

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

In the Matter of the Appeal of)
)
AVIS LLC and SCOTT WALDAL) PL 08-0688
)
From a Notice and Order to Abate in) **ORDER DENYING MOTION**
Relation to Activities at 7705 State) **FOR RECONSIDERATION**
Route 9, Sedro-Woolley.)
)
_____)

The appellants have provided a construction of SCC 14.44.110 and 120 whereby harmonizing of the two sections is not required. Under this approach Sections 110 and 120 are viewed as serving separate and distinct purposes.

The problem with this is that it does not explain what to make of SCC 14.44.110(2)(a)(v)(C) which requires a Notice and Order to Abate to contain:

A statement advising that the order shall become final unless, no later than 15 calendar days after the notice and order are served, any person aggrieved by the order files an appeal to the Hearing Examiner pursuant to SCC 14.44.120.


The quoted language is a part of the “section” referred to in the SCC 14.44.110(2)(b) when it speaks of “proceedings under this section.” In context, the term “proceedings” logically includes service of the Notice and Order which is explicitly made effective on the date of mailing.

Appellants’ argument deprives the quoted subsection of any substantive content and compels the conclusion that it is both incorrect and meaningless. Obviously, subsection 110 (2)(a)(v)(C) is in direct conflict with SCC 14.44.120, if “receipt” in the latter section means actual receipt.

The Examiner is convinced that the appellants’ interpretation of the Code is overly strained. Essentially it requires the quoted code language to be disregarded. This cannot have been the intent of the drafters.

Accordingly, the Examiner concludes that no material error of law was made and no material factual issue was overlooked. The Motion for Reconsideration is denied.

DONE this 24th day of March, 2009



Wick Dufford, Hearing Examiner