

May 20, 2022

**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. **ENFR210957**

**RONDA STERLEY AND RONALD SHEAR AND
R&R STABLES & EQUESTRIAN EVENT CENTER, LLC**
Code Enforcement Appeal

Location: [REDACTED] Enumclaw

Appellants: Ronald Shear and Ronda Sterley
R&R Stables & Equestrian Event Center, LLC
represented by **Justin Park**
Romero Parks P.S.
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Bellevue, WA 98004
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King County: Department of Local Services
represented by **Jeri Breazeal**
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I. FINDINGS OF FACT

After hearing the witnesses' testimony and observing their demeanor, studying the admitted exhibits, and considering the parties' arguments and relevant law, the Examiner finds:

1. **Background.** King County Department of Local Services (“Department”) brought an enforcement action against Ronald Shear and Ronda Sterley (“Shear/Sterley”) for code violations involving unpermitted clearing and grading. Shear/Sterley appealed.
2. **Hearing.** A hearing was held April 27, 2022. The Department appeared through Code Enforcement Officer Breazeal. Shear/Sterley appeared through Mr. Park of Romero Park, PS. The Department called Code Enforcement Officer Nick Stephens and PPM Regulatory/Permitting Specialist Eric Beach as witnesses. Shear/Sterley called Ronald Shear. Following the hearing, the parties submitted closing statements. The parties’ exhibits were admitted at hearing outset by stipulation.¹
3. **Property.** The site is at 45521 212th Avenue SE, Enumclaw, WA 98022, Parcel #0006400009 and #0006400014 (“Property”). The Property is zoned Agriculture-35. It consists of over 100 acres on which Shear/Sterley own and operate an equestrian facility, manage manure and soil amendments, and raise crops for animal feed. Uses are described as:
 - Equestrian Facility: 45 acres with 75 horses
 - Beef Cattle: 10 acres
 - Compost/Manure Management/Soil Amendments: 10 Acres
 - Hay Crops: 44 acres²
4. **Citation.** The citation alleges unpermitted clearing and grading occurred on the Property over exempt limits.³ At the hearing, the parties confirmed that the only question before the Examiner is whether clearing and grading permitting is required. The Citation describes clearing and grading as meeting the permitting threshold.

Cleared trees and vegetation down to the dirt, left 1 row of trees standing as a border running parallel with 212th Street and 2 rows of trees as a border running parallel with 450th Street, created a large dirt berm approximately 10’ to 15’ height x 300’ long parallel with the furthest line of trees from 450th Street. Stockpiled large piles of dirt in the cleared area approximately 15’ to 20’ high. On vacant parcel 000640-0014 [s]tockpiled a large pile of dirt and other miscellaneous earthy material approximately 15’ to 20’ high, ... also stockpiled other large piles of the same material and cleared the trees and vegetation from the 2 streams running perpendicular with 456th Way....⁴

Shear/Sterley contended the work fell within agricultural exemptions, so did not require clearing and grading permitting.

¹ See attached Exhibit List.

² Exhibit A-3, p. 4; Testimony, Mr. Shear.

³ Exhibit D-1.

⁴ Exhibit D-2, p. 2.

5. **Shear/Sterley Description of Work.** Shear/Sterley claimed that the clearing and grading involved agricultural activities, such tilling, discing, planting/seeding, soil amendment, and drainage ditch maintenance. Shear/Sterley described the area which is the focus of the citation as previously covered with aging manure, scrub trees, and other brush.⁵ Photographs show a fallow field, grown over with small, fast-growing cottonwoods and other brush.⁶ Property soil is fertile so was quickly covered with brush, blackberry, and cottonwood, which can grow six feet in a year.⁷ After buying the Property, Mr. Sterley testified that he commenced work to return this area to being actively farmed agricultural land.

