

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

A Resolution authorizing recovery of abatement costs pursuant to EMC 1.20.090 at 10708 Holly Drive, Everett, Washington

- _____ Briefing
- _____ Proposed Action
- _____ Consent
- _____ Action
- _____ First Reading
- _____ Second Reading
- _____ Third Reading
- _____ Public Hearing
- _____ Budget Advisory

COUNCIL BILL #
 Originating Dept.
 Contact Person
 Phone Number
 FOR AGENDA OF

Code Enforcement
 Kevin Fagerstrom
 (425) 257-8565
 March 23, 2016

Initialed by:
 Department Head
 CAA
 Council President

_____ *db*
 _____ *[Signature]*

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
10708 Holly Drive		Resolution, Summary of Activities, Report of Expenses, Hearing Examiner Order, Contractor's Invoice, Notice of Payment Due, Notice of Council Hearing	Legal, Code

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The Everett Municipal Code (EMC) Section 1.20.090 authorizes the City to abate code violations and recover the abatement costs. On November 19, 2015, the City's Hearing Examiner held that code violations existed at 10708 Holly Drive.

The Examiner required the property owner to properly and legally secure the residential and attached accessory structures to bring them into compliance with the EMC. The Examiner also imposed a penalty of \$1000. The violations were not abated in accordance with the Order and pursuant to a Notice of the City of Everett Code Official, the City abated the violations. The Respondent failed to pay the abatement costs and penalty, which are now past due.

This Resolution authorizes placement of an assessment lien on the property on or after March 23, 2016, in the amount of the outstanding costs of abatement and the penalty imposed by the Examiner, which total \$2,627.08.

RECOMMENDATION (Exact action requested of Council):

Adopt a Resolution authorizing recovery of abatement costs pursuant to EMC 1.20.090 at 10708 Holly Drive, Everett, Washington, in the amount of \$2,627.08.

RESOLUTION NO.

A RESOLUTION authorizing recovery of abatement costs pursuant to EMC 1.20.090 at 10708 Holly Drive, Everett, Washington.

WHEREAS, the Everett Municipal Code (the “EMC”) Section 1.20.090 authorizes the City to abate code violations and recover the abatement costs; and

WHEREAS, on November 19, 2015 the City of Everett Violations Hearing Examiner issued an Order against the property owner, the Estate of Richard D. Webster (the “Owner”), for EMC violations at 10708 Holly Drive (the “Property”), parcel number 00552300301701, and abbreviated legal description:

RANCHO INTERCITY BLK 003 D-01 - THE ELY 70FT OF SLY 150FT OF LOT 17BLK 3

WHEREAS the Owner failed to abate the violations, which included securing the vacant residential structure and accessory structures on site;

WHEREAS, the City provided notice to the Owner explaining that failure to immediately abate the above-described violations would result in the City lawfully abating the violations on the Property, and that those costs together with any penalties imposed by the Hearing Examiner may become a lien against the property if the Owners failed to reimburse the City the abatement costs;

WHEREAS, the City, through a contractor, conducted the abatement including securing the residential structure and accessory structures from trespass on January 25, 2016;

WHEREAS, the City incurred costs in the amount of \$1, 627.08 in its abatement of the violations and the Hearing Examiner imposed a penalty of \$1000.00 against the Owner;

WHEREAS, the Owner has failed to timely pay the penalty and abatement costs; and

WHEREAS, notice of Council’s consideration of this Resolution was provided to the Owner;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Everett that the costs and penalties set forth in the report attached hereto is confirmed for the Property. The City Treasurer is authorized to certify the amount due and owing to the County Treasurer, which amount shall then be entered as an assessment upon the tax rolls against the property with interest as provided by law.

