, coupled with financial hardship and other issues facing Mr. Zou, the fine shall be reduced by at least half.
2. Further reduction will be considered upon notification to the Office of the Examiner on compliance status and its achievement. The Examiner retains jurisdiction to allow for that further consideration. The parties shall notify the Examiner on compliance status by **June 30, 2023**. The parties may request an extension if necessary, but must do so before this deadline.

ORDERED December 19, 2022.



Susan Drummond
King County 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 only become final and conclusive **after** the Examiner releases jurisdiction as addressed in Decision Paragraph 2 above. The exception to such finality is if after jurisdiction is released, 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.

³ See e.g., KCC 23.01.010; *Hernandez v. City of Kent*, 19 Wn. App. 2d 709, 725 (2021), cert. denied, 199 Wn.2d 1003 (2022).

**MINUTES OF THE DECEMBER 9, 2022, HEARING IN THE APPEAL OF
QINGHUA ZOU, DEPARTMENT OF LOCAL SERVICES
FILE NO. ENFR210813 (WAIVER)**

Susan Drummond was the Hearing Examiner pro tem in this matter. Participating in the hearing were Qinghua (Victor) Zou and Jeri Breazeal. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record by Animal Services:

Exhibit no. D1	Department of Local Services staff report to the Hearing Examiner
Exhibit no. D2	Copy of Waiver request
Exhibit no. D3	Copy of Waiver/Adjustment Form, dated September 9, 2022
Exhibit no. D4	Copy of fee waiver denial appeal, dated September 30, 2022
Exhibit no. D5	Copy of Notice and Order issued April 21, 2022
Exhibit no. D6	Copies of the bills sent
Exhibit no. D7	Copies of pictures used to assess civil penalties
Exhibit no. D8	Copy of May 2022 aerial
Exhibit no. D9	Copy of Code sections

The following exhibits were offered and entered into the record by the appellant:

Exhibit no. A1	Background information and map
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SD/lo

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CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **ENFR210813 (Waiver)**

QINGHUA ZOU

Code Enforcement Appeal

I, Lauren Olson, 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 December 19, 2022.



Lauren Olson
Legislative Secretary

Breazeal, Jeri

Department of Local Services

Lux, Sheryl

Department of Local Services

Whalen, LaDonna

Department of Local Services

Zou, Qinghua

Hardcopy