Shear/Sterley cleared brush and trees. This included cottonwood trees and brush removed from man-made drainage ditching running in a straight line through the field.⁸ The ditching is used to spread out and infiltrate rainwater as agricultural drainage.⁹ Shear/Sterley removed the trees and brush from the ditching to maintain the drainage purpose, explaining they have drained more effectively since being cleaned out.¹⁰

Cleared brush and trees were ground and blended with the stockpiled manure. This material was placed on the edge of the area, creating a berm. The field was smoothed, disced, and planted with oats.¹¹ The manure and brush material were blended with the other material and aged. Mr. Shear described the process creating the material used for soil supplementation:

- Unused clean animal bedding is brought on site and stored in a shed.
- The unused bedding is placed in horse stalls in the stables as needed.
- When it needs replacing, the used material (now covered in animal excrement) is removed and taken out to the management piles (which include the material removed from the previously fallow fields), which are blended.
- There it ages in an uncontrolled environment for such time until it is needed.
- It is then either spread onto the fields on site as a soil amendment or sold to other farmers for the exact same use, as a soil amendment.¹²

Declarations from local farmers regarding the use of this material and photos of same were provided.¹³ The material was shown in demonstrative exhibits, and described by Mr. Shear as not including chemicals or man-made materials, but allowed to naturally

⁵ Exhibit A-2, photos AA-FF, II, JJ; Testimony, Mr. Shear.

⁶ “Rotating crops” means that some land lays fallow. KCC 16.82.051. Allowing agricultural lands to lie fallow consistent with conservation provisions is an agricultural activity. KCC 21A.06.036(C).

⁷ Testimony, Mr. Shear.

⁸ Testimony, Mr. Shear. *See also* Exhibit A-2, Photo HH.

⁹ KCC 21A.06.037.

¹⁰ Testimony, Mr. Shear.

¹¹ Exhibit A-2, photos GG, HH, OO.

¹² In its closing brief, on p. 4, the Department clarified that “Composting these materials [bedding/manure] is a common on-farm practice. Although bedding material may be imported, then used as bedding and then composted, this activity is not the topic of the complaint.”

¹³ Exhibits A-2, photos KK-MM; Exhibits A-5 through A-8. Materials were described in the declarations and Mr. Shear’s testimony as used as bedding for cattle or other animals, soil supplementation, or hay.

decay,¹⁴ sitting in piles outside with no controls for temperature, moisture, or other variable applied.¹⁵

II. CONCLUSIONS OF LAW

1. **Jurisdiction and Review Standard.** The Examiner has jurisdiction over this appeal of a code enforcement citation.¹⁶ “The burden of proof is on the county to establish by a preponderance of the evidence that the violation was committed.”¹⁷
2. **Grading and Clearing.** “Grading means any excavating, filling or land-disturbing activity, or combination thereof.”¹⁸ If over 100 cubic yards exceeding three feet in height are excavated, or over 7,000 square feet are cleared, unless the activity is exempt, a permit is required.¹⁹ The parties did not dispute that these numeric quantities were exceeded.
3. **Agricultural Exemptions.** KCC 16.82.051 provides a chart showing when a clearing and grading permit is required. Under the section of that chart for “Agriculture,” the chart describes activities designated as “NP” meaning no permit is required. Shear/Sterley claimed its activities were exempt as they involve: (a) Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity; (b) Construction and maintenance of livestock manure storage facility; and (c) Maintenance or replacement of agricultural drainage. Testimony from Mr. Shear detailed these activities.
4. **Activities.** A portion of the Property was disced and seeded with oats. To allow for that, cottonwood trees and brush were removed. These materials were ground and mixed with manure and then used as soil amendments on-site and also sold for off-site use. The Department characterized Appellants’ actions as including “composting.” KCC 21A.06.036 identifies “composting and other soil amendments” as an “agricultural activity”²⁰ and state law excludes the “[n]atural decay of organic solid waste under uncontrolled conditions” from composting.²¹ The Department acknowledged through Mr. Beach’s testimony that “[t]he intent of the Code is to allow the composting of residual materials that come from the farm to be re-introduced as soil amendments.”²² Mr. Beach clarified that “[t]here’s no distinction between woody debris and other plant material”²³ and reiterated that material originating from a farm or from raising livestock

¹⁴ WAC 173-350-100 (natural decay of natural materials not compost).

¹⁵ Testimony, Mr. Shear.

¹⁶ Ch. 23.20 KCC; and Ch. 20.22 KCC.

¹⁷ KCC 23.20.080(D).

¹⁸ KCC 16.82.020(O).

¹⁹ KCC 16.82.051(B)(1) and (3).

²⁰ KCC 21A.06.039 does not mention compost.

²¹ WAC 173-350-100 (Defines “Composting” and “Composted material”).

