



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

1900 S.W. 4<sup>th</sup> Avenue, Room 3100  
Portland, Oregon 97201  
Telephone: (503) 823-7307  
FAX: (503) 823-4347  
TDD (503) 823-6868  
[www.portlandonline.com/auditor/hearings](http://www.portlandonline.com/auditor/hearings)

**HEARINGS OFFICER'S ORDER**

CITY OF PORTLAND, petitioner, vs. NORMAN YEE, respondent

CASE NO. 2090027  
[Bureau Case No. 07-180660 CC]

PROPERTY: 1805 NE 141<sup>st</sup> Ave.

LEGAL DESCRIPTION:  
Richland TL 3500 Lot 8,  
City of Portland, Multnomah County, Oregon

DATE OF HEARING: May 15, 2009

**APPEARANCES:**

Respondent did not appear

Ms. Michelle Seward, representing the City of Portland

HEARINGS OFFICER: Mr. Ian Simpson

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Norman Yee, the respondent, is the contract purchaser of the subject property, and is buying it from the Oregon Department of Veteran's Affairs. Mr. Yee failed to appear at the hearing and did not contact the Hearings Office to state that he would be late. On May 29, 2009, 14 days after the hearing, a man left a voice mail message with the Hearings Office. The man did not leave a name or phone number for a call back, but gave the address of the subject property. The man said that he had a hearing scheduled for May 15, but that he had just received the hearing notice and wanted to reschedule the hearing. A Notice of Hearing was mailed to Mr. Yee at the subject property's address and to a post office box on May 5, 2009 (Exhibit 14). The notice sent to the property was returned to the Hearings Office on May 8, 2009 because the property had no mailing receptacle. The notice sent to the post office box was not returned to the Hearings Office.

Ms. Seward, of the Bureau of Development Services (BDS), Compliance Services, testified under oath or affirmation. Ms. Seward presented documentation of violations of Title 33, the Planning and Zoning Code, on the subject property. The Hearings Officer finds that the property is located within the City of Portland, and therefore, the City has jurisdiction in this case. Exhibits 1 through and including 19 were received into the record without objection.

Ms. Seward testified that she has had no contact with the respondent during the course of this case. Ms. Seward stated that Compliance Services received a phone message in January 2009, asking for an adjustment. The caller did not leave a return phone number and the caller ID indicated an unknown phone number.

A Notice of Zoning Violation (Exhibit 6) dated December 6, 2007 was mailed to Mr. Yee at the subject property's address. Since then additional notices (Exhibits 8, 10 and 11) were sent to Mr. Yee. Ms. Seward testified that notices have also been posted on the property. Ms. Seward presented photographs (Exhibits 9, 17 and 19) dated January 16, May 8 and May 14, 2009, showing a notice from the City inserted into the gate on the property. The Hearings Officer finds that the City satisfied the notice requirements of Portland City Code 22.03.030 Notice of Hearing.

Ms. Seward testified that the Complaint contains two violations (Exhibit 1). The first is parking and/or maneuvering motor vehicles on the unpaved yard that is not the recognized parking area, violating Portland City Code 33.266.120. The second is parking/storing an accessory recreational vehicle (vacation trailer) and a utility trailer between the front lot-line and the building line, violating Portland City Code 33.266.150.

Ms. Seward presented photographs dated December 5, 2007 (Exhibit 5) showing the truck and camper top with trailer parked in violation of the zoning code. Subsequent photographs (Exhibits 7, 9 12, 17 and 19) dating up to May 14, 2009 show the vehicles continuing to violate the zoning code.

Ms. Seward requested relief (Exhibit 1) by requiring the respondent to correct the listed violations and comply with the City Code, and to undertake all actions necessary to prevent reoccurrence.

Ms. Seward also requested a civil penalty of \$1,871.60. This penalty is based on the \$1,215.00 cost of bringing the case to the Hearings Office, with the remainder reflecting staff costs associated with processing the case.

Ms. Seward requested that if the respondent fails to correct the violations within 30 days from the effective date of this Order, the Bureau of Development Services shall be authorized to abate the violations by towing any motor vehicle, accessory recreational vehicle or utility trailer parked or stored in violation of this Order.

Ms. Seward requested a civil penalty of \$519.64, based on "Schedule A" (Exhibit 1a), pursuant to the City of Portland Hearings Officer Rules, Section 17. The civil penalty is to be due and payable 70 days from the effective date of this Order. The civil penalty shall be canceled or adjusted (based on the costs of actions Compliance Services has performed under Schedule A, as determined by the Compliance Services Inspector) if and when the respondent corrects the listed violations, and Compliance Services files a written certification of inspection and correction of the violations with the Hearings Office, not later than 4:30 p.m. on the 70<sup>th</sup> day from the effective date of this Order.

