



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

CITY OF PORTLAND, petitioner, vs. HAI C. GOV and CUI HOA ARINA WONG, respondents

CASE NO. 2090031  
[Bureau Case No. 07-179242 CC]

PROPERTY / PARK: 2809 SE 115<sup>th</sup> Avenue

LEGAL DESCRIPTION:  
Partition Plat 1996-22; EXC WLY 10' LOT 1; NEW PLAT-1996,  
City of Portland, Multnomah County, Oregon

DATE OF HEARING: June 10, 2009

**APPEARANCES:**

Mr. Hai C. Gov, Respondent

Ms. Michelle Seward, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

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

Ms. Michelle Seward, Senior Bureau of Development Services Zoning Inspector, appeared and testified at the hearing on behalf of the City of Portland. Mr. Hai Gov, one of the named Respondents, appeared and testified on behalf of the Respondents. The Hearings Officer makes this decision based upon the testimony of Ms. Seward and Mr. Gov, and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 21).

Ms. Seward offered testimony regarding Exhibits 1 through 16 and also exhibit 21. Ms. Seward's testimony related to the history of the case, the alleged violations, and a recent inspection of real property commonly referred to as 2809 SE 115<sup>th</sup>, Portland, Oregon (the "Subject Property"). Ms. Seward testified that two violations listed on Exhibit 1 (the "Complaint") related to the covered accessory structure installed in the required five-foot side and rear setbacks exceeding six feet, and the construction of an accessory structure greater than 200 square feet without required permits and inspection approvals, as of June 9, 2009 have been corrected. Ms. Seward testified that the "Additional Violation" related to parking of vehicles in an area not recognized as a legal parking area, still remained. However, Ms. Seward requested that the Hearings Officer retain jurisdiction for a period of time to allow the Respondents to correct the parking area violation. Ms. Seward asked that the Hearings Officer order the Respondents to correct the parking area violation and further, to award the City costs associated with the conduct of inspections of the Subject Property necessitated by the violations and the cost of initiating the hearing;

a total of \$2,073.78. Ms. Seward requested that the Hearings Officer strike from the Complaint the City's request for an additional \$5,000.

Mr. Gov testified that the carport was installed when he closed his business, because he needed storage and he stated he was not aware of the City requirements. Mr. Gov requested the Hearings Officer to reduce the civil penalties requested by the City. Mr. Gov did not contest that the alleged violations did, during the time this case has been open, exist.

The Hearings Officer finds, based upon the testimony offered by Ms. Seward and Mr. Gov and the admitted exhibits, that the alleged violations did exist during the time this case has been open. The Hearings Officer finds that the violations were not completely corrected as of the date the City filed the Complaint, and that one violation (parking in unauthorized area) still has not been corrected. The Hearings Officer finds that the City's request for cost recovery, in the amount of \$2,073.78 is reasonable to cover costs associated with conducting inspections of the violations at the Subject Property, and the cost of bringing this case to hearing.

The Hearings Officer finds, also, that it is appropriate to order the Respondents to correct the remaining violation (parking area) within approximately 30 days. The City is granted leave to amend the Complaint, so long as this case remains open, in the event Respondents fail to make timely progress to correct the remaining violation.

#### ORDER AND DETERMINATION:

1. Respondent shall correct the "Additional Violation" listed on Exhibit 1 (parking area) and undertake all actions necessary to appropriate to prevent reoccurrence of the violation.
2. A civil penalty in the sum of \$2,073.78 is imposed, said penalty to be due and payable on July 1, 2009 and if not paid in full by that date the unpaid amount shall become a lien upon the Subject Property on July 2, 2009.
3. This order has been mailed to the parties on June 17, 2009, and shall become final and effective on July 1, 2009. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date.
4. The Hearings Officer retains jurisdiction in this case until July 30, 2009. The City is granted leave to amend the Complaint if, in the sole discretion of the City, the Respondents fail to make timely progress towards correction of the remaining parking area violation (see Exhibit 1). Unless the City requests, prior to July 30, 2009, to amend the Complaint, this case shall be closed on July 31, 2009.
5. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: June 17, 2009

GJF:cb

Enclosure

  
Gregory J. Frank, Hearings Officer

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Code Complaint	Seward, Michelle	Received
2	Bureau notification list	Seward, Michelle	Received
3	Multnomah Co. Property Record	Seward, Michelle	Received
4	GARTH property site info. printout	Seward, Michelle	Received
5	Photos dated 1/2/08	Seward, Michelle	Received
6	Notice of Zoning & Building Code Violation dated 1/4/08	Seward, Michelle	Received
7	Enforcement Penalties info. sheet	Seward, Michelle	Received
8	GARTH aerial property map	Seward, Michelle	Received
9	Plot Plan	Seward, Michelle	Received
10	Photo dated 2/12/08	Seward, Michelle	Received
11	Notice of Enforcement Penalty dated 2/13/08 (4 pgs)	Seward, Michelle	Received
12	Duplicate copy of Exh. 8	Seward, Michelle	Received
13	Duplicate copy of Exh. 9	Seward, Michelle	Received
14	Notice of Possible Code Hearing Case dated 1/5/09	Seward, Michelle	Received
15	Photos dated 1/5/09	Seward, Michelle	Received
16	Photos dated 5/7/09	Seward, Michelle	Received
17	Mailing list	Hearings Office	Received
18	Hearing notice	Hearings Office	Received
19	Notice of Rights & Procedures	Hearings Office	Received
20	Personal Service & Service by Posting w/photo dated 6/2/09 attached	Seward, Michelle	Received
20a	Color photo dated 6/2/09 showing notice posted	Seward, Michelle	Received
21	6/9/09 Photos	Seward, Michelle	Received