



**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

**Hearing Examiner's Office**

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Subject: Contested Citation

**Millie Judge**  
Hearing Examiner

File No.: 12-104756 CT

M/S 405  
3000 Rockefeller Ave.  
Everett, WA 98201

Appellant: **DAWNETTE LENE FOSTER**

Respondent: Snohomish County Planning and Development Services Department (PDS) (425) 388-3538  
FAX (425) 388-3201

Decision: The Appeal is **Dismissed with Prejudice**

**INTRODUCTION**

This matter having come before the Hearing Examiner on November 7, 2012, the witnesses having been duly sworn, the testimony of witnesses having been heard, and all exhibits admitted into evidence having been considered, the Examiner enters the following Findings of Fact, Conclusions of Law and Decision based on a preponderance of the evidence:

**FINDINGS OF FACT**

1. Dawnette Lene Foster is the owner of certain rental property located at 14925 Ash Way, Lynnwood, WA 98087 (hereinafter referred to as "the subject property"). PDS issued a Citation to Ms. Foster on September 7, 2012, alleging violations of SCC 30.22.100 and 30.65.285, for allowing junkyard conditions to exist on the subject property. (Exhibit 1)
2. Ms. Foster timely filed a request to contest the Citation on September 21, 2012. A public hearing was held on the Citation on October 17, 2012 before the Hearing Examiner. At the public hearing, the Appellant failed to appear. Craig Odegaard appeared on behalf of PDS. No members of the public attended the public hearing.
3. The Examiner considered whether proper notice was provided. Although notice was sent to the subject property, the Examiner found that the Appellant had provided an alternate address located on Camano Island, and that service of the notice to that address had not been made. Accordingly, the Hearing Examiner continued the hearing and ordered that a new hearing date should be selected and that additional notice should be provided to Ms. Foster.
4. New notice was sent to Ms. Foster at her address on Camano Island via regular and certified mail. The return receipt was signed by Ms. Foster evidencing her receipt of the hearing notice on October 19, 2012. (Exhibit 4)
5. On November 7, 2012 at 9:30 a.m. the hearing was reconvened, with PDS Code Enforcement Officer Craig Odegaard in attendance. The Appellant failed to appear and made no efforts to

contact Officer Odegaard or the Hearing Examiner's Office. No members of the public were in attendance.

6. The exhibits were admitted into evidence. (Exhibits 1-4)
7. The Hearing Examiner finds that a *prima facie* case of a violation has been demonstrated by the facts in evidence based on Exhibits 1 through 4 and the testimony of Officer Odegaard. The Appellant failed to appear and did not submit evidence to controvert such facts.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact entered above, the following Conclusions of Law are entered:

1. The Hearing Examiner is authorized to hear and decide this matter pursuant to Chapter 2.02 SCC and Chapter 30.85 SCC.
2. According to the Citation issued on September 21, 2012, Ms. Foster is accused of violating SCC 30.22.100 and 30.65.285, for allowing junkyard conditions to exist on the subject property. (Exhibit 1) The Hearing Examiner concludes that PDS demonstrated that the violation occurred as alleged by a preponderance of the evidence. Ms. Foster failed to provide any evidence that the violation did not exist. The Hearing Examiner finds that the Citation was properly issued and should be affirmed.
3. By failing to appear after proper notice was provided, Ms. Foster has waived her right to contest the Citation issued in this case.
4. A civil fine of \$150.00 was properly assessed according to SCC 30.85.130.
5. Any Conclusion in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

### **DECISION and ORDER**

Based on the Findings of Fact and Conclusions of Law entered above, the Hearing Examiner hereby affirms the Citation and \$150.00 fine imposed by PDS.

**ORDER** issued November 19, 2012.

  
Millie Judge, Hearing Examiner

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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The decision of the Hearing Examiner is final and conclusive with a right of appeal to Superior Court. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information

about reconsideration and appeal procedures, please see Chapter 30.85 SCC, the Snohomish County Hearing Examiner Rules and Superior Court Civil Rules.

### **Reconsideration**

Any party of record may request reconsideration by the Hearing Examiner **within 10 days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or before November 29, 2012**. There is no fee for filing a petition for reconsideration. "The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to *all parties of record* on the date of filing." [SCC 30.85.210]

A petition for reconsideration shall meet the requirements of SCC 30.85.210(3). The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner's decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record; and/or
- (e) New evidence which could not reasonably have been discovered prior to the hearing and which is material to the decision has been discovered;

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.85.210.

### **Appeal**

An appeal to Superior Court may be filed by any aggrieved party of record **within 21 days from the date of this decision** pursuant to Chapter 36.70C RCW, the Land Use Petition Act. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the Superior Court.

NOTE: *Please include the County file number in any correspondence regarding this case.*

### **Staff Distribution:**

Craig Odegaard, PDS

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.

PARTIES OF RECORD REGISTER  
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CITATION

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