

1 **OFFICE OF THE HEARING EXAMINER**

2 **CITY OF TACOMA**

3
4 **GRAND TACOMA TERRACE, LLC,**
5 a Washington Limited Liability
6 Company,

7 **Appellant,**

8 **v.**

9 **CITY OF TACOMA,** a Washington
10 Municipal corporation, through its
11 Neighborhood and Community
12 Services Department,

13 **Respondent.**

HEX.NCSD.2022-003
(NCS Case No. 60000243973)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

14 Request

15 The City of Tacoma (“City”), through its Neighborhood and Community Services Department (“NCS”), inspected and found the real property assigned Pierce County tax parcel number 6850000040 and commonly known as 4015 South Fife Street, Tacoma Washington (the “Subject Property”) to be in a nuisance condition and therefore, to be in violation of Tacoma Municipal Code (TMC), Chapter 8.30.

16 Hearing

17 The Hearing Examiner convened a hearing, on December 21, 2022¹, upon Respondent’s request and as noticed by the City on November 30, 2022. The Examiner conducted a drive-by site visit of the Subject Property on January 5, 2023.²

18 ¹ This hearing was conducted with in-person participation in the City Council Chambers, and also participation over Zoom at no cost to any participant with video, internet audio, and telephonic access.

19 ² The Examiner’s site visit is not for the purpose of evidence gathering and his observations do not become part of the record. *Hearing Examiner Rules of Procedure for Hearings 1.15.*

20 **FINDINGS OF FACT,**
21 **CONCLUSIONS OF LAW,**
DECISION AND ORDER

1 Testimony/Appearances

- 2 - Jennifer J. Taylor, Deputy City Attorney, appeared representing the City;
3 - Darrell Cochran, Attorney at Law, appeared representing the Appellant;
4 - Keith Williams, City Building Inspector, was present and testified for the City;
5 - Lt. Jeffrey Katz, Tacoma Police Department, was also present and testified for the City; and
6 - Kathryn J. Dobler, owner and managing partner of the Appellant, was present and testified for
7 the Appellant.

8 Exhibits

9 The following exhibits were admitted into the record:

- 10 Exhibit A-1 Hearing request received by the Hearing Examiner's office on December 16,
11 2022 and Notice of Violation dated November 2, 2022.
12 Exhibit A-2 Color photos (6) of premises from 10/24/2022.
13 Exhibit A-3 City of Tacoma authorization to remove trespassers agreement dated 11-1-2017.
14 Exhibit A-4 City of Tacoma's authorization to remove trespassers agreement dated 12-29-
15 2020.
16 Exhibit A-5 City of Tacoma's authorization to remove trespassers agreement dated 2nd day
17 of March, 2022.
18 Exhibit A-6 Email from Keith Williams to Kathryn Dobler re: Abatement.
19 Exhibit A-7 Emails between Keith Williams and Kathryn Dobler re: Homeless encampment
20 abatement.
21 Exhibit A-8 Email from Russell Darneille to Tacoma Police Officer Matt Verkoelen re:
Homeless Encampment.
Exhibit A-9 KOMO article re: Homeless Encampment Safety Issues.
Exhibit R-1 City of Tacoma's Notice of Violation (Nuisance - Case No. 600000243983) re:
4015 S Fife St, including six (6) color photos dated 10/24/22.
Exhibit R-2 Pierce County Assessor-Treasurer Property Summary Information (Parcel No.
6850000040).
Exhibit R-3 NCS Photos (6) of premises.
Exhibit R-4 K5 Civil Infraction Summary re: 4015 S. Fife Street.
Exhibit R-5 Color photo uploaded to City of Tacoma 311 website.
Exhibit R-6 Request for appeal hearing letter dated November 2, 2022, received by City
Clerk's Office on November 7, 2022.
Exhibit R-7 March 2, 2022 Email communication between Keith Williams and Kathy
Dobler.