Councilperson Introducing Resolution

PASSED AND APPROVED this _____ day of _____, 2016

Council President



Police Code Enforcement Unit

Summary of Activities 10708 Holly Drive

- 09/23/2015: Code Enforcement unit discovered the residential structure on site was occupied without required water service.
- 09/24/2015: Violation Citation is issued for violations of the City's EMC for allowing the residential and accessory structures on the property to be occupied without required water service.
- 09/24/2015: The Violation Citation is posted on the property.
- 09/24/2015: The City posted the property as condemned
- 09/25/2015: Deadline for corrective action to vacate the residential structure, structure to remain vacant until water service is restored.
- 11/19/2015: Hearing. Hearing Examiner sets November 27, 2015 to properly and legally secure the residential and accessory structures from trespass and not allow occupancy until approved water service is restored. A fine of \$1000.00 was imposed for violations of IPMC 106.1 and IPMC 505.1.
- 11/30/2015: Inspection of the structure revealed it to be unsecured with evidence of transient occupancy.
- 12/18/2015: Upon inspection of the property, the residential and accessory structures were unsecured and open to trespass.
- 01/11/2016: Notice of City of Everett Code Official was sent to Respondent informing of impending action by the City to secure the property from trespass on or after January 18, 2016.
- 01/25/2016: Abatement completed by Combined Construction.
- 02/08/2016: Notice of abatement cost sent via regular, certified mail and posting.
- 03/09/2016: Notice of Council Hearing is sent certified and posted on property.
- 03/23/2016: Council Hearing.



**Everett Police Department
Code Enforcement Unit**

March 9, 2016

City of Everett – Code Enforcement Unit
Hearing Examiner Order dated November 19, 2015
Abatement of violations for property located at: 10708 Holly Drive, Everett,
Washington

Itemized Statement for: Estate of Richard D. Webster
Case #: CE15-0909
Abatement Date: January 25, 2016

1) City of Everett Fees for abatement costs incurred:

Hearing Examiner Fine	\$1000.00
Abatement of violations (Combined Construction)	\$1,627.08
Total:	\$2,627.08



CITY OF EVERETT Violations Hearing Examiner

City of Everett, a Washington)	
Municipal Corporation,)	Case No: CE15-0909
Petitioner,)	FINAL
vs.)	FINDINGS OF FACT,
Estate of Richard D. Webster)	CONCLUSIONS OF LAW
Unknown Heirs and Unknown Devisees)	AND DEFAULT ORDER OF THE
All other occupants of the premises and any)	HEARING EXAMINER
other person or parties claiming to have right)	
title, estate lien, or interest in the property)	
10708 Holly Drive)	
Everett, Washington 98204)	
Respondent)	
_____)	

INTRODUCTION

A hearing on the above captioned matter was held before the Hearing Examiner of the City of Everett on November 19, 2015. At the hearing, the following presented testimony and evidence:

Don Cunningham, City of Everett Code Enforcement Officer
Katie Rathbun, City of Legal Department
Kevin Fagerstrom, City of Everett Code Enforcement Officer

EXHIBITS

At the hearing the following exhibits were submitted and admitted as part of the official record of these proceedings:

- Exhibit 1a-1d Pre-Hearing Inspection Photos dated November 6, 2015
- Exhibit 2a-2f Inspection Photos dated August 31, 2015
- Exhibit 3 Proposed Order as submitted by the City of Everett Code Enforcement Unit dated November 19, 2015
- Exhibit 4 Violation Citation dated September 24, 2015 with mail receipts
- Exhibit 5 Declaration of Service dated September 24, 2015 with photos
- Exhibit 6 Email from Kathy Hanka dated August 17, 2015
- Exhibit 7 Notice of Condemnation dated September 24, 2015 with mail receipts
- Exhibit 8 Condemnation Placard dated September 24, 2015 with photos
- Exhibit 9 Snohomish County Assessors Record dated November 9, 2015
- Exhibit 10 Go Sync Maps

Exhibit 11

Exhibit List dated November 19, 2015

Based upon a review of the administrative hearing record, the following Findings of Fact and Conclusions of Law hereby constitute the basis of the decision of the Everett Violations Hearing Examiner.

