



4. On December 5, 2018, the Owners applied for a permit (#BB18 01183), in an effort to address the SWO and ensure appropriate permitting for the property. The materials submitted for the permit indicated and/or assumed that the residence on the property was a duplex. *Exhibit R and S.*
5. The Owners and City staff communicated at length over the next several months regarding the unpermitted work, the necessary permits and inspections that must be obtained, and whether the residential structure on the property should be classified as a duplex under the municipal code. On February 5, 2019, for instance, Mr. Monroe emailed the City to explain that the residential structure on the property has two electrical meters, two separate addresses (1958 and 1960 Taft Avenue), and is serviced by a 2-family water meter. He further noted, “I regret that I did not come to you earlier to work on permits, and I regret even more at this point that someone did not do the same thing 70 years ago, but this place is a duplex and has been for all living memory.” *Exhibit C.* In response, Senior Planner Ryan Crater wrote, on February 27, 2019, that the City “does not recognize the Single Family Residence . . . as ever being legally established as a duplex” because “there are no building permits on file showing the improvements completed thus far have ever received building permit approval from the City.” *Exhibit C.* The City indicated, however, that it might be possible to allow one of the structures on the property to be treated as an accessory dwelling unit (ADU), assuming all necessary criteria could be met under the municipal code. *Exhibit C.*
6. Following several additional communications, Mr. Monroe emailed the City’s Plans/Building Inspector Stuart Anderson on May 29, 2019, saying in part, “I don’t want to count the office as an ADU anymore, I just want to be done with the project. We’ll call it a single family home with a detached office if that’s what makes everyone happy.” *Exhibit F.*
7. On May 30, 2019, the City issued a letter to the Owners, denying approval of Permit #BB18 01183. The letter notes, “This letter is to address the deficiencies with the building permit submittal for a duplex (#BB18 01183). This permit has been denied; you have provided me with revised plans, which have yet been deemed complete for the purpose of a new application for a single family residence permit.” *Exhibit G.* This letter was consistent with prior emails from City staff denying use of the house as a duplex, as noted above. The May 30<sup>th</sup> letter also denied use of the garage as an office space, required it be used for “storage only,” that it be “restored to its original condition of use,” and that the restoration “be done with proper inspections and permits.” Accordingly, the letter required pre-inspection and a permit for the house; submittal of plans showing the garage basement as storage only; recording of a notice to title with Kitsap County verifying the property as a single family dwelling; and application for a permit with engineering plans for the overbuilt room structure and deck plans for the deck within thirty days of applying for a permit for the interior remodel. Finally, it noted that the

“current stop work order will not be removed until you have remedied the issues laid out in this letter.” *Exhibit G.*

8. Further emails were exchanged between Mr. Monroe and Stuart Anderson between May 30, 2019, and June 4, 2019, concerning the status of the property and the work required by the City. Then, on June 6, 2019, the Owners applied for Permit # BB19 00508 (hereinafter “Permit”), which stated that it involved “REMODEL SINGLE FAMILY HOUSE (DECKS AND OVER BUILD ROOM EXCLUDED.”. *Exhibit S.* The Owners included a detailed scope of work with the permit materials, on which City staff noted that the deck and overbuilt room would be addressed under a separate permit. *Exhibit S.*
9. The City approved the Permit. Pursuant to the Permit, approval of the City and a final inspection were required prior to use or occupancy of the house and garage. In addition, the garage basement was to be returned to a storage-only use. The Permit stated that it would expire on December 11, 2019. *Exhibit S.*
10. The Owners did not obtain approval of the City or a final inspection of the home or garage basement prior to allowing the residential structures to be used and occupied, as required in the Permit. Photos from January 2020, for instance, show curtains and décor in the house basement, a running laundry machine, curtains in the garage basement, multiple vehicles in front of the house, and “Unit #A” and “Unit #B” signs and mailboxes for the house. In addition, the Owners did not apply for a permit related to the deck and overbuilt room, as was detailed as necessary in the issued Permit (and through discussions with Mr. Monroe and Mr. Anderson). *Exhibits K, P, X, & Z; Testimony of Stuart Anderson and Janet Lunceford.*