20 The Hearing Examiner enters the following Findings of Fact, Conclusions of Law, and
21 Order, based on the testimony presented and the exhibits admitted.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

1 **FINDINGS OF FACT**

2 1. Pursuant to the City’s Notice of Violation dated “10/26/2022” (the “NOV”), the
3 property subject to the present code enforcement action, and the subject of this appeal, is located
4 at 4015 South Fife Street in Tacoma, Washington, and is assigned Pierce County Tax Parcel No.
5 6850000040 (again, the “Subject Property”). Later in the NOV, at page 8, the City lists 13 other
6 Pierce County Tax Parcel Nos., located in and around 4015 South Fife Street, to which the NOV
7 applies. These other parcels are also included in any reference to the Subject Property unless
8 otherwise expressly stated. *Ex. R-1.*

9 2. The record owner of the majority or parcels comprising the Subject Property is
10 Appellant Grand Tacoma Terrace, LLC, a Washington limited liability company.³ Appellant has
11 owned the Subject Property since around 2007. The Subject Property is located near the Tacoma
12 Mall. The Appellant purchased it with the intention of developing it as multi-family residential
13 housing, but has found doing so difficult in the wake of zoning revisions to the area. As a result,
14 the Subject Property, for all times and purposes relevant to this appeal, has existed in an
15 undeveloped condition. The Subject Property is part of an assemblage of parcels totaling
16 approximately 4 acres. *Dobler Testimony, Williams Testimony; Exs. A-2, A-6~A-8, Exs. R-2, R-3.*

17 3. During its ownership, the Appellant has posted the Subject Property with no
18 trespassing signs, has done brush guarding (clearing) and trash pickup when able if the Subject
19 Property was not occupied, and has performed trenching around the perimeter of the Subject
20 Property in order to prevent vehicles from easily entering the Subject Property. On the east side of
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³ The City appeared to presume that other owner entities were affiliates of the Appellant, but no evidence was presented to that effect.

1 the Subject Property, the Appellant has also added jersey barriers to prevent entry by vehicles on
2 that side. When the Appellant has posted no trespassing signs on the Subject Property, they get
3 removed in short order. *Dobler Testimony*.

4 4. The Subject Property has significant vegetation overgrowth on it presently. In
5 addition, it is occupied by trespassers who produce a significant amount of refuse. The trespasser-
6 occupants have placed tents on the Subject Property and have constructed unpermitted⁴ make-shift
7 shelters out of wood in some instances as well. These conditions have existed on the Subject
8 Property since at least February of 2022, which is when Mr. Williams first dealt with the Subject
9 Property for the City. *Dobler Testimony, Williams Testimony; Exs. A-5~A-8, Ex. R-1, Ex. R-3.*

10 5. In March of 2022, the City and the Appellant worked together under the City's
11 Private Property Encampment Abatement ("PPEA") program to have the Subject Property cleared
12 of occupants and then have refuse removed. The City requested access to the Subject Property
13 through a written agreement that it presented to the Appellant and which the Appellant signed.⁵
14 The Tacoma Police Department ("TPD") led in clearing the Subject Property of its trespasser
15 occupants after posting the Subject Property with a notice to vacate. Williams testified that these
16 kind of City-led cleanup efforts do not happen without TPD assistance in clearing the occupants
17 from the property first. After clearing the Subject Property of occupants, the City⁶ then cleaned up
18 the encampment, removing as much debris and refuse as possible and disposing it in City solid
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20 _____
⁴ Either by the Appellant or the City.

21 ⁵ Appellant and the City disagreed on some of the language in the access agreement and the agreement's ultimate effect. This lack of a contractual "meeting of the minds" is not material to the decision rendered herein. Nonetheless, Appellant's unilateral alterations of the agreement, in and of themselves, did not obligate the City to engage in continuous maintenance of the Appellant's property as Dobler asserted in her testimony.

⁶ Or its contractor.

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1 waste facilities, at City cost, on a one-time basis, in order to assist the Appellant with its
2 unauthorized encampment situation. The City removed and disposed of 24.36 tons of refuse from
3 the Subject Property over a three-day period at a cost of over \$14,000 to the City. None of this cost
4 was passed on to the Appellant as the owner of the Subject Property. The City acknowledged in
5 testimony regarding the PPEA that the City knew the PPEA cleanup would only temporarily
6 relieve conditions in the neighborhood. *Id.*

7 6. Both Dobler and Williams testified that the trespasser occupants of the Subject
8 Property simply moved to the right-of-way fronting the Subject Property and other nearby areas
9 while the PPEA cleanup occurred. They then moved right back onto the Subject Property as soon
10 as it was cleared. When asked on cross-examination why the City would allow the trespasser
11 occupants to immediately reoccupy the Subject Property, Williams answered that there are limits
12 on what the City can do. Williams also acknowledged that the Appellant has not caused the
13 nuisance conditions on the Subject Property through any affirmative action, but rather has not
14 adequately prevented them in the City’s view.