FINDINGS OF FACT

1. Estate of Richard D. Webster, Respondent, is the owner of record of the property at 10708 Holly Drive, Everett, Washington (property). The property is in an R-2 Single Family Medium Density Residential zone as established by the City of Everett. *(Exhibit #9, Snohomish County Assessors Record dated November 9, 2015)*
(Exhibit #10, Go Sync Maps)
2. On August 17, 2015, Kathy Hanka, City of Everett Utilities Department, informed City of Everett Code Enforcement Officer Don Cunningham that water service to the residential structure on the property had been disconnected. *(Exhibit #6, Email from Kathy Hanka dated August 17, 2015)* *(Testimony of Code Enforcement Officer Cunningham)*
3. On August 31, 2015, Officer Cunningham inspected the property and observed and photographed that access to water service had been locked. However, the electrical service remained connected and the residential structure on site appeared to be occupied because of drawn window coverings. *(Exhibit #2a-2f, Inspection Photos dated August 31, 2015)* *(Testimony of Code Enforcement Officer Cunningham)*
4. On September 23, 2015, Officer Cunningham and City of Everett Police Officer Edmonds contacted an occupant of the residential structure on site. Officer Cunningham spoke with an occupant of the house, Danita Lott, who informed him that she and two men had been living in the house and that there was no water service to the structure. None of the three occupants had approval from the Respondent to live on site. *(Testimony of Code Enforcement Officer Cunningham)*
5. On September 24, 2015, the City issued a violation citation to the Respondent for violations of International Property Maintenance Code (IPMC) 505.1 General as adopted by EMC 16.005.010; IPMC 106.1 Unlawful Acts as adopted by EMC 16.005.010 and IPMC 108.1.3 Structure Unfit for Human Occupancy as adopted by EMC 16.005.010. Copies were mailed to the Respondent via first class and certified mail to the Respondents last known address which Officer Cunningham obtained from Snohomish County Assessors Record. A copy was posted on the property. Each method of service used is independently sufficient to provide notice. *(Pursuant to EMC 1.20.010.C.1)* *(Exhibit #4, Violation Citation dated September 24, 2015 with mail receipts)* *(Exhibit #5, Declaration of Service dated September 24, 2015)* *(Testimony of Code Enforcement Officer Cunningham)*

6. On September 24, 2015, a notice of condemnation was sent via first class and certified mail to the Respondent. The notice provided information to the Respondent of the violations present on the property, and, cited that the residential and accessory structures were required to be vacated no later than September 25, 2015 because of a lack of approved water service to the residence. Officer Cunningham posted a condemnation placard on the property. (*Exhibit #7, Notice of Condemnation dated September 24, 2015 with mail receipts*) (*Exhibit #8, Condemnation Placard dated September 24, 2015 with photos*) (*Testimony of Code Enforcement Officer Cunningham*)
7. On November 6, 2015, Officer Cunningham reinspected the property and observed and photographed that the residential structure was unsecured and open to trespass. He observed that lights were on inside the structure. (*Exhibit #1a-1d, Pre-Hearing Inspection Photos dated November 6, 2015*) (*Testimony of Code Enforcement Officer Cunningham*)
8. The City provided the Respondent with an opportunity to correct the conditions that are in violation of sections of the EMC, provided a corrective action date of September 25, 2015 and provided notice of the date, time and place of this hearing. The Respondent failed to appear at the hearing.

