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, Skagit County Auditor

11/9/2000 Page 1 of 4 9:24:21AM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ADMINISTRATIVE APPEAL AP 00 0389

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: DONALD R. and SHARON E. CLARK

ASSESSOR PARCEL NO: P45323; P45476

ABBREVIATED LEGAL DESCRIPTION: a portion of Government Lot 5, aka Lot 3 of S/P 31-82, within Section 14, Township 35 North, Range 10 East, W.M., and a portion of Government Lot 2, within Section 23, Township 35 North, Range 10 East, W.M., all in Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Appeal of)
DONALD R. CLARK and)
SHARON E. CLARK) AP#00-0389
From the Suspension of Building Permits) ORDER OF DISMISSAL
)

THIS MATTER concerns the appeal of a Skagit County Building Department Order "suspending" a series of building permits. The appeal came on for hearing on September 13 and October 18, 2000, upon due notice. The Planning and Permit Center was represented by Corey Schmidt. Donald Clark represented himself.

The following exhibits were admitted into evidence:

EXHIBIT

SUBMITTED BY
Donald Clark

- A. Statement of Clark
1. Bosse short plat map 9/82
 2. Resolution #10874 re Rezone Request
 3. Map of Lots 17, 19, 21, 23, 25 showing cabin, RV site
 4. Building Permit 99-0448 of Donald Clark
 5. 5/17/00 Letter Don Clark to Tom Karsh
 6. 6/8/99 Emergency Ordinance #17463
 7. Permits issued 6/16/99: 99-0734, 99-0735, 99-07336, 99-0737, 99-0448
 8. Revised Permits 99-0448, 99-0734, 99-07335, 99-0736, 99-0737, 99-0449
 9. Notice of Permit Suspension 6/26/00
 10. Bullerville Water Planning Document 6/14/99
 11. Memo 6/16/99 Lorna Parent to Sheryl Walker, received by Clark 7/7/00
 12. Letter 5/24/00 Clark to State and County Health Depts. Status Report –
Bullerville Water System
 13. Skagit County Inspection Record Card for cabins
 14. Letter 11/21/89 Feagin, DOH to Parent, SCHD; w/att Lorna Parent
 15. Letter 7/29/96 Heneghan, DOH to Madrene Clark
 16. Letter 10/21/96 Heneghan, DOH to Madrene Clark
 17. Letter 8/29/97 Heneghan, DOH to Don Clark
 18. Letter 4/26/99 Feagin, DOH to Don Clark
 19. Memo 6/8/99 Parent to Swint w/ attachments (Ex #18 and Public Hearing Notice)
 20. Notes 6/11/99 from SCHD whiteboard
 21. Document (same as #10) DOH to Parent faxed 6/16/99
 22. Memo 6/16/99 Parent to Walker w/cc: Clark/Feagin/Bessett
 23. E-mail 3/6/00 Feagin to Parent
 24. E-mail 3/00 Parent to Feagin
 25. E-mail 3/17/00 Clark to Feagin
 26. Letter 5/26/00 SCHD to Clark



27. Letter 7/7/00 w/attached page 2 of 5/11/99 memo Parent to Walker
28. E-mail 6/6/00 Parent to C. Schmidt w/ attachment
29. E-mai 6/23/00 Karsh to C. Schmidt
30. Memo 6/23/00 SCHD to Karsh, Schmidt
31. Water Facilities Inventory 6-11-99
32. Letter 8/24/99 DOH to Clark
33. Letter 2/22/00 DOH to Clark
34. no #34
35. Memo 8/18/00 Corey Schmidt to Wick Dufford Tom Karsh
36. Notes, map and 5/11/99 letter Parent to Clark Lorna Parent
37. 6/16/99 Memo Parent to Walker COUNTY PERMIT FILE 990 448
 4/26/99 Letter Feagin to Clark
 Bullerville Water System Planning Document 6/14/99
 4/26/99 Letter Feagin to Clark with marks & arrows

On October 20, 2000, the Office of the Hearing Examiner received a memorandum from Corey Schmidt, Building Official stating that, "based on a formal notice from the Skagit County Health Department indicating that the Health Officer has no objection to the occupancy of the (subject) cabins, [the] 'Permit Suspension' for Skagit County Permits #99-0448, 99-0449, 99-0734, 99-0735, 99-0736 and 99-0737 has been lifted." The memorandum from Mr. Schmidt also stated that the Appellant, after notice of the lifting of the permit suspension, requested that the Hearing Examiner *pro tem* issue a written decision on the appeal.

According to the Washington Supreme Court,

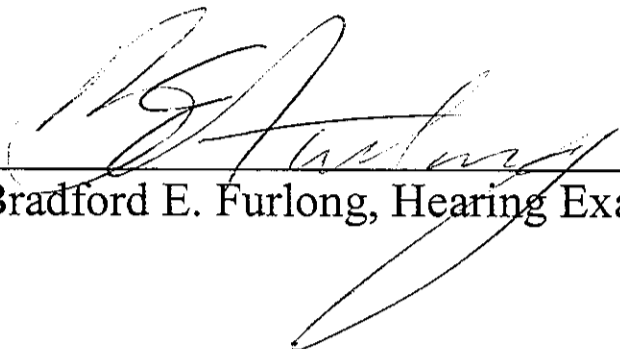
As a general rule, ... courts will not decide moot questions or abstract propositions. *Id.* at 457, 849 P.2d 1229. But 'a moot case may be decided if it involves a matter of continuing and substantial public interest.' *In re A.D.F.*, 88 Wash.App. 21, 24, 943 P.2d 689 (1997). 'In determining whether an issue involves a sufficient public interest, we consider the public or private nature of the question, the need for future guidance provided by an authoritative determination, and the likelihood of recurrence.' *Id.*

In re Rebecca K., ___ W.2d ___, 2 P.3d 501, 503 (Wash.App. Div. 3 July 10, 2000.)

This case is now clearly moot. Although it involves the actions of a governmental entity, it is essentially a private dispute. It lacks issues of general public interest. It does not concern issue an ongoing public policy the nature of which requires the need for an authoritative determination. The applicant-specific and the permit-specific nature of the appealed issues make the likelihood of recurrence remote. For sound reasons of justiciability, no decision on the merits shall be issued.



Therefore, **IT IS ORDERED** that the Appeal is dismissed, without prejudice. Should the "Permit Suspension" be re-instituted, Appellant may file a request to reopen this appeal for a final determination of the issues presented at the above-referenced hearings, if those issues are germane to the basis for re-institution of the suspension.



Bradford E. Furlong, Hearing Examiner *Pro Tem*

Date of Action: November 7, 2000.

Copies Transmitted to Appellant and Planning & Permit Center: November 7, 2000

RECONSIDERATION/APPEAL

A request for reconsideration may be filed as provided in SCC 14.01.057 and .060. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Clerk of the Board within 15 days after the date of the Examiner's decision, or decision on reconsideration if applicable pursuant to SCC 14.01.061.



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11/9/2000 Page 4 of 4 9:24:21AM