



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S SUPPLEMENTAL ORDER**

CITY OF PORTLAND, petitioner, vs. GLORIA BRYANT and MAGAR E. MAGAR,  
respondents

CASE NO. 2090005  
[Bureau Case No. 08-104367-HS]

PROPERTY / ZONE / PARK: 1015 NW 16<sup>th</sup> Avenue

LEGAL DESCRIPTION:  
Couches ADD; Exc S 16.5' of E 75' Lot 4, Block 181, 1N1E33AB-02000,  
City of Portland, Multnomah County, Oregon

DATE OF HEARING: February 9, 2009

**APPEARANCES:**

Mr. Magar Magar, Respondent

Mr. Dan Collins, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

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

The City and Respondent entered into a Stipulated Agreement (Exhibit 43) related to the correction of violations set forth in Exhibit 1 (Complaint – Attachment A) at 1015 NW 16<sup>th</sup> ("Subject Property"). The Stipulated Agreement was incorporated into an Order by the Hearings Officer (February 17, 2009). Respondent Magar submitted, on June 12, 2009, "Motions" and "Supplemental information to Motion Current status of rebuild." (Exhibits 45 and 46). The City responded to Respondent Magar's Motions in a Memo (Exhibit 47). Respondent provided a "Response to Memorandum." (Exhibit 51). The City provided an additional Memo. (Exhibit 52).

The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 52a).

The Hearings Officer finds the central issue/argument being raised by Respondent Magar is that he desires additional time to complete certain corrective actions set forth in the Stipulated Agreement. Respondent Magar indicated that while making corrections called for in the Stipulated Agreement he encountered circumstances that he felt required more extensive work

than originally contemplated. The Hearings Officer finds that the City feels that Respondent Magar has a history of failing to comply with City requests and in this case, Respondent Magar failed to secure necessary permits as called for by the Stipulated Agreement.

The Hearings Officer finds that Mr. Magar has made substantial progress in correcting violations listed in Exhibit 1. (see Inspector Collins' June 5, 2009 Notice of Violation – Exhibit 48). However, the Hearings Officer also finds that Mr. Magar has not, as called for in the Stipulated Agreement, obtained all necessary permits prior to performing repairs and/or construction work at the Subject Property.

The Hearings Officer finds that Mr. Magar's request to modify the dates of the Stipulated Agreement on the basis that the Stipulated Agreement contained an error (date when corrections were to be completed) is unfounded. The Hearings Officer finds that Mr. Magar signed the Stipulated Agreement (Exhibit 43). The Hearings Officer notes that Mr. Magar made a point, at the hearing, that he is trained as an attorney and practiced law for many years. The Hearings Officer finds that if Mr. Magar had a problem with the terms of the Stipulated Agreement he could have refused to sign the document.

Despite the Hearings Officer's findings with respect to the "error" alleged by Mr. Magar in the preceding paragraph, the Hearings Officer is sensitive to Mr. Magar's assertion that the project has grown in scope compared to when the Stipulated Agreement was entered into. The Hearings Officer does not, and will not, excuse Mr. Magar's failure to obtain *all* necessary permits (emphasis added by Hearings Officer). However, the Hearings Officer's primary goal in this case is to get the Subject Property in compliance with Title 29 of the Portland City Code. The Hearings Officer notes, for Mr. Magar's edification, that Title 29 incorporates requirements of other City of Portland Code Titles; therefore satisfaction of Title 29 requirements in this case includes, where appropriate and relevant, other City of Portland Code Titles.

The Hearings Officer finds that the primary goal in this case is not income generation for the City of Portland. As such, it seems appropriate to the Hearings Officer to extend deadlines referenced in the Stipulated Agreement (Exhibit 43), paragraph 4 from 10:00 a.m. on June 17, 2009 to 10:00 a.m. on September 17, 2009. The Hearings Officer, if requested once again by Mr. Magar, will be extremely reluctant to grant any further extensions as the Hearings Officer believes that Mr. Magar has represented, in Exhibit 51, that all surprises at the Subject Property have been discovered, and that Mr. Magar is making progress in securing the remaining required permits, getting the work done, and will seek final inspections and approval in a timely manner.


The Hearings Officer finds, therefore, it appropriate to modify Exhibit 43, paragraphs 4.d and 4.e to September 17, 2009, and the reference to June 17, 2010 in paragraph 8 shall be replaced by September 17, 2010. The Hearings Officer finds that all other provisions of Exhibit 43 shall remain in full force and effect.

#### ORDER AND DETERMINATION:

1. Exhibit 43, paragraph 4.d and 4.e are modified as follows: All references to 10:00 a.m. on June 17, 2009 and each month thereafter, starting from June 17, 2009 shall be replaced by 10:00 a.m. on September 17, 2009 and each month thereafter.

