

**CITY OF KIRKLAND  
HEARING EXAMINER FINDINGS,  
CONCLUSIONS, AND DECISION AND ORDER**

In the Matter of the Notice of Civil  
Violation Issued To

File Number:  
**ENF11-045**

**MINA B. LARSEN AND RAY W. LARSEN**

By the City of Kirkland, Department of  
Planning and Community Development

**Introduction**

The City issued a Notice of Civil Violation to Mina B. Larsen and Ray W. Larsen for violation of the Zoning Code. The matter was heard by the undersigned Hearing Examiner on October 20, 2011, in City Council Chambers, City Hall, 123 Fifth Avenue, Kirkland, Washington. Mina B. Larsen and Ray W. Larsen were represented by Ray Larson, and the Department of Planning and Community Development (Department) was represented by Judd Tuberg, Code Enforcement Officer. Exhibit A, the Department's Memorandum and five attachments, including the Notice of Civil Violation, were entered into the record. Following the hearing, the Department noted that the wrong complaint form had been included within Exhibit A and forwarded the correct complaint form to the Examiner, who attached it to the exhibit.

Having considered the evidence in the record and visited the site, the Hearing Examiner enters the following findings of fact, conclusions, and decision and order on the Notice of Civil Violation.

**Findings of Fact**

1. The subject property is addressed as 11113 NE 68<sup>th</sup> Street in Kirkland and is zoned RM for residential use. The property is owned by Mina B. Larsen and Ray W. Larsen. It has been unimproved since December of 2005, when the single-family residence on the site was destroyed by fire.
2. On March 18, 2011, the City's Code Enforcement Officer received a complaint from a neighbor that an oversized sailboat covered with torn and dirty tarps, as well as various other items being stored under the sailboat cradle structure, had been stored on the property since 2006, shortly after the residence burned down, and had become "an eyesore".
3. The Code Enforcement Officer investigated the complaint the same day and found a sailboat hull and cabin atop a wood frame cradle structure on the property, as well as

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floorboards and a 37 foot mast for the boat; a small, metal flatbed trailer; an eight-foot boat; scrap wood; several five gallon containers; four metal ladders; and many pieces of white plastic pipe 6 to 8 feet in length. The sailboat measured 25+ feet in length and 12+ feet in height at the bow and nearly 9 feet in height at the stern.

4. On March 25, 2011, the Code Enforcement Officer contacted the Larsens by telephone concerning the condition of the property and the complaint but received no return telephone call. Nor were several subsequent calls returned. On March 31, Ray Larson left a telephone message for the Code Enforcement Officer, informing him that he was trying to locate a trailer to move the sailboat.

5. The Code Enforcement Officer sent a Voluntary Correction Notice to Ray Larsen on April 28, 2011, outlining necessary corrective action and giving a compliance date of May 5, 2011. The Larsens did not sign and return the Correction Notice, but on May 4, 2011, the Code Enforcement Officer received an e-mail from them stating that they were trying to donate the sailboat and have it and the other items on the property removed.

6. On August 8, 2011, the Code Enforcement Officer received a hand-delivered letter from the Larsens with two photographs of the sailboat. The letter stated that they had located a trailer for the sailboat, but that it would not be available until the second week of September, and that they also needed tripod supports for the boat to be trailered and had not been able to locate them. The letter also stated that the Larsens would be out of town until August 30 and would contact the Code Enforcement Officer when they returned.

7. The Code Enforcement Officer received no further communications from the Larsens in August or September. After inspecting the property on September 12, 2011, the Code Enforcement Officer issued a Notice of Civil Violation to the Larsens on September 23, 2011 for storing a sailboat more than 20 feet in length and 9 feet in height on a residential lot in violation of KZC 115.150, or storing a sailboat and other listed items continuously on the property, thereby creating a non-permitted, non-accessory storage yard use. Exhibit A. The Notice stated that the sailboat and all other stored items were to be removed from the property.

8. Some of the items had been removed from the property by the time of the hearing, but the sailboat on the cradle, mast and floorboards, pipes, 8-foot boat, and some of the smaller items stored under the sailboat remain.

9. Mr. Larsen testified that he has inquired about moving the sailboat into a storage yard but cannot do so without a trailer for it. It is a wooden, "Thunderbird" sailboat that requires a special type of trailer for hauling. He believes he has found one that may be available for use within 30 days, although he did not indicate a destination for the boat. He indicated that the renters who lived in the structure that burned down in 2005 left the plastic pipes on the property.

10. Chapter 20.10 KZC lists the uses allowed in the RM and RMA zones. Outdoor storage is not among them.

11. KZC 115.150.1 provides that it is a violation of the Code "to park or store any vehicle, boat or trailer on any lot in a residential zone if that vehicle, boat or trailer, or any combination thereof, is both more than nine (9) feet in height and 22 feet in length ...."

### Conclusions

1. The Hearing Examiner has jurisdiction over this appeal pursuant to Kirkland Municipal Code (KMC) 1.12.050.

2. . The Zoning Code does not allow use of RM-zoned property for outdoor storage, Chapter 20.10 KZC, but that is how the Larsens are using, and have used the property since 2006.

3. Even if the property were being used primarily as a residential lot, the Code does not allow storage of any boat that is both 9 feet in height and 22 feet in length as an accessory use in a residential zone. KZC 115.150.1. The sailboat being stored on the property exceeds those measurements.

4. The City has worked with the Larsens for an unusually long period of time to achieve compliance in this case because of the unique status of the sailboat and resulting difficulty in securing the appropriate trailer for it. However, it is time for the outdoor storage on the property to be removed.

5. The evidence shows that this is the Larsens' first violation of the Zoning Code. KMC 1.12.040.E provides that the monetary penalty for a first violation is \$100 per day. The Examiner may assess the monetary penalty beginning on the date the Notice of Civil Citation was issued, on the correction date set by the Notice of Civil Citation, or on an alternative correction date set by the Examiner. KMC 1.12.050.D.3.

### Decision and Order

The Notice of Civil Violation issued to Mina B. Larsen and Ray W. Larsen on September 23, 2011 is affirmed. In accordance with KZC 1.12.050.D.2, it is ordered that no later than 5:00 p.m. on November 14, 2011, Mina B. Larsen and Richard W. Larsen remove all outdoor storage on the subject property and contact the Department for certification that the violation has been corrected. If the violation is not corrected by the required date and time, the Department may abate the violation and recover the costs and incidental expenses for the abatement from Mina B. Larsen and Ray W. Larsen in accordance with KMC 1.12.060.

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Mina B. Larsen and Ray W. Larsen shall also incur a penalty of \$100 per day for each day after the date of this decision and order that the violation remains uncorrected until correction is certified by the Department or the Department abates the violation.

Entered this 25<sup>th</sup> day of October, 2011.

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Sue A. Tanner  
Hearing Examiner

**Concerning Further Review**

KMC 1.12.050.F provides that “An appeal of the decision the hearing examiner must be filed with superior court within 21 calendar days from the date the hearing examiner’s decision was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.”