#### *Notice of Violation*

11. The City issued a Notice of Violation (NOV) on January 2, 2020. The NOV stated: “Construction work performed without permits [and] occupancy without an approved final inspection are violations of sections R105.1 and R109.1 of the 2015 International Residential Code as adopted by Chapter 17.04 of the Bremerton Municipal Code.” *Exhibit K.* The NOV required, as corrective action, that the Owners “[s]ubmit plans and apply for permit for the deck repairs and structure built over the deck; [and] obtain an approved final inspection of work permitted under permit #BB19 0050 [sic].” *Exhibit K.*
12. The Owners were provided the NOV via certified and first class mail; by posting on the property on January 3, 2020; and were given the opportunity to correct the violations by January 16, 2020, or appear at a hearing on January 27, 2020. By agreement of the parties, the hearing was continued, then commenced on February 24, 2020. *Exhibits K, L, M, and N.*

13. At the initial hearing date, Code Enforcement Officer Janet Lunceford and Building Official Stuart Anderson detailed the history of the property and the reasons the City determined it was necessary to issue an NOV to the Owners. Both stressed the importance of appropriate inspections occurring prior to occupancy of the residential structures on the property. *Testimony of Ms. Lunceford; Testimony of Mr. Anderson.*
14. The City was represented at the hearing by Attorney Amanda Harvey. She argued that the NOV relates to two different matters: (1) the Owners' failure to submit necessary plans related to the deck on the property and (2) the Owners' failure to comply with the requirements of Permit #BB19 00508 related to the other parts of the remodel. Ms. Harvey acknowledged, however, that the NOV itself did not list the correct permit number. *Argument of Ms. Harvey.*
15. The owners were represented at the hearing by Attorney Kylie Purves. Ms. Purves argued that the NOV was unclear and/or ambiguous as to what the alleged violations related to (including which permit). She also stressed that, while the City included significant information about the permit that the City previously denied (Permit ##BB18 01183), the record before the Hearing Examiner did not include Permit #BB19 00508 itself, making it difficult for the Hearing Examiner to determine whether the Owners had, in fact, violated requirements of Permit #BB19 00508. *Argument of Ms. Purves.*
16. In light of the lack of necessary information in the record to make an informed decision, the Hearing Examiner ruled that the hearing would be continued until the next available hearing date. The COVID-19 pandemic struck shortly thereafter and, on May 25, 2020, the parties continued the hearing using remote meeting technology. *Oral Ruling of the Hearing Examiner.*
17. At the continued hearing, the Hearing Examiner admitted several additional exhibits into the record, including Permit #BB19 00508 (Exhibit S), and inspection information related to the work that occurred on the deck (Exhibit Y). Mr. Anderson testified that he had not visited the property since early January but stressed that, to protect the health and safety of anyone living on the property, appropriate inspections must be performed, including a fire inspection. He stressed that, in his view, it is not safe for multiple parties to be living on the property without appropriate inspections. *Testimony of Mr. Anderson.*
18. Attorney Harvey again represented the City and argued that, while the City is not seeking fines related to the property, it wants compliance with the terms of the initial (now expired) Permit and assurances that the property would not be occupied prior to final inspection. *Argument of Ms. Harvey.*
19. Attorney Purves again represented the Owners and proposed that the parties prepare a voluntary compliance agreement to address the outstanding issues on the property and the best way forward. Ms. Purves acknowledged that the only way forward for the Owners

would be to obtain new permits and that a timeline for this could be addressed in the compliance agreement. *Argument of Ms. Purves.*