15 7. Dobler testified that the Appellant was ready to go in and perform brush guarding
16 after the PPEA exercise was concluded, but was unable to do so because of this immediate re-entry
17 by the former, and once again trespasser occupants.

18 8. Williams testified that he has given suggestions to the Appellant about how the
19 Subject Property could be better secured against trespass and encampments. His suggestions
20 included fencing the Subject Property, performing “continuous maintenance,” including mowing
21 and trash removal, and “continuous fence maintenance,” together with regular inspections of the

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1 Subject Property. Williams also testified about other similarly situated property owners' efforts to
2 keep homeless encampments off their properties. He mentioned fencing and ecology block
3 barriers, as well as private security patrols. When asked by City legal counsel whether those efforts
4 had been effective at other properties, he responded that the efforts produced "hit and miss"
5 results.

6 9. The Subject Property is not fenced. The City has strongly suggested to the Appellant,
7 both prior to the hearing and during the hearing, that fencing the Subject Property might help
8 alleviate trespassing at the Subject Property, but at the same time, the City admitted that it is also
9 likely that fencing would be an "imperfect solution" at best, and is not required by law. From the
10 presentation of the City's case, it would seem the City views fencing the Subject Property almost
11 as a good faith gesture from the Appellant that it is doing all it can to keep trespassers out even if
12 all involved admit that fencing likely would not be efficacious in keeping the Subject Property
13 trespass free, and therefore nuisance free. Lt. Katz did testify that the presence of a fence helps
14 make TPD's path to enforcing trespass laws easier. The Appellant testified that fencing the entirety
15 of the Subject Property would be very expensive, however. *Williams Testimony, Katz Testimony,*
16 *Dobler Testimony; Exs. A-6~A-8, Ex. R-1, Ex. R-3.*

17 10. After the PPEA exercise, City code enforcement became involved with the Subject
18 Property again in August of 2022, after a complaint was received through the 311 system. After
19 receiving the complaint, Williams inspected the Subject Property on September 16, 2022, and
20 found it to be in a similar condition to that which existed prior to the PPEA cleanup. In other
21 words, the Subject Property was overgrown with vegetation, occupied by trespassers and covered

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1 in refuse and tents and other makeshift shelters. Williams took photos later on October 24, 2022,
2 documenting the conditions on the Subject Property. *Williams Testimony; Ex. R-3, Ex. A-2.*

3 11. The City then sent the NOV to the Appellant on or around its issuance date of
4 October 26, 2022, based on Williams' observations from September and October of 2022.
5 *Williams Testimony; Ex. R-1.*

6 12. Williams testified that the City periodically sends out a contractor to the right-of-way
7 fronting the Subject Property to perform cleanup activities, but these contractors are limited in
8 what they can and cannot remove. Williams mentioned that one major limitation is that anything a
9 person claims as personal property cannot be removed "because that would be stealing" according
10 to the City.

11 13. The City considers adequate abatement in this matter to consist of cutting down
12 vegetation overgrowth, removing trash and debris, and removing any "illegal" or unpermitted
13 structures from the Subject Property. *Williams Testimony; Ex. R-1.*

14 14. In response to a question from City legal counsel about whether the City would assist
15 the Appellant in addressing the nuisance conditions on the Subject Property Williams first
16 indicated that the City would not help in any further cleanup, reiterating that the PPEA cleanup
17 was one-time only. He deferred to TPD insofar as the question was directed at whether the City
18 would assist with the trespasser occupiers as part of an abatement effort. He later indicated that the
19 City might become involved in cleanup efforts again if the Appellant agreed to bear the cost.
20 *Williams Testimony.*

21 15. The City presented no authority or evidence that would show that the Appellant has

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1 the right *and* ability to remove the occupants of the Subject Property in a safe manner in order to
2 adequately abate the nuisance conditions present there. Both parties testified that dangerous
3 conditions, and dangerous people are present on the Subject Property. *Williams Testimony, Dobler*
4 *Testimony, Katz Testimony.*

5 16. Both City witnesses (Williams and Katz) testified that they do not see any path for the
6 Appellant to take in abating the nuisance conditions on the Subject Property that does not include
7 significant City assistance, at least from TPD, in order to deal with the trespasser occupants as a
8 first step to abating the nuisance conditions. Lt. Katz specifically testified that he would not
9 suggest that the Appellant could safely remove trespassers from the Subject Property on its own.
10 Lt. Katz also testified that he did not think TPD acting alone to enforce trespass ordinances/statutes
11 would be an effective way to address the encampment situation on the Subject Property.⁷ Instead,
12 Lt. Katz testified that he had told Appellant’s representatives that he was committed to finding a
13 cooperative solution. Before the hearing was over, both parties admitted that there will have to be
14 cooperative efforts to effectively remedy the nuisance conditions on the Subject Property.