Based on the above Findings of Fact, the Violations Hearing Examiner enters the following Conclusions:

CONCLUSIONS OF LAW

Jurisdiction:

Pursuant to Chapter 1.20 EMC or any Everett Municipal Code (EMC) provisions that identify Chapter 1.20 EMC for enforcement, the Violations Hearing Examiner of the City of Everett has jurisdictional authority to hold the hearing and issue the decision. EMC §1.20.020

Applicable Law:

1. **IPMC 505.1 Water System General**, which reads:

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

2. **IPMC 108.1.3 Structure unfit for human occupancy**, which reads:

A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or

other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

3. IPMC 106.1 Unlawful acts, which reads:

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

Conclusions of Law Based on Above Findings:

1. Allowing occupancy of residential and accessory structures without water service, rendering it unfit for human habitation as defined by IPMC 108.1.3, is a violation of IPMC 106.1. The Respondent violated said City ordinance.
2. Failing to properly and adequately provide water service in a safe and approved manner to an occupied residential structure on the property is a violation of IPMC 505.1. The Respondent violated said City ordinance.

ORDER

Based on the Findings of Fact and Conclusions of Law as stated above, it is hereby determined that the Respondent is in default and was in violation of IPMC 106.1 and IPMC 505.1 and is hereby ordered to:

1. The Respondent must abate all violations of IPMC 106.1 and IPMC 505.1 on property located 10708 Holly Drive, Everett, Washington.
2. All abatement of the violations on said property must be completed by **November 27, 2015**. The cleanup and abatement shall include:
 - a. The Respondent shall properly and legally board the vacant residential and accessory structures on site to prevent trespassing.
 - b. The Respondent shall not allow occupancy of the residential structure on site until approved water service is restored.
3. The Respondent shall be fined \$500.00 for violations of IPMC 106.1 and IPMC 505.1 for a fine of \$1000.00.
4. The Respondent shall not violate any ordinance set forth in EMC §1.20.020 or any ordinance or regulation that identifies the enforcement procedure described in Chapter 1.20 EMC as the enforcement procedure for said regulations or ordinance, for the next twenty-four (24) months.
5. The Respondent shall pay the \$1000.00 fine no later than **December 4, 2015**. Payment shall be made to the City of Everett Treasurer at 2930 Wetmore Suite 100, Everett Washington, 98201. If payment is not made on or before December 4, 2015

collection action will be taken, which may include assigning the debt to a collection agency pursuant to EMC §1.20.050(D).

6. This written Order shall be controlling over any conflicts with oral Orders issued at the Public Hearing.
7. If the Respondent fails to abate the identified violations as directed by this Order, the City of Everett is authorized to undertake and complete the abatement in conformance with the provisions of the Everett Municipal Code, Chapter 1.20, at the full expense of the owner, which shall be in addition to the fines as imposed herein. The City may act without further order or direction of the Violations Hearing Examiner.
8. Any post hearing motions shall comply with the Rules of Procedure of the City of Everett Hearing Examiner for Code Enforcement which can be found on the City of Everett web site.
9. Any appeal of this Order must be filed in Superior Court and be made within twenty-one days of the issuance of this Order and comply with the procedures set forth in Chapter 36.70C of the Revised Code of Washington. EMC §1.20.040 (F)(8)(h).

Violation of this Order is a misdemeanor offense EMC §1.20.080.

Done and dated 19th day of November, 2015.


 James M. Driscoll
 Violations Hearing Examiner
 City of Everett

I, Anne Weech, do hereby certify that on
Nov 20, 2015, I mailed certified / 1st class
Estate Richard Webster, Quality
Loan Service
 a true and accurate copy of the order LVC issued re:
 case # CE 15-0909
Anne Weech
 Signature

Combined Construction, Inc.

4493 Russell Road Ste:G
Mukilteo, WA 98275

Invoice

Date	Invoice #
1/28/2016	2013-035-23

Bill To
City of Everett 3002 Wetmore Ave. Everett, WA 98203 USA

P.O. No.	Terms	Project
PW15285	Net 30	2013-035 On-Call Police As...