²² Hearing 47:28-41.

²³ Hearing 49:01-11.

is agricultural. Given the evidence, the products produced are reasonably viewed as agricultural, with residual farm materials being introduced as soil amendments.²⁴

5. **Drainage Ditch Maintenance.** Shear/Sterley described the drainage ditching. The testimony that clearing was necessary to maintain ditch function was not disputed. Trees removed from this area were cottonwood.²⁵ Though not intentionally planted, they were ground and incorporated into soil amendments, so reasonably fall within the agricultural classification. Based on the evidence provided, the drainage ditch maintenance exemption applies.
6. **Extent of Agricultural Activity.** The parties did not dispute that clearing and grading exceeded amounts exempt from permitting quantity-wise. Shear/Sterley produced evidence demonstrating its activities are agricultural. There may be other evidence or argument not introduced potentially showing otherwise, but the Examiner can only consider what was presented. Based on the record presented here, the grading and clearing activities were shown to be for agricultural purposes.
7. **Appeal Scope.** The Department briefly argued in its closing statement that the appeal had not identified the agricultural exemption as an issue. Greater clarity would have been useful, but the appeal did state that permitting was not required for the work completed on the Property so encompasses available exemptions. Also, both parties litigated whether or not the grading and clearing were exempt agricultural activities, with the Department objecting only in its closing statement, which had no reply opportunity. The exemption issue was properly before the Examiner.

DECISION:

The Citation is reversed. No penalties shall be assessed against Ronda Sterley and Ronald Shear.

ORDERED May 20, 2022.



Susan Drummond
King County Hearing Examiner *pro tem*

²⁴ The Department's witness addressing composting/solid waste questions lacked personal familiarity with the site so could not classify the use as agricultural activity or not. Mr. Beach, Testimony.

²⁵ KCC 21A.06.039(E).

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 APRIL 27, 2022, HEARING IN THE APPEAL OF RONDA STERLEY AND RONALD SHEAR AND R&R STABLES & EQUESTRIAN EVENT CENTER, LLC, DEPARTMENT OF LOCAL SERVICES FILE NO. ENFR210957

Susan Drummond was the Hearing Examiner pro tem in this matter. Participating in the hearing were Jeri Breazeal, Nick Stephens, Eric Beach, Justin Park, and Ronald Shear. 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 the Department:

Exhibit no. D1	Department of Local Services staff report to the Hearing Examiner
Exhibit no. D2	Notice and order, issued October 21, 2021
Exhibit no. D3	Appeal, received November 15, 2021
Exhibit no. D4	Codes cited in the notice and order
Exhibit no. D5	Photographs of subject property, dated on October 1, 2021
Exhibit no. D6	Aerial photographs of subject property
Exhibit no. D7	Memo from Eric Beach, dated February 16, 2022

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

Exhibit no. A1	Photos A-Q
Exhibit no. A2	Photos AA – OO
Exhibit no. A3	Excise Tax Affidavit for Property
Exhibit no. A4	Resume of Mara McGrath
Exhibit no. A5	Declaration of Robert Vanhoof
Exhibit no. A6	Declaration of Jason Gwerder
Exhibit no. A7	Declaration of Kelyn Wallin
Exhibit no. A8	Declaration of Tom Desanto
Exhibit no. A9	(Demonstrative Exhibits) 3-4 bags of material from R&R Stables

SD/lo

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CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **ENFR210957**

**RONDA STERLEY AND RONALD SHEAR R&R STABLES
& EQUESTRIAN EVENT CENTER, LLC**

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 May 20, 2022.



Lauren Olson
Legislative Secretary

Beach, Eric

Department of Natural Resources and Parks

Breazeal, Jeri

Department of Local Services

Heldreth, Laura

R&R Stables & Equestrian Event Center, LLC

Hardcopy

Lux, Sheryl

Department of Local Services

McGrath, Mara

Hardcopy

Park, Justin

Romero Parks P.S.

Hardcopy

R&R Stables & Equestrian Event Center, LLC

Ronda Sterley, Ronald Shear

R&R Stables & Equestrian Event Center, LLC

Hardcopy

Stephens, Nick

Department of Local Services

Sullivan, Ted

Department of Natural Resources and Parks

Whalen, LaDonna

Department of Local Services