15 17. Over the course of its ownership, the Appellant has given TPD standing authority to
16 remove trespassers from the Subject Property. This authority was granted through a written
17 document signed by the Appellant. The form appears to be produced by TPD. It appears that there
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20 ⁷ Lt. Katz pointed to TMC 8.12.025.C.4 as a barrier to TPD in enforcing the City’s trespass laws against occupiers of
21 the Subject Property because it is “unimproved,” “unused,” and not fenced. Given the history at the Subject Property
of the Appellant specifically granting TPD the authority to enforce for trespass, TPD’s perceived barrier seems to be
more of an enforcement priority choice than an actual legal barrier because TPD knows the trespasser occupants of the
Subject Property do not have any actual “license” or authority to occupy the Subject Property. TMC 8.12.025.C.4
seems problematic in and of itself because it appears to legislatively interfere with what otherwise is a well-settled
right of private property owners—the right to exclude persons from that property.

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1 is no authorizing agreement currently in effect, however. *Dobler Testimony, Katz Testimony; Ex.*
2 *A-3, Ex. A-4.*

3 18. As already alluded to, Dobler testified that the encampment on the Subject Property is
4 dangerous, and that when she has sent people to the Subject Property they have witnessed illegal
5 activity taking place and that they have been threatened with knives and box cutters.

6 19. Appellant sought to have the NOV vacated as its requested relief in this appeal.
7 Mainly from argument, that request appears to be based on Appellant's contention that the City is
8 not doing enough to keep the Subject Property free from trespass/encampments, and therefore the
9 City cannot hold Appellant responsible for the nuisance conditions created by the trespassers.

10 20. Conversely, the City requested that the Examiner conclude that nuisance conditions
11 had been proved to exist by a preponderance of the evidence, uphold the NOV, and conclude that
12 the City's requested corrective action is reasonable.

13 21. Any conclusion of law herein which may be more properly deemed or considered a
14 finding of fact is hereby adopted as such.

15 CONCLUSIONS OF LAW

16 1. The Hearing Examiner has jurisdiction to conduct hearings regarding nuisance
17 notices of violation. *TMC 8.30.100, TMC 1.23.050.B.25.*

18 2. Notice of the hearing in this matter appears to have been properly given.⁸

19 3. The City bears the burden, by a preponderance of the evidence, to show that a
20 nuisance condition exists on real property owned by the Appellant, and "that the required
21 corrective action is reasonable." *TMC 8.30.100.D~E.*

⁸ The Appellant did not challenge the adequacy of the NOV on any front, and a hearing was held.

1 4. “Preponderance of the evidence” means that the trier of fact is convinced that it is
2 more probable than not that the fact(s) at issue is/are true.⁹

3 5. The preponderance of the evidence standard is at the low end of the spectrum for
4 burden-of-proof evidentiary standards in the U.S. legal system, and it is not particularly difficult
5 to meet.¹⁰

6 6. TMC 8.30.080, titled “Notice of Violation and Abatement” requires property owners
7 who receive a notice of nuisance condition(s) on their property to properly abate the nuisance
8 condition(s). This obligation is conditioned, however, in the case of a hearing, on the Hearing
9 Examiner determining “that the required corrective action is reasonable” pursuant to TMC
10 8.30.100.E.

11 7. Under TMC 8.30.100.E, the Examiner has the authority to “affirm, modify, or vacate
12 the Public Official’s decisions regarding the alleged violation, the required corrective action,
13 and/or civil penalty with or without written conditions.”

14 8. TMC 8.30.030.A establishes that “A public nuisance consists of...[a] condition...
15 which [U]nreasonably annoys, injures, or endangers the comfort, repose, health, or safety of
16 others.” Subsections F and G of that same section establish that a condition that (F) “In any way
17 renders other persons insecure in life or the use of property; or (G) [O]bstructs the free use of
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20 ⁹ *Spivey v. City of Bellevue*, 187 Wn.2d 716, 733, 389 P.3d 504, 512 (2017); *State v. Paul*, 64 Wn. App. 801, 807, 828
21 P.2d 594 (1992).