Quantity	Description	Rate	Amount
1	Labor 12 Hours @70.00/Hour	840.00	840.00T
1	Equipment Service Truck, Generator, and Hand/Power Tools	325.00	325.00T
1	Materials	325.00	325.00T
	Sales Tax	9.20%	137.08
<p>* KEVIN FAGERSTROM DISCUSSED THIS W/ PURCHASING, CLARE LANGSTRAAT AND IT IS ACCEPTABLE</p> <p>APPROVED <i>DS. Quigg</i> # 497 1-29-16</p>			
Total			\$1,627.08

**SMALL WORKS
PUBLIC WORKS CONTRACT
(\$2,500 or less including tax)**



**STATEMENT OF INTENT TO
PAY PREVAILING WAGES
AND
AFFIDAVIT OF WAGES PAID**

This form must be typed or printed in ink and completed in full or it will be returned for correction. Large, bold numbers match instructions on the back of this form. Shaded areas are for the Awarding Agency and Labor & Industries (L&I) use only.

No filing fee

Contractors may obtain this form from the CONTRACT AWARDING AGENCY only. Contractors must complete and return the form to the CONTRACT AWARDING AGENCY. If the agency approves the form, it will send a copy of the approved form to L&I within 30 days of the date the agency received the form from the contractor.

1 Contract Awarding Agency City of Everett Purchasing Div			Project Name Boarding 10708 Holly		
Awarding Agency Address 3200 Cedar St			Contract or Purchase Order Number PW 15285		
City Everett	State WA	ZIP+4 98201	County Where Work Was Performed Snohomish	City Where Work Was Performed Everett	
Indicate Total Dollar Amount of Your Contract - Include Sales Tax (No "Time & Materials" allowed) \$ 1627.08			Date Contract Awarded (mm/dd/yy) 12/11/16		Date Work Completed (mm/dd/yy) 1/25/16

2 Number of Owner/Operators who own at least 30% of the company who performed work on this project: (check one box) None (0) One (1) Two (2) Three (3)

3 Did employees perform work on this project? (check one box) Yes No (If "Yes" - please list below)

4 Crafts/Trades/Occupations and Apprentices - For Apprentices enter the name, registration number, trade, dates worked on project, stage of progression, wage and usual benefit for each apprentice.	5 Number of Workers in Each Trade	6 Total # of Hours Worked in Each Trade	7 Rate of Hourly Wages	8 Rate of Hourly Usual ("Fringe") Benefits
General labor	2	12	42.167	- 0

9 Contractor Company Name Combined Construction Inc		Contractor Address 4493 Russell Rd Ste G			
Contractor Phone Number 425-610-4334	Contractor Email Address ajsc11@gmail.com	City Mukilteo	State WA	ZIP+4 98275	
Contractor Registration Number COMBIC1893NT	Contractor UBI Number 603-119-288	Contractor Industrial Insurance Account Number 216,146-00			

I hereby certify that the above information is correct and that all workers I employed on this Public Works Project were paid no less than the Prevailing Wage rate(s) as determined by the Industrial Statistician of the Department of Labor & Industries. I understand that contractors who violate Prevailing Wage laws, e.g., apply incorrect classifications/scopes of work for tasks performed on the project, fail to pay correct prevailing wage rates, etc., are subject to fines and/or debarment and will be required to pay any back wages due workers. See RCW 39.12.065.

Contractor Signature 	Date 1/20/16	Title VP/GM
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PLEASE NOTE:

- In approving this form, the Awarding Agency must verify that the Contractor's Registration or License is current and valid.
- The contract dollar amount indicated shall only be for a single payment in full on a single contract with the Awarding Agency. NO subcontractors.
- For information on potential Awarding Agency liability regarding use of this alternate filing process, see RCW 39.12.040(2)(d).
- RCW 39.12.040(2)(e): Nothing in this section shall be interpreted to allow an Awarding Agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by RCW 39.12.040(1).

