July 22, 2024

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

SUMMARY ORDER

SUBJECT: Department of Local Services file no. **ENFR221065**

ALICE BOSSART AND RAYMOND BERRY
Code Enforcement Appeal

Location: [redacted]

Appellants: **Alice Bossart and Raymond Berry**
[redacted]
Redmond, WA 98052
Email: [redacted]

King County: Department of Local Services
represented by **Greg Kirk**
Department of Local Services
919 SW Grady Way Suite 300
Renton, WA 98057
Telephone: (206) 848-0467
Email: gkirk@kingcounty.gov

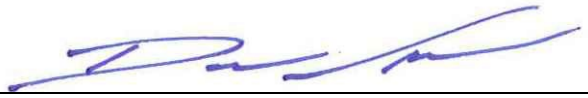
Local Services issued Appellants a notice and order asserting County code violations for (1) constructing a fence in a county right-of-way and (2) clearing vegetation in amounts/and or locations triggering the need for a clearing permit. Appellants submitted a document by the deadline to challenge the notice and order, but not one that raises issues an examiner has jurisdiction to consider. Therefore, we dismiss their appeal and give them the opportunity to take their challenges to a tribunal with authority to consider those.

Appellants raise foundational issues such as whether the County—Local Services, and thus presumably the examiner—have territorial jurisdiction to act here. Their challenge is a little difficult to decipher in places, but they appear to assert that their federal land patent and rights as a citizens of a federal territory bars enforcement and renders them not subject to any County police powers; the County cannot build or regulate roads within the territorial boundaries of a

state of the Union; and that they have adversely possessed the right-of-way anyway.[1] Such "defenses or claims based on the constitutionality of County regulations may be raised to exhaust administrative remedies and make a record for judicial review, but they are beyond the examiner's jurisdiction to decide." Exam. R. III.A. Thus, while Appellants have duly raised their claims for purposes of judicial review, the examiner has no authority to act on their claims.

We thus DISMISS Appellants' challenge. Appellants are now free to take their issues to the appropriate tribunal.

DATED July 22, 2024.



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.

[1] We presume that Appellants are aware that adverse possession does not run against land "held for any public purpose." RCW 7.28.090. That is no modern concoction; it codifies the ancient common law rule of *nullum tempus occurrit regi* (no time runs against the king). However, think we grasp Appellants' point—if it were true that the County was simply a neighboring *private* owner, then presumably adverse possession would run against the County, just like it would against any other private owner.

July 22, 2024

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **ENFR221065**

ALICE BOSSART AND RAYMOND BERRY
Code Enforcement Appeal

I, Lauren Olson, 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, through Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED July 22, 2024.

Lauren Olson

Lauren Olson
Legislative Secretary

Campbell, Thomas
Department of Local Services

Kirk, Greg
Department of Local Services

Raymond Berry, Alice Bossart
Hardcopy

Whalen, LaDonna
Department of Local Services