¹⁰ *In re Custody of C.C.M.*, 149 Wn. App. 184, 202-203, 202 P.3d 971, 980 (2009). Another somewhat recent case referred to it thusly: “The lowest legal standard of proof [in the U.S. legal system] requires the proponent to prove its case by a preponderance of the evidence.” *Mansour v. King County*, 131 Wn. App. 255, 266, 128 P.3d 1241, 1246-1247 (2006).

1 property so as to essentially interfere with the comfortable enjoyment of life and property” also
2 constitute a public nuisance.

3 9. TMC 8.30.040.C.establishes that “Filthy, littered, trash-covered, or overgrown
4 premises” also constitute a public nuisance.

5 10. Subsection E of that same section (TMC 8.30.040) establishes that “any building or
6 structure constructed with inappropriate materials or improperly fastened together or anchored
7 against the forces of nature” also constitutes a public nuisance.

8 11. It is clear from the evidence now constituting the hearing record that the just listed
9 public nuisance conditions exist on the Subject Property. It is overgrown, trash-covered, and has
10 structures constructed inappropriately on it. In addition, the present conditions cause people to feel
11 unsafe and the conditions interfere with the free use of the Subject Property. In fact, conditions
12 interfere with the property owner Appellant entering and performing actions, such as brush
13 guarding and trash pickup, that are necessary to abating aspects of the nuisance. That has been
14 shown by a preponderance of the evidence from the testimony of both sides in this appeal. *See FoF*
15 *4 and FoF 5.*¹¹ These conditions are a nuisance not only to the public, but also to the Appellant as
16 the owner of the Subject Property.

17 12. The hearing record also shows by a preponderance of the evidence that abating these
18 conditions is reasonable. Stated from the counter perspective, it is *unreasonable* to allow the
19 nuisance conditions on the Subject Property to continue unabated. Both parties expressed their
20 desire to have the Subject Property freed from the nuisance conditions, and certainly other
21 residents of the neighborhood would not be opposed to seeing the Subject Property abated.

¹¹ “FoF” is an abbreviation for Finding of Fact.

1 13. What is not clear is how abatement of the nuisance on the Subject Property should
2 take place in order for the actual actions of abatement to be reasonable. On that front, it is clear
3 that it is not reasonable to have the Appellant attempt to clear the trespass occupiers—as a
4 necessary first step in the abatement process — from the Subject Property without assistance from
5 the City through TPD. In other words, the Examiner concludes, from the testimony of all hearing
6 witnesses, that it is not reasonable to require the Appellant to abate the nuisance conditions at the
7 Subject Property on its own.

8 14. At times during the hearing, both parties seemed to be attempting, primarily through
9 argument rather than evidence, to be pushing all abatement obligations onto the other. Neither side
10 made that case from a legal authority standpoint, or from the evidence. The City’s apparent
11 position of “we cleaned it up once so now it is all on you as the property owner” is untenable.
12 Likewise, the Appellant’s argument that “we are taxpayer citizens and not law
13 enforcement/government so this is entirely the City’s problem to remedy” is unpersuasive and
14 untenable.

15 15. Based on all the foregoing, the Examiner renders the following express conclusions:

16 A. The overgrowth, filthy, trash-covered condition of the Subject Property is a public
17 nuisance under TMC 8.30;

18 B. The unsafe conditions present on the Subject Property caused by the trespasser
occupants of the Subject Property also constitute a public nuisance;

19 C. The presence of unpermitted, inappropriately constructed structures on the Subject
20 Property also constitute a public nuisance;

21 D. Abating the nuisance conditions is reasonable;

1 E. Requiring the Appellant to abate the Subject Property without assistance from the
2 City is not reasonable because of safety issues that fall under the province of local
government and law enforcement to address;

3 F. Ordering abatement entirely at the expense of the City is not reasonable nor did the
4 Appellant present any legal authority for that proposition; and

5 G. No authority or evidence was presented that would require the Examiner to vacate
the NOV as requested by the Appellant.

6 16. Any finding herein which may be more properly deemed or considered a conclusion
7 is hereby adopted as such.