20. The Hearing Examiner ruled that the parties should attempt to prepare a voluntary correction agreement, consistent with Bremerton Municipal Code (BMC) 1.04.030, and submit it advance of the next regularly scheduled hearing on June 22, 2020. On May 29, 2020, the Hearing Examiner issued a written order memorializing this ruling. The written order further noted that, if the parties could not agree upon the terms of a correction agreement, the Hearing Examiner would be willing to preside over a settlement conference, as allowed by Rule 3.7.1.B.6 of the Hearing Examiner's Rules of Procedure. *Oral Ruling of the Hearing Examiner; Order of the Administrative Hearing Examiner, dated May 29, 2020.*
21. The parties failed to reach agreement and the matter recommenced on June 22, 2020, for a third time. Attorney Harvey again represented the City. She stressed that, on June 15, 2020, the City sent a proposed correction agreement to the Owners and, in response, received a call from Attorney Purves asking for a settlement conference. The City, however, is not interested in a settlement conference. Ms. Harvey submitted additional exhibits for the records (photographs showing the ongoing nature of the violations) and requested that the Hearing Examiner produce a decision on the NOV. She stated that the City is now seeking fines in light of the lack of cooperation on the part of the Owners. *Argument of Ms. Harvey.*
22. Attorney Purves again represented the Owners. She stressed that, ultimately, the Owners and the City do not agree about whether this property should be treated as a duplex and that the Owners were not represented by legal counsel when they earlier acquiesced to the City's position that the property could not be treated as a duplex. This matter is beyond the scope of the NOV hearing but needs to be addressed prior to the parties being able to move forward. *Argument of Ms. Purves.*
23. Mr. Monroe testified that he believes that good faith efforts have been made to work with the City to resolve the issues but there have been several complicating factors in timely achieving compliance, including the fact that they live out-of-state and the ongoing COVID-19 pandemic. Mr. Monroe explained that he understands the need for appropriate permits and inspections and wants to move forward but would like a chance to further resolve whether the existing residence is a duplex or not before doing so. *Testimony of Mr. Monroe.*
24. Tiffany Monroe testified that this process has been exceedingly stressful and that the City has essentially asked them to give up half the value of the property even though it was historically treated as a multi-family residence. *Testimony of Ms. Monroe.*

25. Mr. Anderson testified that he feels the City “bent over backwards” to work with the Owners but, at some point, the Owners stopped cooperating and doing the necessary work to achieve compliance. City Planner Garrett Jackson also testified and stressed that the Permit (now expired) was for a single-family residence and that the City does not believe it will change its stance concerning how the property is characterized (i.e., whether it is a duplex). *Testimony of Mr. Anderson; Testimony of Mr. Jackson.*
26. At the conclusion of the hearing, the Hearing Examiner requested that Attorneys Harvey and Purves prepare proposed orders related to this matter by June 29, 2020. Both attorneys timely produced proposed orders and the record closed on June 29, 2020. *Oral Ruling of the Hearing Examiner; Proposed Order of the Administrative Hearing Examiner (prepared by Attorney Purves); Proposed Findings, Conclusions and Order of the Administrative Hearing Examiner (prepared by Attorney Harvey).*

## **CONCLUSIONS**

### Jurisdiction

The Administrative Hearing Examiner has jurisdiction over this matter and parties, pursuant to Chapter 1.04 of the Bremerton Municipal Code.

### Conclusions Based on Findings

1. The Owners have violated Chapter 17.04 BMC, by violating the Chapter’s adopted 2015 International Residential Code section R105.1, by performing work on the garage basement, house basement, and deck without first obtaining required permits. *Findings 1 – 8, 11, 12, 13.*
2. The Owners have violated Chapter 17.04 BMC, by violating the Chapter’s adopted 2015 International Residential Code section R109.1, by failing to obtain necessary inspections and approval prior to allowing residential structures on the property to be occupied. *Findings 1 – 8, 11, 12, 13.*
3. The Owners received notice of the violations and attended the hearing thereon with their attorney, with full opportunity to be heard on the Violations. *Findings 11 – 26.*
4. The parties continue to dispute whether the property may be permitted as something other than a single-family residence. This issue, however, is beyond the scope of the Hearing Examiner’s authority to address (i.e., is beyond the scope of the NOV at issue with the current permit). *Findings 21 – 26.*
5. The global pandemic associated with COVID-19 remains ongoing, further contemplating the potential for the parties to resolve their issues, inspections to occur, and compliance to be achieved. *Findings 1 – 26.*

## ORDER

Based on the Findings and Conclusions above, the following Order is issued:

1. The Owners shall abate all violations of the 2015 International Residential Code section R105.1 and R109.1 as adopted by BMC Chapter 17.04 on the property located at 1960 Taft Avenue, Bremerton, Washington. Compliance shall be demonstrated by the Owners:
  - A. Applying for a permit covering the house basement, deck including the area under the overbuilt room, and the garage basement within thirty (30) days of this Order.
  - B. Obtaining an inspection by the City of the basement of the house, the deck including the area under the overbuilt room, and the basement of the garage within thirty (30) days of the issuance of the new permit.
2. The Owners shall remove any and all tenants by legal means from the basement of the house within sixty (60) days of this Order, or as soon thereafter as is legal under Washington law and any applicable Governor's Proclamations. The Owners shall be solely responsible for ascertaining the soonest possible date on which they may accomplish this and shall notify the City every thirty (30) days of their progress or legal inability to comply with this requirement.<sup>1</sup>
3. The Owners shall provide all occupants of the property with a copy of this Order within 10 days of its issuance.
4. The Owners are hereby fined \$500 related to their failure to obtain required permits and inspections. The Owners shall be fined an additional \$100/day for failure to timely comply with Requirement 1.A of this Order. Accordingly, to avoid additional fines, the Owners must *apply* for a permit within 30 days of receiving this Order. In the event that additional litigation ensues following the Owners submitting a permit application, daily fines will not continue to accrue while such litigation is ongoing. Following any such litigation, however, a daily fine of \$100 may be imposed if a permit is issued and the Owners then fail to comply with Requirement 1.B of this Order, related to obtaining final inspection of the work on the property within 30 days of any such permit being issued.

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<sup>1</sup> The Hearing Examiner recognizes that there is apparent conflict between Requirements 1 and 2 of this Order. There is not: Requirement 1 relates to the need for the permit process to be reinitiated in an expedited manner, given the likelihood that any dispute over the characterization of the property would be addressed through the Owners' efforts to obtain a new permit associated with the entire property; Requirement 2 is independent of any such dispute (which, theoretically, could involve lengthy litigation) and addresses Mr. Anderson's ongoing concerns about the safety of using the property for multi-family residential housing. Put another way, the Hearing Examiner intends, through Requirement 2, that the Owners remove all tenants from the basement of the property as quickly as is possible (and legal), given the current circumstances, and this requirement is not related to, or contingent upon, whatever occurs with the Owners' efforts to obtain necessary permits (or recharacterization of the property as a duplex) under Requirement 1.

5. The Owners are hereby fined \$500 related to allowing the residential structures on the property to be occupied without first obtaining required permits and inspections. The Owners shall be fined an additional \$100/day for failure to comply with Requirement 2 of this Order.
6. Payment of fines shall be made within thirty (30) days of being due, either in person at the City of Bremerton Department of Community Development at 345 – 6<sup>th</sup> Street, Suite 600, or by mail to 345 – 6<sup>th</sup> Street, Suite 100, Bremerton, WA 98337-1873. If payment is not made on or before a due date, collection action will be taken, which may include assigning the debt to a collection agency pursuant to RCW 19.16.500.
7. This written Order shall be controlling over any conflicts with oral Orders issued at the hearing.
8. If Owners fail to abate the identified violations as directed by this Order, the City of Bremerton is authorized to undertake and complete the abatement in conformance with the provisions of the Bremerton Municipal Code, Chapter 1.04, at the full expense of Owners, and the City may act without further order or direction of the Administrative Hearing Examiner.
9. The City may schedule a compliance hearing to review the efforts made by Owners to comply with this order. The Hearing Examiner may take further action at the compliance hearing as appropriate.
10. Subsequent violations or the failure or refusal to abate a violation pursuant to an order of the administrative hearing examiner after receipt of written notice of such order shall constitute a misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days or by a fine in the amount fixed by the court of not more than one thousand dollars (\$1,000.00) or by both such imprisonment and fine.

Entered this 14<sup>th</sup> day of July, 2020.



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Andrew Reeves  
Administrative Hearing Examiner  
City of Bremerton

*City of Bremerton  
Administrative Hearing Examiner  
1960 Taft Avenue NOV  
Findings, Conclusions & Order*