



CITY OF  
**PORTLAND, OREGON**

HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

CITY OF PORTLAND, petitioner, vs. DIANNA S. TRACHSEL and DAVID M. JONES, respondents

CASE NO. 2090006  
[Bureau Case No. 06-125669 CC]

PROPERTY / ZONE / PARK: 11110 NW Skyline Blvd.

LEGAL DESCRIPTION:  
Macleays Skyline Hms, Exc Sly 127' Lot 10,  
City of Portland, Multnomah County, Oregon

DATE OF HEARING: March 11, 2009

APPEARANCES:

Ms. Michelle Seward, for the City

Ms. Dianna S. Trachsel, Respondent

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Dianna Trachsel, respondent, appeared and testified on behalf of respondents. Ms. Michelle Seward appeared and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Trachsel and Ms. Seward and the exhibits admitted into the evidentiary record (exhibits 1 through and including 17).

Ms. Seward reviewed exhibits 1-11, 16 and 17 at the hearing. Ms. Trachsel stated that she and Mr. Jones (respondent) purchased property located at 11110 NW Skyline Blvd. (the "Subject Property") on contract from the Vaughn's for the purposes of assisting Scott Cothoff (Ms. Trachsel's son). Ms. Trachsel testified that Mr. Cothoff occupies the Subject Property. Ms. Trachsel did not deny the alleged violation, per exhibit 1, exists. Ms. Trachsel stated that money is an issue in complying with the City's application and remediation requests.

Ms. Seward testified that the alleged violation does exist at the Subject Property (per exhibit 1). The Hearings Officer finds Ms. Seward's testimony and the admitted exhibits are credible. The Hearings Officer finds that the alleged violation listed on exhibit 1 does exist.

Ms. Seward requested, per exhibit 1, that the Hearings Officer order (1) the violation be corrected, (2) a civil penalty in the amount of \$1,492.80 be assessed and become a lien to cover costs incurred by the City up to the date of the hearing, and (3) assess an additional \$10,000 civil penalty and a lien, to be suspended for 30 days, to permit respondents to make progress towards correcting the violations.

The Hearings Officer finds it reasonable to order respondents to correct the violation (per exhibit 1) at the Subject Property. The Hearings Officer also finds it reasonable that a civil penalty, in an amount sufficient to cover the expenses of the City through the date of the hearing, be assessed and become a lien against the Subject Property. The Hearings Officer also finds it reasonable that an additional civil penalty, in the amount of \$10,000, be awarded; however, such civil penalty should be suspended for a period of time to permit respondents to correct the violations. The Hearings Officer finds that respondents should have more time than suggested by Ms. Seward to make progress towards correction of the violations. The Hearings Officer finds that respondents should have 60 days (not 30 days as requested by Ms. Seward) to submit a complete environmental violation review and a final decision must be rendered on the environmental review application within 150 days. Finally, the Hearings Officer finds that respondents should have until October 1, 2009 to complete any conditions of an environmental review related to removal of soil and until October 30, 2009 to complete any conditions of an environmental review related to mitigation plantings.

#### ORDER AND DETERMINATION:

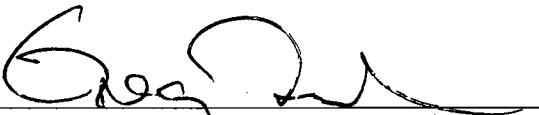
1. Respondents shall correct the violation set forth in exhibit 1 and undertake all actions necessary to correct such violation and/or prevent reoccurrence.
2. A civil penalty of \$1,492.80 is assessed against the Subject Property and shall become a lien against the Subject Property on March 31, 2009.
3. A civil penalty of \$10,000 is assessed against the Subject Property. This civil penalty shall be suspended until the earliest of the following events occur:
  - a. Failure of respondents to submit a complete environmental violation review (per City Code Title 33.430) by May 20, 2009;
  - b. Failure to receive a final decision upon an environmental violation review by August 20, 2009;
  - c. Failure to complete any conditions set forth in an environmental violation review decision relating to soil removal by October 1, 2009;
  - d. Failure to complete any conditions set forth in an environmental violation review decision relating to mitigation plantings by October 30, 2009.
4. If respondents fail to meet any of the requirements of paragraph 3, the \$10,000 civil penalty shall be filed as a lien against the Subject Property upon written notice from the Bureau of Development Services. In the event no written notice is received by the Hearings Office from the Bureau of Development Services by November 2, 2009, the \$10,000 civil penalty shall be filed as a lien against the Subject Property on November 3, 2009.
5. This order has been mailed to the parties on March 11, 2009, and shall become final and effective on March 25, 2009. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date. This case will be closed on November 5, 2009.

6. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: March 11, 2009

GJF:rs

Enclosure



Gregory J. Frank, Hearings Officer

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Complaint	Seward, Michelle	Received
2	Mailing List	Seward, Michelle	Received
3	GARTH printout	Seward, Michelle	Received
4	Multnomah County Property Records	Seward, Michelle	Received
5	Multnomah County Property Records	Seward, Michelle	Received
6	5/1/06 Photos	Seward, Michelle	Received
7	4/3/07 Notice of Zoning Violation letter, Seward to Vaughans/Trachsel/Jones	Seward, Michelle	Received
8	5/21/07 Notice of Enforcement Penalty letter, Seward to Vaughans/Trachsel/Jones	Seward, Michelle	Received
9	3/27/08 Zoning Violation and Lien Assessment Update Letter, Seward to Vaughans/Trachsel/Jones	Seward, Michelle	Received
10	1/12/09 Notice of Possible Code Hearing letter, Seward to Vaughans	Seward, Michelle	Received
11	1/28/09 photo	Seward, Michelle	Received
12	Mailing List	Hearings Office	Received
13	Hearing Notice	Hearings Office	Received
14	Notice of Rights and Procedures	Hearings Office	Received
15	Updated Hearing Notice	Hearings Office	Received
16	Personal Service and Service by Posting	Seward, Michelle	Received
17	3/3/09 Photos	Seward, Michelle	Received