8 **DECISION AND ORDER**

9 Based on the foregoing Findings of Fact and Conclusions of Law, the City's Notice of
10 Violation is UPHELD insofar as the Examiner has concluded that public nuisance conditions do
11 exist on the Subject Property and that these conditions should be abated.

12 Toward the end of the hearing, the parties acknowledged that they would have to work
13 together to address the various challenges present on the Subject Property. This ORDER will
14 provide that opportunity. To the extent that the City's Notice of Violation (NOV) put the
15 obligation for abating the nuisance conditions on the Subject Property entirely on the Appellant,
16 the NOV is modified to require that any removal of trespasser occupants and their property from
17 the Subject Property be done with the backing and visible assistance, under color of law, of TPD.
18 How and when such would take place is to be determined through discussions between the
19 Appellant and the City.

20 Appellant is hereby ORDERED to submit a proposed abatement plan to the City within one
21 month of the date of this Decision and Order. The proposed abatement plan shall, at a minimum

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1 address the following:

2 1. Any assistance the Appellant requires from the City of Tacoma in order to abate the
3 nuisance conditions on the Subject Property, including from law enforcement,
4 neighborhood and community services, or other City department/division, and to the extent
5 that the Appellant is requesting any financial assistance from the City of Tacoma, other
6 than that incurred by expending time and effort, the proposed plan shall expressly state the
7 amount and justification for such request.

8 2. The proposed plan shall contain a proposed timeline for the abatement not to exceed 6
9 months to completion.

10 3. The proposed plan shall include a proposal for eliminating the recurrence of the nuisance
11 conditions and shall expressly set forth all actions the Appellant intends to take, and shall
12 also include any actions the Appellant is requesting be taken by the City.

13 The proposed plan shall be submitted to the Office of the Hearing Examiner and to the City's legal
14 counsel. City legal counsel can then share the submittal with other necessary City staff.

15 Unless the plan is acceptable to all (Appellant, City, and the Examiner) as submitted, the
16 parties, (Appellant and City) shall meet within one month from the plan's being submitted to
17 negotiate revisions to the proposed plan in order to arrive at a plan that is mutually agreed upon
18 between the Appellant and the City. If the parties cannot reach a mutual agreement on the
19 abatement plan within one month's time from their initial meeting, they shall notify the Office of
20 the Hearing Examiner (OHEX) and the OHEX will schedule a conference between the parties to
21 determine next steps.

In the event of non-compliance or unresponsiveness by the Appellant with this ORDER
that exceeds 2 months, the City is authorized under TMC 8.30.080.A.6, TMC 8.30.110 and TMC

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**FINDINGS OF FACT,
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1 8.30.120 to abate the nuisance on the Subject Property and assess and recover all costs of
2 abatement against the Appellant as the owner of the Subject Property.

3 **DATED** this 17th day of January, 2023.



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5 **JEFF H. CAPELL, Hearing Examiner**

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**FINDINGS OF FACT,
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1 **NOTICE**

2 **RECONSIDERATION/APPEAL OF EXAMINER'S DECISION**

3 **RECONSIDERATION TO THE OFFICE OF THE HEARING EXAMINER:**

4 Any aggrieved person or entity having standing under the ordinance governing the matter, or as
5 otherwise provided by law, may file a motion with the Office of the Hearing Examiner
6 requesting reconsideration of a decision or recommendation entered by the Examiner. A motion
7 for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or
8 law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the
9 issuance of the Examiner's decision/recommendation, not counting the day of issuance of the
10 decision/recommendation. If the last day for filing the motion for reconsideration falls on a
11 weekend day or a holiday, the last day for filing shall be the next working day. The
12 requirements set forth herein regarding the time limits for filing of motions for reconsideration
13 and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that
14 are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors
15 shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to
16 determine whether an opportunity shall be given to other parties for response to a motion for
17 reconsideration. The Examiner, after a review of the matter, shall take such further action as
18 he/she deems appropriate, which may include the issuance of a revised
19 decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

20 **NOTICE**

21 **APPEAL TO SUPERIOR COURT OF EXAMINER'S DECISION:**

Pursuant to the Official Code of the City of Tacoma, Section 1.23.160, the Hearing Examiner's
decision may be appealable to the Superior Court for the State of Washington. Any court action to
set aside, enjoin, review, or otherwise challenge the decision of the Hearing Examiner will likely
need to be commenced within 21 days of the entering of the decision by the Examiner, unless
otherwise provided by statute.w

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