2. Exhibit 43, paragraph 8, is modified as follows: The reference to June 17, 2010 shall be replaced by September 17, 2010.
3. All other provisions of Exhibit 43 and the Hearings Officer's Order dated February 17, 2009 that are not inconsistent with paragraphs 1 and 2 above in this Supplemental Order shall remain in full force and effect.
4. This Supplemental Order has been mailed to the parties on July 14, 2009 and shall become effective on July 28, 2009.
5. This Supplemental Order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: July 14, 2009



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Gregory J. Frank, Hearings Officer

GJF:cb

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Code complaint with List of Violations (Attachment A) attached (7 pgs)	Collins, Dan	Received
2	Bureau notification list	Collins, Dan	Received
3	Photos (1 page, no date)	Collins, Dan	Received
4	Multnomah County Assessor Property Information	Collins, Dan	Received
5	Portland Maps printout page	Collins, Dan	Received
6	Photos dated 1/24/08 (3 pages)	Collins, Dan	Received
7	Photos dated 9/22/08 (6 pages)	Collins, Dan	Received
8	Photos dated 10/27/08 (17 pages)	Collins, Dan	Received
9	Photos dated 11/3/08 (1 page)	Collins, Dan	Received
10	AMANDA data printouts (2 pages)	Collins, Dan	Received
11	Case History report (4 pages)	Collins, Dan	Received
12	Notice of Violation dated 1/25/08 to Gloria Bryant c/o Magar Magar w/list of violations (2 pgs)	Collins, Dan	Received
13	Notice of Additional Violations dated 9/24/08 to Gloria Bryant c/o Magar Magar w/list of violations (3 pgs)	Collins, Dan	Received
14	Notice of Violation & Referral to Code Hearings Officer dated 10/31/08 to Gloria Bryant c/o Magar Magar w/list of violations (8 pages)	Collins, Dan	Received
15	Copies of Report of Inspection cards	Collins, Dan	Received
16	Copy of Report of Plumbing Inspection card dated 2/7/56	Collins, Dan	Received
17	Copy of Report of Plumbing Inspection card dated 7/24/50	Collins, Dan	Received
18	Copy of Report of Plumbing Inspection card dated 6/17/40	Collins, Dan	Received
19	Copy of Report of Plumbing Inspection card dated 7/1/36	Collins, Dan	Received
20	Copy of Report of Plumbing Inspection card dated 11/23/32	Collins, Dan	Received
21	Portland Fire & Rescue Memo w/Affidavit & Warrant attached	Collins, Dan	Received
21a	Affidavit for Administrative Search & Warrant for Residential Premises document (14 pages)	Collins, Dan	Received
22	Special Report from Portland Police Bureau (2 pgs)	Collins, Dan	Received
23	Non-Connect Special Report & Continuation Report from Portland Police Bureau (2 pgs)	Collins, Dan	Received
24	Notice of Possible Lien	Collins, Dan	Received
25	Enforcement Fee Increase Notification dated 6/30/08	Collins, Dan	Received
26	Letter from Melissa Kuhn in BDS to Magar Magar dated 10/14/08	Collins, Dan	Received
27	Lien Accounting report for Gloria Bryant	Collins, Dan	Received
28	Housing Maintenance Notice - Inspection Checklist dated 1/23/08	Collins, Dan	Received
29	Case History (3 pgs)	Collins, Dan	Received
30	Case History (6 pgs)	Collins, Dan	Received
31	Mailing list	Hearings Office	Received
32	Hearing Notice	Hearings Office	Received
33	Notice of Rights & Procedures	Hearings Office	Received
34	Faxed request for "continuance" (to reschedule hearing) (unsigned)	Magar, Magar E.	Received
35	Original of Exh. 34 rec'd by mail (signed)	Magar, Magar E.	Received
36	Returned mail memo to inspector regarding 'Occupant' mailing	Hearings Office	Received
37	Returned mail memo to inspector regarding 'Gloria Bryant' mailing	Hearings Office	Received
38	Personal Service and Service by Posting affidavit from inspector	Hearings Office	Received
39	Returned Mail Memo	Hearings Office	Received
40	Personal Service and Service by Posting	Collins, Dan	Received

41	Letter dated 2/7/09	Magar, Magar E.	Received
41a	Proposal document	Magar, Magar E.	Received
42	List of "Item's" dated 2/8/09	Magar, Magar E.	Received
43	Stipulated Agreement	Collins, Dan	Received
44	Lien Certification	Hearings Office	Received
45	Motion	Magar, Magar E.	Received
46	Supplemental information to motion with photos	Magar, Magar E.	Received
47	6/23/09 Memo	Collins, Dan	Received
48	6/5/09 Additional Violations letter, Collins to Bryant	Collins, Dan	Received
49	6/4/09 photos	Collins, Dan	Received
50	6/25/09 Memo, HO to Magar	Hearings Office	Received
51	Response to Memorandum	Magar, Magar E.	Received
52	7/7/09 Memo with attachment	Collins, Dan	Received
52a	TRACS printouts	Collins, Dan	Received