

September 4, 2001

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPEAL OF NOTICE AND ORDER**

**SUBJECT:** Department of Development and Environmental Services File No. **E9901067**

**WILLIAM AND KAREN HARTVIG**  
Code Enforcement Appeal

Location: 10531 West Snoqualmie Valley Road Northeast

Appellants: William and Karen Hartvig  
*represented by* **William N. Snell**, Attorney at Law  
1111 Third Avenue, Suite 2220  
Seattle, WA 98101  
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King County: Department of Development and Environmental Services  
Building Services Division, Code Enforcement Section  
*represented by* **Erroll Garnett**  
900 Oakesdale Avenue Southeast  
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**DECISION SUMMARY:**

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal

**EXAMINER PROCEEDINGS:**

Hearing Opened:	August 22, 2001
Hearing Closed:	August 22, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**KEY WORD:**

- Non-conforming uses

**FINDINGS OF FACT:**

1. A notice and order was issued to William and Karen Hartvig on April 24, 2000 citing property located at 10531 West Snoqualmie Valley Road Northeast for construction of a house and carport without building permits, including those required for water and septic services; within the interior of the house for stairs without railings and an unpermitted woodstove; for maintaining an unsanitary outhouse; for unlawful occupancy of a travel trailer with an unapproved woodstove; and for storage on the property of a variety of junk vehicles, debris and garbage. The Hartvigs' filed a timely appeal of the notice and order asserting that the house and its utility services and woodstove are legal non-conforming uses, and agreeing to comply with the remainder of the notice and order. A pre-hearing order was issued on August 23, 2000 that noted that the parties had agreed to defer the appeal hearing until the Hartvigs had had an opportunity to take certain corrective actions on the property and apply for a short plat.
2. At the public hearing held on August 22, 2001 staff indicated that all issues raised within the notice and order had been resolved with the exception of ABC permits for the house and carport, including water and septic services, and for a woodstove permit in the house. Due to the dry winter, the Appellants were not able to perform a wet season perc test and requested a further year for completion of the short plat. The house remains occupied as a rental unit, the Appellants arguing that the rental income is necessary to support their efforts to bring the property into compliance.
3. The Appellants contend that the requirement to obtain ABC permits for the house and carport are an unreasonable financial burden in view of the high probability that such structures will be removed once the short plat process is completed. Under such circumstances, some flexibility is probably warranted so long as the woodstove installation is properly permitted and smoke detectors are installed.
4. The Appellants have not met their burden of proof to demonstrate that the house, carport, water and septic services, and woodstove are legal non-conforming uses exempt from permitting requirements. With regard to the upstairs loft and the carport, the testimony of Appellant Bill Hartvig concedes that these structures are of relatively recent origin. While the downstairs portion of the house appears to be an older structure, the picture from 1940 submitted by Mr. Hartvig as proof of its legally non-conforming antiquity is not persuasive. Both the context and the configuration of the building in the 1940 photograph suggest that it is a structure different from that presently on the property and shown in exhibit #7. The current structure is at the bottom of a hillside while the 1940 photograph shows a building in a relatively flat environment. Moreover, the roof pitch in the 1940 photograph is greater than on the current lower structure, and the entrance is on the side rather than beneath the roof gable. Based on the foregoing, we cannot conclude that the 1940 picture represents the structure on the property today.

**CONCLUSIONS:**

1. The Appellants have not met their burden of proof to demonstrate that the existing house and carport on the West Snoqualmie Road property are legal non-conforming uses established prior to adoption of county building codes and therefore exempt from permitting requirements.

## DECISION:

The appeal is DENIED.

## ORDER:

1. A woodstove permit shall be obtained and smoke detectors installed in the existing house by October 31, 2001.
2. One of the following options shall be met by August 31, 2002:
  - A. ABC permits shall have been obtained for the loft addition to the house, with water and septic approvals, and for the carport; or
  - B. The house shall have been vacated and the well and septic systems permanently decommissioned, as approved by DDES.
3. No penalties shall be assessed against the Appellants' property if the above-stated deadlines are met. If the deadlines are not met, penalties shall be levied as of the date of default.

ORDERED this 4th day of September, 2001.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 4th day of September, 2001, to the following parties and interested persons:

William & Karen Hartvig  
PO Box 433  
Seahurst WA 98062

William Snell  
Attorney At Law  
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Elizabeth Deraitus  
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Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE AUGUST 22, 2001 PUBLIC HEARING ON DEPARTMENT OF  
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9901067 – WILLIAM AND  
KAREN HARTVIG.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Erroll Garnett. Participating in the hearing and representing the Appellant was William N. Snell. The other participant in this hearing was William Hartvig.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner
- Exhibit No. 2 Notice & Order, issued April 24, 2000
- Exhibit No. 3 Notice of Appeal and Statement of Appeal, received May 18, 2000
- Exhibit No. 4 Pre-Hearing Order, issued August 23, 2000
- Exhibit No. 5 Letter from Attorney Snell requesting a continuance for the Hearing
- Exhibit No. 6 Photos of the site taken August 24, 1999
- Exhibit No. 7 Photos of the site taken September 5, 2000
- Exhibit No. 8 Photo from Mr. Hartvig of a cabin
- Exhibit No. 9 Letter from tenant Duane Greenizer

SLS:gao  
E9901067 RPT