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**CITY OF ONTARIO**

Before the Hearing Officer

**AN APPEAL OF A CIVIL PENALTY IMPOSED ON**

**ELDORADO INVESTMENTS INC**

**LOCATED AT**

**1259 SE 11<sup>th</sup> Ave, ONTARIO OREGON**

**TAX LOT: 18S4710DA-1600**

**Case/Penalty no: 20-000007**

**ALLEGING VIOLATIONS OF OIUC: 7-1-2-C, 7-1-2-O, 7-1-2-E, 7-1-2-F, 7-1-2-P, 7-1-2-Q, 7-1-2-L, 7-1-2-M**

DATE AND PLACE OF HEARING: NOV 12, 2020, ONTARIO COUNSEL CHAMBERS

**APPEARANCES AND EXHIBITS:**

**FOR THE CITY:** Officer Dallas Brockett and Officer Rick Reyna

Copy of abatement notice, civil penalty letter, summary report and pictures.

**APPEARANCES AND EXHIBITS:**

**FOR APPELLANT:** Riley Hill (Property Owner), Zach Olson (Attorney)

Copy of Appellant reply, Defendant's Hearing Memorandum, List of alleged City properties in violation of city codes, newspaper article regarding Mr. Hill's Civil Penalty.

**FINDINGS OF FACT**

Case was presented by Officer Brockett and Officer Reyna for the city. Officer Brockett provided pictures of the property taken today, which showed that there were still noxious weeds and an abandoned vehicle on the property.

Mr. Hill testified, in essence, that he feels that the property was cleaned up, that it wasn't his responsibility, it wasn't his priority because he had issues with property in Idaho, that he had to go to court to get the squatters out successfully somewhere around June or July, that he feels picked on, unable to fine workers to clean property up, that there are city owned properties that are in violation of city code (provided pictures), and that he had discussions with the City Manager and Police Chief regarding the abatement notice and issue with this property between February 2020 and August 2020.

Mr. Olson questioned, in essence, the timing of the civil penalty in relationship to the newspaper article, if in fact there is a nuisance, whether the city complied with its own codes, and whether the abatement notice was explicit regarding removing the vehicle or parts.

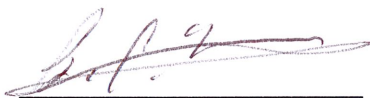
The facts are:

- 1) That civil penalty was mailed and received by Eldorado Investments prior to the newspaper's contact with Code Enforcement regarding Mr. Hill and this civil penalty, therefore, there is no evidences that the article initiated the civil penalty.
- 2) Mr. Hill acknowledged that he was having conversations with the City Manager and Police Chief between February and August as it related to the abatement, which explains as to why Code Enforcement was not more forcible in imposing penalties during this period of time; considering Mr. Hill's connections with the city. It was only after seven months of non-compliance that Code Enforcement, in consultation with the Police Chief, that a minimal civil penalty was assessed.
- 3) According to Merriam-Webster the definition of Certified Mail: "First class mail for which proof of delivery is secured but no indemnity value is claimed"; therefore, certified mail is not a violation of city code as it relates to mailing the abatement notice or civil penalty letter, since certified mail is in fact first class mail.
- 4) Included in the abatement notice there was information regarding human feces in the yard of this property as well as noxious weeds, which a reasonable person would say clearly constitutes a health and safety hazard to the community.
- 5) Non-compliance of city properties as well as other personal properties is not justification for this property being excluded from this civil penalty. It was good information for Code Enforcement to be made aware of and to address; however, it has no material value in this hearing.
- 6) Pictures taken the day of the hearing showed that the property was still not in compliance with city code, as there are still noxious weeds and an abandoned vehicle on the property.

#### **CONCLUIONS AND DECISION**

Therefore I find the appellant guilty, I will however, reduce the civil penalty from \$600.00 to \$500.00, considering the effort the appellant went through to evict the squatters. **The civil penalty fine is now \$500.00.**

HEARING OFFICER  
BILLY CARTER



NOVEMBER 17, 2020