

**FINDINGS AND DECISION OF THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of a Notice of Civil Violation Issued to

PN-14-002

SCOTT WALKER AND RENE VAUGHAN

By the Director, Seattle Public Utilities

DECISION AND ORDER

Introduction

Seattle Public Utilities (SPU) issued a Notice of Civil Violation to Scott Walker and Rene Vaughan on April 30, 2014. A hearing on the Notice was held before the Deputy Hearing Examiner on May 21, 2014. Represented at the proceeding were: the property owners, Scott Walker and Rene Vaughan, by Scott Walker, pro se; and, the Director, SPU, by Brendan Brophy, Assistant City Attorney.

After the hearing was adjourned and the record closed, the Hearing Examiner received an email from a neighboring property owner, and was copied on an email sent by the City's Department of Planning and Development to the neighboring owner. The emails were not part of the evidence offered by the parties, and were submitted after the record was closed. The emails were not considered by the Hearing Examiner, or included in the record in this matter.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code (SMC or Code) unless otherwise indicated. After due consideration of the evidence elicited during the appeal hearing, the following shall constitute the findings of fact, conclusions, and decision of the Hearing Examiner on the appeals.

Findings of Fact

1. Seattle Public Utilities (SPU) received a complaint in October, 2013, that there was graffiti on a building addressed as 7708 Greenwood Avenue North. The building is owned by Scott Walker and Rene Vaughan.
2. In response to the complaint, an SPU inspector viewed the property and saw that there was graffiti on the building.
3. SPU issued a written graffiti removal notice to the owners on October 10, 2013, advising them that there was graffiti at the property and that it needed to be removed. Ex. 2.
4. The graffiti was not removed, and SPU issued a notice to the property owners on December 11, 2013, that the graffiti needed to be removed within ten calendar days of receipt of the notice. SPU posted a copy of the notice at the property, and also mailed the notice to the owners. The notice which was sent by certified mail was returned to SPU as unclaimed.

Findings and Decision of the Hearing Examiner

PN-14-002

Page 2 of 3

5. Mr. Beauregard, Graffiti Enforcement staffperson, telephoned the property owner, Scott Walker, on February 28, 2014 and April 2, 2014, to advise him that the graffiti on the building needed to be removed.
6. On May 2, 2014, SPU issued a Notice of Civil Violation and Hearing to the property owners, advising them that the 7708 Greenwood Avenue North property was determined to be a graffiti nuisance property, and that they were required to appear at a hearing on May 21, 2014. The notice stated that if the graffiti was removed at least 48 hours before the scheduled hearing, the hearing would be canceled and no monetary penalty assessed.
7. SPU posted a copy of the Notice of Civil Violation and Hearing at the property on May 5, 2014.
8. As of May 20, 2014, SPU inspected the site and saw that graffiti was still present on the building. However, the parties at hearing indicated that the graffiti had been removed after the inspection and prior to hearing.
9. In 2013, the same property owners received a Notice of Civil Violation for graffiti on the same property which is the subject of this action.


Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 10.07.050.
2. The evidence at hearing shows that: at the time of the issuance of the Notice of Civil Violation, there was graffiti on the building addressed as 7708 Greenwood Avenue North; Mr. Walker and Ms. Vaughan are responsible parties within the meaning of the Code; and the required abatement was reasonable. The abatement was not completed 48 hours prior to the hearing, and no relevant factors under SMC 10.07.050 were presented that would excuse the delay in removing the graffiti, so a penalty should be assessed.
3. Pursuant to SMC 10.07.050, a monetary penalty of \$200.00 is assessed, and will be due ten calendar days from the date of this decision.

Decision and Order

The Notice of Civil Violation issued to Scott Walker and Rene Vaughan, as responsible parties for the graffiti nuisance property addressed as 7708 Greenwood Avenue North, is affirmed. A penalty of \$200.00 is hereby assessed.

Entered this 27th day of May, 2014.



Anne Watanabe
Deputy Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner in this case is the final decision for the City of Seattle. In accordance with RCW 36.70C.040, a request for judicial review of the decision must be commenced within twenty-one (21) days of the date the decision is issued unless a motion for reconsideration is filed, in which case a request for judicial review of the decision must be commenced within twenty-one (21) days of the date the order on the motion for reconsideration is issued.

The person seeking review must arrange for and initially bear the cost of preparing a verbatim transcript of the hearing. Instructions for preparation of the transcript are available from the Office of Hearing Examiner. Please direct all mail to: PO Box 94729, Seattle, Washington 98124-4729. Office address: 700 Fifth Avenue, Suite 4000. Telephone: (206) 684-0521.