10 Approval: Name and Title of Individual Authorized to Approve This Form on Behalf of the Awarding Agency (type or print)	Phone Number	Email Address
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Signature of Individual Authorized to Approve This Form on Behalf of the Awarding Agency	Date
--	------

Received: Department of Labor & Industries

Date: _____



**EVERETT POLICE DEPARTMENT
CODE ENFORCEMENT UNIT**

February 8, 2016

Estate of Richard D. Webster
Unknown Heirs and Unknown Devisees
All other occupants of the premises and any
other person or parties claiming to have right
title, estate lien, or interest in the property
10708 Holly Drive
Everett, WA 98204

Re: Case #CE15-0909: Hearing Examiner Order Property Abatement
Violation Address: 10708 Holly Drive, Everett, WA 98201

Dear Estate of Richard D. Webster et al,

On November 19, 2015, the City of Everett Hearing Examiner issued an Order requiring abatement of violations of IPMC 505.1 and IPMC 106.1 on the property noted above and assessed a fine of \$1000.00. The abatement of all or part of the violations was not completed by the compliance date of November 27, 2015. Pursuant to a Notice of the City of Everett Code Official the City abated the outstanding violations.

The abatement of the violations on the property was completed on January 25, 2016, pursuant to the Notice of the City of Everett Code Official and provisions of the Everett Municipal Code, chapter 1.20. The cost to the City for this work is \$1,627.08 and an invoice is attached. According to EMC 1.20.090 (B), all costs of abatement, including incidental expenses, shall be billed to the Respondent and become due and payable 30 days from the date of this bill. Failure to pay this fine could result in an assessment lien against the property.

Please note that this is the only notice you will be receiving from the City in regards to this matter.

Payment shall be made to:

**City of Everett
Treasurer's Office
2930 Wetmore, Suite 100
Everett, WA 98201**

Please reference your **Case Number CE15-0909** on your check, money order or at the time of payment. If you have any questions, please contact our office at (425)257-8560.

Thank you for your prompt response,

Kevin Fagerstrom
Code Enforcement Supervisor
Code Enforcement Unit
Everett Police Department

Anne Weech, do hereby certify that on
Feb 8, 2016, I mailed certified / 1st class
Webster Estate

a true and accurate copy of the order / VC issued re:
case # CE15-0909 Notice of Bill
Anne Weech
Signature



POLICE

CODE ENFORCEMENT UNIT

March 10, 2016

NOTICE OF HEARING

Estate of Richard D. Webster
Unknown Heirs and Unknown Devisees
All other occupants of the premises and any
other person or parties claiming to have right
title, estate lien, or interest in the property
10708 Holly Drive
Everett, WA 98204

Re: Case Number CE15-0909
10708 Holly Drive

Dear Estate of Richard D. Webster et al,

You are hereby notified that there will be a public hearing before the Everett City Council regarding your property located at 10708 Holly Drive, Everett, Washington, the legal description of which is follows:

RANCHO INTERCITY BLK 003 D-01 - THE ELY 70FT OF SLY 150FT OF LOT 17BLK 3

TAX PARCEL NUMBER: 00-5523-003-017-01

SUBJECT: The Code Enforcement Unit will request City Council adopt a resolution confirming the expenses incurred by the City of Everett while performing abatement of violations and authorizing placement of lien against the above-described property in the amount of abatement costs and the unpaid penalties imposed by the Everett Hearing Examiner on November 19, 2015. This amount totals \$2,627.08. The resolution and packet to be presented to the City Council are enclosed.

The City Council will formally consider adopting/denying the resolution at the date, time, and location below.

DATE: Wednesday, March 23, 2016

TIME: 12:30 p.m.

LOCATION: City Council Chambers
3002 Wetmore Avenue
Everett, WA 98201

Please contact me at (425) 257-8565 with any questions.

Kevin Fagerstrom

Kevin Fagerstrom, Supervisor Code Enforcement Unit

Anne Weech, do hereby certify that on Mar 10, 2016, I mailed certified/1st class Estate of Richard Webster

a true and accurate copy of the order/VC issued re: case # CE 15-0909 Notice of hearing
Anne Weech
Signature