The Hearings Officer finds factors that may be considered in assessing civil penalties include the history of the respondent in taking corrective actions, the economic and financial condition of the respondent, the gravity and magnitude of the violations, and the respondent's cooperativeness in correcting the violations (Portland Policy Document ADM 9.01, rule 17).

The Hearings Officer finds that there is no evidence showing that the respondent has made any effort to correct the violations set forth in the City's Complaint. Indeed, the evidence suggests that the respondent's truck and vacation trailer have been in violation continuously since December 5, 2007. The Hearings Officer finds that it is reasonable and appropriate to assess a civil penalty in the amount of \$1,871.60 which is due and payable immediately. This penalty is based on the \$1,215.00 cost of bringing the case to the Hearings Office, with the remainder reflecting staff costs associated with processing the case.

One of the Hearings Officer's primary concerns is to have the violations corrected. The Hearings Officer finds that the additional civil penalty of \$519.64 the City requests is appropriate to serve as an incentive to the respondent to correct the violations and bring the property into compliance.

The Hearings Officer finds that the testimony and evidence provided by Ms. Seward provides substantial and credible evidence confirming the listed violations continue to exist on the subject property, or have not been inspected to verify that they no longer exist. The Hearings Officer finds that the relief the City requests is appropriate and is granted.

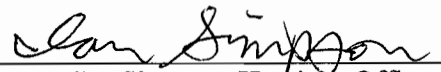
**ORDER AND DETERMINATION:**

1. The respondent shall correct the listed violations and have the property inspected and approved by the City of Portland, and shall take any measures necessary to prevent their reoccurrence.
2. A civil penalty in the amount of \$1,871.60 is hereby imposed, said penalty to be due and payable on June 23, 2009, and if not paid shall be made a lien against the subject property.
3. If the respondent fails to correct the violations within 30 days from the effective date of this Order, the Bureau of Development Services shall be authorized to abate the violations by towing any motor vehicle, accessory recreational vehicle or utility trailer parked or stored in violation of this Order.
4. An additional civil penalty of \$519.64 is awarded. This civil penalty (paragraph 4 of this Order) is based on "Schedule A" (Exhibit 1a). The civil penalty is due and payable 70 days from the effective date of this Order. The civil penalty shall be canceled or adjusted (based on the costs of actions Compliance Services has performed under Schedule A, as determined by the Compliance Services Inspector) if and when the respondent corrects the listed violations, and Compliance Services files a written certification of inspection and correction of the violations with the Hearings Office not later than 4:30 p.m. on September 1, 2009. If the Hearings Office does not receive such confirmation by 4:30 p.m. on September 1, 2009, then the additional \$519.64 civil penalty, or the appropriate portion thereof, shall become due and payable, and if not paid shall become a lien against the subject property on September 2, 2009.
5. The Hearings Officer shall retain jurisdiction in this case until September 7, 2009.
6. This Order has been mailed to the parties on June 9, 2009, and shall become final and effective on June 23, 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 September 9, 2009.
7. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: June 9, 2009

IS:rs/

Enclosure

  
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Ian Simpson, Hearings Officer

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Complaint	Seward, Michelle	Received
1a	Schedule A - Towing Civil Penalty Worksheet	Seward, Michelle	Received
2	Mailing List	Seward, Michelle	Received
3	GARTH printout	Seward, Michelle	Received
4	Multnomah County Property Records	Seward, Michelle	Received
5	12/5/07 Photo	Seward, Michelle	Received
6	12/6/07 Notice of Zoning Violation letter, Michael Rick to Oregon State DVA, To Yee, Norman	Seward, Michelle	Received
7	1/7/08 Photos	Seward, Michelle	Received
8	1/8/08 Notice of Enforcement Penalty letter	Seward, Michelle	Received
9	1/16/09 Photos	Seward, Michelle	Received
10	1/16/09 Notice of Possible Code Hearing-Case #07-180660-CC	Seward, Michelle	Received
11	1/8/08 Notice of Enforcement Penalty letter	Seward, Michelle	Received
12	4/16/09 Photos	Seward, Michelle	Received
13	Mailing List	Hearings Office	Received
14	Hearing Notice	Hearings Office	Received
15	Notice of Rights and Procedures	Hearings Office	Received
16	Personal Service & Service by Posting affidavit	Seward, Michelle	Received
17	Photos dated 5/8/09	Seward, Michelle	Received
18	Returned mail memo to inspector	Hearings Office	Received
19	Color photos taken 5/14/09 w/duplicate attached.	Seward, Michelle	Received