FINDINGS AND DECISION OF THE HEARING EXAMINER
CITY OF KIRKLAND

In the Matter of the Appeal of

Bennoah Building

From a False Alarm Determination   File No. FA-08-01

Introduction

The City issued a False Alarm fine of $50.00 to the Bennoah Building on November 13, 2007.   Mr. Goldberg, as the representative of Bennoah LLC, the owner of the building, appealed the fine, as provided for in KMC 21.35A.160.   The appeal hearing was held on April 4, 2008, at Kirkland City Hall before the undersigned Hearing Examiner.   Mr. Goldberg appeared on behalf of the appellant, and Patricia Ball, False Alarm Monitoring Employee, represented the City.   No other witnesses offered testimony.

Findings of Fact

1.   The Bennoah Building is located at 8259 122nd Avenue NE in Kirkland.   The owner of the building is Bennoah LLC.

2.   On November 7, 2007, the alarm at the building was set off by janitors, who did not know the code.   The alarm company contacted the Kirkland Police Department, and officers were sent to the building.   The incident report indicates that the alarm company could not reach any emergency contacts..

3.   The police department had responded to a previous false alarm call at this address on June 27, 2007. Because the November incident was the second incident within 12 months at this address, the City assessed a $50.00 penalty on the company.   Bennoah LLC appealed the penalty.

4.   At hearing, Mr. Goldberg, the owner of Bennoah LLC, made several observations.   He noted that although he had appealed the penalty in November, he did not receive a response to his request for a hearing until March.   Mr. Goldberg also pointed out that the permit listed an incorrect telephone number for one of the business's emergency contacts, and that the police officers arrived very soon on the night of the incident, so that there was little time for the business to respond to the false alarm.   The business's response was also complicated, he stated, by the fact that the janitorial workers spoke limited English.

5.   The City requests contact names and phone numbers on the alarm permit.   At hearing, the City's False Alarm Managing Employee stated that if an alarm company is unable to reach the emergency contact, the City will try to contact the persons listed.

6.   KMC 21.35A.020 defines a "False Alarm" as "the activation of any…alarm system when no crime is being committed or attempted upon a person, real, or other property or when no medical emergency exists."

7.   KMC 21.35A.060 provides that, when a second false alarm occurs during a twelve-month period, a $50.00 false alarm fee will be assessed.   The Code also sets out a schedule for subsequent fines and suspension of police response if there are additional false alarms within the 12-month period.

Conclusions

1.   The Hearing Examiner has jurisdiction over this appeal pursuant to KMC 21.35A.160.

2.   The alarm was accidentally set off by the night janitors, and was therefore a "false alarm" under the Code.   The appellant's concerns about the permit program, while sincere, do not change the fact that the alarm was a false alarm.   It was the second false alarm within a 12-month period, and is therefore subject to the prescribed $50.00 penalty.

3.   The fact that the City's contact list included an incorrect phone number for an emergency contact does not excuse the false alarm penalty. Although it appears that the City attempts to call the emergency contacts if the alarm company is unable to reach them, the Code places no responsibility on the City to do so.

4.   The false alarm designation was valid and should be affirmed.

Decision

The appeal is denied. The false alarm designation was valid.

Entered this 10th day of April, 2008.

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Anne Watanabe
Hearing Examiner

Exhibits

1.   Alarm Registration Application Bennoah Bldg
2.   Alarm Permit Listing
3.   Invoice 2163 dated 11/13/07
4.   November 6, 2007 letter from Neil Goldberg to Alarm Monitoring Department
5.   November 21, 2007 Letter from Patricia Ball to Bennoah Building and incident report
6.   November 29, 2007 Appeal letter