

FILED

JUN 11 2012

JOYCE L. JULSRUD, CLERK
KITITAS COUNTY WASHINGTON

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITITAS

VERN THOMPSON,

Appellant,

v:

KITITAS COUNTY,

Respondent.

NO.: 11-2-00228-7

FINAL ORDER

This matter came before the Court on the Appellant's appeal of an order from the Kittitas County Hearings Examiner. The Court, finding no just cause, denied a motion for continuance made at the time of oral argument by Appellant Thompson. The Court heard the oral argument of counsel for Respondent Kittitas County, Neil A. Caulkins, and Pro Se Appellant Vern Thompson. The Court considered the following documents:

1. Administrative Record before the Kittitas County Hearing Examiner; and
2. Transcript of proceedings before the Kittitas County Hearings Examiner; and
3. Appellant's brief; and

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FINAL ORDER

1 4. Respondent's brief; and

2 5. All other pleadings filed in this matter, with the exception of two untimely requests
3 for judicial notice filed respectively on May 18th and May 21st, 2012.

4 Based on the argument of counsel and the evidence presented, the Court finds that
5 the Hearings Examiner's findings of fact were supported by substantial evidence and that
6 the Hearings Examiner committed no errors of law. The Court finds that the subject
7 property meets the definition of a "junkyard" which is not allowed in the Ag-3 zone and is
8 therefore a public nuisance. The Court finds that the subject property violates the
9 International Property Maintenance Code and is also therefore a public nuisance. The
10 Court finds that the vehicles involved here do not meet the definition "farm exempt" under
11 the RCW because they are used for storage rather than transport and any licensing ability
12 to move them on public roads is irrelevant to the requirements for their storage while they
13 are not being used for transport. The Court is not persuaded that Mr. Thompson engaged
14 in this use of his property prior to the County adopting the regulation involved herein. The
15 Court finds that "grandfathering" is not applicable anyway to preexisting uses prohibited
16 by regulations enacted to promote the public health, safety, and welfare, which both the
17 zoning code and the International Property Maintenance Code were adopted to promote.
18 The Court finds that no taking has occurred nor has there been a deprivation of due process
19 because the regulation does not deny all uses of the property. The Court affirms the
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1 January 7, 2011 Notice of Violation and Abatement. The Court finds that Mr. Thompson
2 is the owner of the subject property and is therefore personally liable for the costs of
3 abating the nuisance.

4 Based on the above findings, It Is Ordered:

- 5 1. The Hearings Examiner's Order of May 6, 2011 is affirmed.
- 6 2. The findings of fact and conclusions of law found in the Hearings
7 Examiner's Order of May 6, 2011 are incorporated herein by reference.
- 8 3. Mr. Thompson is ordered to:
 - 9 A. Remove the following from the property: any inoperable or unlicensed
10 vehicles and any other items that are not stored in a clean, safe secure
11 and sanitary manner. Removal of the above items shall be done within
12 30 days from the date of this Order. At a minimum, those vehicles
13 identified in Exhibit K in the record before the Hearings Examiner shall
14 be removed from the subject property. Any and all other inoperable
15 and/or unlicensed vehicles shall also be removed from the subject
16 property pursuant to this Order.
 - 17 B. Demonstrate to the Code Enforcement Officer that any remaining
18 vehicles on the Property are operable and have current registration and
19 license tags. This abatement review shall be scheduled at a date and
20 time convenient to both the Code Enforcement Officer and Mr.

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Thompson, but shall be no later than 60 days from the date of this
Order.

C. Pay the five hundred dollar (\$500) penalty assessed in the Notice of
Violation and Abatement. The \$500 penalty is due 30 days from the
date of this Order.


4. Appellant's motion for a continuance is denied.

Dated this 11th day of June, 2012.

FRANCES P. CHMELEWSKI

Superior Court Judge

Presented by:


Neil A. Caulkins, WSBA#31759
Deputy Prosecuting Attorney
Attorney for respondent Kittitas County

Approved as to form
Notice of presentation waived

Vern Thompson, Pro Se
Appellant

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