

PRESS RELEASE

March 25, 2003

**MASON COUNTY ADMINISTRATOR
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**TO: KMAS, KRXY, SHELTON-MASON COUNTY JOURNAL, THE OLYMPIAN,
SHELTON CHAMBER OF COMMERCE, NORTH MASON CHAMBER OF
COMMERCE, CITY OF SHELTON, ECONOMIC DEVELOPMENT COUNCIL**

RE: Hearing Examiner

On October 23, 2001, Mason County Commissioners approved Ordinance Number 116-01 which amended the Mason County Development Code (Mason County Title 15). The adopted version of Title 15 provides for a new type of hearing process that is designed to address Building, Planning, and Environmental Health Department code violation issues. Cases involving such issues are now heard by the Mason County Hearing Examiner.

The first code enforcement cases were heard by Hearing Examiner, Kristen Olbrechts, in January 2002. Since that time, 44 cases have been heard. Cases are brought by Mason County Code Enforcement staff when efforts to work cooperatively with property owners and contractors fail. Examples of matters heard by the Hearing Examiner include violations of solid waste, junk vehicle, building code, and land use and critical area regulations.

Typically, County Code Enforcement staff become involved with property owners and contractors after receiving site specific complaints from the public. Staff is responsible for evaluating sites to determine whether violations of County regulations have occurred or are occurring. Throughout the investigation process, staff makes every attempt to work cooperatively with all parties involved. In many cases, compliance is achieved by owners and contractors who are willing to take corrective action upon notification that a violation has occurred. Examples of corrective action include site-cleanup, site restoration, and submission of required "after the fact" permit applications. Property owners and contractors are encouraged to obtain current, accurate information before initiating development activities, as even "unknowing" violations of County regulations can result in penalties such as tripled permit application fees and restoration monitoring fees.

If County staff is unable to bring a site into compliance through cooperative efforts, a hearing date is set on the Hearing Examiner calendar. Illegal non-conforming structures and illegal non-conforming land uses and modifications are considered continuing violations. Every day of violation is a separate violation. It is a violation to own, use, control, maintain or possess a portion of any premises which has been constructed, equipped, maintained, controlled or used in violation of the applicable County regulations. Structures or activities which were made or conducted without a permit, when a permit was required at the time of first action, do not vest and require current permits. Any person, firm or corporation who violates or who solicits, aids or attempts a violation are accountable under Title 15 and are subject to the Hearing Examiner process and penalty provisions.

Any person who violates any provision of the Development Code, or who fails to obtain any necessary permit, or who fails to comply with a notice of civil violation shall be subject to a civil fine if ordered by the Hearing Examiner. Civil fines of up to \$1,000 can be assessed for each violation. Unpaid fines are assessed as liens against the property with fines in excess of the assessed value assessed as personal obligations against the responsible individual(s). Additionally, the Hearing Examiner has the authority to order that the costs associated with enforcement, hearing and abatement be assessed against the property or responsible individual(s).

In the past two years the Mason County Department of Community Development has received approximately 815 new complaints, in addition to ongoing cases from previous years. Of these, most have been resolved by owners and contractors willing to take corrective action. Other cases have been heard as cases before the Mason County Hearing Examiner. Forty-four Hearing Examiner cases have been heard since the inception of the process in January 2002. Fines ranging from \$2,000 to \$12,000 were assessed against defendants in those cases where the Hearing Examiner Order found that a violation was committed or was in the process of being committed. A total amount of approximately \$134,628.00 in fines has been ordered by the Hearing Examiner to date. It is important to note that "suspended fines" constitute a substantial portion of the \$134,628.00. This means that a significant portion of the \$134,628.00 has not actually been collected by the County, as compliance with conditions imposed results in suspension of a portion of the fine amount. Approximately \$47,039.12 has been suspended. Approximately \$8,674.33 has been paid. Also, fines assessed are often not paid. In cases where fines have not been paid and compliance with Hearing Examiner Orders has not been achieved, property owners have been billed. To date, liens totaling \$78,914.55 have been placed against subject properties. The County has foreclosed against two properties. One parcel was purchased at auction, the lien was paid, and the new owner will be working with the County to ensure proper cleanup. The second parcel is now the property of Mason County and was cleaned on March 21, 2003 up using the Mason County Litter Crew.

The Mason County Environmental Health Division has found that the Hearing Examiner process is an exceptionally effective way to address issues that have remained unresolved for years. In the past 24 months, the Division has closed 352 complaints. The Hearing Examiner process is separate from, and supplements, the District Court process. In 2002, 188 civil infractions for violations of solid waste regulations were issued through District Court with an associated fine total of \$57,075.00. Of these, only twenty-five infractions were dismissed either by the County due to compliance efforts or by the Mason County District Court. The remainder of the infractions were found to have been committed. In 2003, the Division has issued 32 civil infractions for violations of solid waste regulation with an associated fine total of \$8,700.00. Defendants sometimes do not pay the fines imposed by District Court and do nothing to remedy the violations. In these cases, the fine amounts are forwarded to the collection agency. Cases such as these, where the District Court infraction process does not result in compliance, will be heard by the Hearing Examiner to ensure that non-compliance does not continue for years, as was the trend in the past.

The efforts the County has undertaken have addressed the concerns of hundreds of citizens who are impacted by code violations that degrade the quality of life of responsible citizens. The Hearing Examiner process provides an incentive for citizens to work cooperatively with the County to address code violations.

Through January 2003, the County has incurred just over \$20,000 in direct costs for the Hearing Examiner. Although this figure does not include staff costs, it appears that the program will be self-supporting.

Ron Henrickson, Mason County Administrator