



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

CITY OF PORTLAND, petitioner, vs. LAURENCE ZIMMER, respondent

CASE NO. 2090046
[Bureau Case No. 93-000460-HS]

PROPERTY / PARK: 6935 SE Lexington St.

LEGAL DESCRIPTION:
Section 201S2E, TL 6800, 0.21 Acres, 1S2E20CA-06800,
City of Portland, Multnomah County, Oregon

DATE OF HEARING: September 9, 2009

APPEARANCES:

Mr. Laurence Zimmer, respondent

Mr. Steven Kass, representing the City of Portland

HEARINGS OFFICER: Mr. Ian Simpson

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Both Mr. Zimmer, the respondent, and Mr. Kass, Bureau of Development Services Senior Housing Inspector, testified under oath or affirmation. The Hearings Officer asked the parties if they were close to an agreement, and they responded that they were. Mr. Zimmer testified that all of the listed violations exist. The Hearings Officer closed the hearing and scheduled a continued hearing for September 21, 2009. The Hearings Officer informed the parties that if an agreement acceptable to the Hearings Officer was submitted before the continued hearing then the continued hearing would be canceled.

Mr. Kass submitted a Stipulated Agreement for Repairs ("Stipulated Agreement") (Exhibit 40) on September 15, 2009, signed by Mr. Zimmer and Mr. Kass. The Stipulated Agreement relates to the anticipated correction of violations (Exhibit 1, Attachment A) at 6935 SE Lexington St., Portland, Oregon ("Subject Property") and consequences for failure, in a timely manner, to make corrections in a manner acceptable to the City. The Hearings Officer received Exhibits 1 through and including 40 into the record without objections (Exhibit 40, the Stipulated Agreement, was received after the September 9, 2009 hearing).

The Hearings Officer, having reviewed the Stipulated Agreement, agrees that it is in the best interests of the City and the respondent that the Stipulated Agreement becomes part of this Order. The Hearings Officer incorporates the Stipulated Agreement as a part of this Order, and a copy of the agreement is attached herein.

The Hearings Officer modifies the date, February 1, 2009, indicated in the paragraph beginning with "1." in the Stipulated Agreement, to February 1, 2010. The Hearings Officer makes this modification to correct what appears to have been a scrivener's error.

The Hearings Officer finds that the Stipulated Agreement appears to provide for reducing fines related to Lien # 00098156 to \$6,500.00. The Hearings Officer has no authority to modify this lien, and so has no authority to enforce this portion of the Stipulated Agreement.

ORDER AND DETERMINATION:

1. The Hearings Officer has accepted the "Stipulated Agreement For Repairs" (Exhibit 40), dated September 14, 2009, a copy of which is attached to this Order and made a part thereof, subject to the modifications detailed below.
2. The date, February 1, 2009, indicated in the paragraph beginning with "1." in the Stipulated Agreement, is modified to refer to February 1, 2010.
3. The Hearings Officer has no authority to modify Lien # 00098156, and so this portion of the Stipulated Agreement is not a subject of this Order.
4. Violation of any term and/or condition of the Stipulated Agreement, as modified in this Order, is a violation/breach of this Order.
5. The Hearings Officer shall retain jurisdiction in this case until February 4, 2010.
6. This Order has been mailed to the parties on September 28, 2009, and shall become final and effective on October 12, 2009. Any objections to this Order must be in writing and received by the Code Hearings Office before the effective date. This case will be closed on February 8, 2010.
7. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: September 28, 2009



Ian Simpson, Hearings Officer

IS:cb

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Complaint w/Attachment A - List of Violations	Whelan, Peggy	Received
2	Bureau Notification List	Whelan, Peggy	Received
3	Photos	Whelan, Peggy	Received
4	Multnomah Co. Assessor Property Information	Whelan, Peggy	Received
5	Photo dated 10/24/02	Whelan, Peggy	Received
6	Photo dated 9/15/04	Whelan, Peggy	Received
7	Photo dated 2/11/05	Whelan, Peggy	Received
8	Photo dated 12/20/05	Whelan, Peggy	Received
9	Photos dated 9/28/06	Whelan, Peggy	Received
10	Photos dated 10/18/07 (2 pgs)	Whelan, Peggy	Received
11	Photos dated 2/19/08	Whelan, Peggy	Received
12	Photos dated 2/3/09	Whelan, Peggy	Received
13	AMANDA data printouts (3 pgs)	Whelan, Peggy	Received
14	Copies of inspection cards (5 pgs)	Whelan, Peggy	Received
15	Notice of Violation dated 9/22/93	Whelan, Peggy	Received
16	Case History sheets (4 pgs)	Whelan, Peggy	Received
17	Letter to respondent from Ed Marihart dated 6/17/94	Whelan, Peggy	Received
18	Notice of Violation Progress Report w/List of Violations dated 12/13/02	Whelan, Peggy	Received
19	Notice of Violation Progress Report w/List of Violations dated 7/31/03	Whelan, Peggy	Received
20	Notice of Violation Progress Report w/List of Violations dated 3/5/04	Whelan, Peggy	Received
21	Notice of Violation Progress Report w/List of Violations dated 9/20/04	Whelan, Peggy	Received
22	Notice of Violation Progress Report w/List of Violations dated 12/23/05	Whelan, Peggy	Received
23	Notice of Violation Progress Report w/List of Violations dated 4/26/06	Whelan, Peggy	Received
24	Notice of Violation Progress Report w/List of Violations dated 10/11/06	Whelan, Peggy	Received
25	Notice of Violation Progress Report w/List of Violations dated 10/22/07	Whelan, Peggy	Received
26	Notice of Violation Progress Report w/List of Violations dated 2/20/08	Whelan, Peggy	Received
27	Notice of Violation Referral to Hearings Officer w/List of Violations dated 2/5/09	Whelan, Peggy	Received
28	Lien Accounting Report dated 5/15/09	Whelan, Peggy	Received
29	Letter to respondent from Suzanne Lindstrom dated 2/21/08	Whelan, Peggy	Received
30	Letter to respondent from Suzanne Lindstrom dated 1/7/09	Whelan, Peggy	Received
31	Letter to respondent from Nancy Sexton dated 9/2/97	Whelan, Peggy	Received
32	Letter to respondent from Nancy Sexton dated 11/12/97	Whelan, Peggy	Received
33	Notice of Code Enforcement Fee Increase dated 6/6/02	Whelan, Peggy	Received
34	Enforcement Fee Increase Notification dated 9/26/07	Whelan, Peggy	Received
35	Enforcement Fee Increase Notification dated 6/30/08	Whelan, Peggy	Received
36	Mailing list	Hearings Office	Received
37	Hearing notice	Hearings Office	Received
38	Notice of Rights & Procedures	Hearings Office	Received
39	Personal Service and Service by Posting w/attachment	Kass, Steve	Received
39a	Photos dated 9/9/09 (1 page, color)	Kass, Steve	Received
40	Stipulated Agreement for Repairs	Kass, Steven	Received