

14638

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Citation ) Violation No. 47-89  
 against TOM PREWITT and/or ) FINDINGS OF FACT,  
 JEAN PREWITT. ) CONCLUSIONS OF LAW AND  
 \_\_\_\_\_ ) ORDER

This matter came before the Hearings Officer, Richard C. Whitlock, on May 4, 1990, in the Klamath County Commissioners Hearing Room. The Hearing was held pursuant to the Notice given in conformity with the Klamath County Land Development Code and related ordinances. The Respondents were represented at the Hearing by Jean Prewitt and she testified on behalf of both respondents. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, and numerous communications of various types were also received into the record. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. The Respondents were initially cited by the Klamath County Planning department to appear on March 9, 1990, for establishing a "residential use" in a mobile home permitted for storage only.

2. The subject property is described as the NE corner of Hackett and Mabel Streets, River Pines Subdivision,

PREWITT - VIOLATION - Page 1

90 MAY 9 AM 11 25

Crescent, Oregon. The Hearings Officer finds in conformity with the Code Enforcement Officer as follows:

"The department received complaint November 16, 1989 concerning the alleged violation and sent a letter of inquiry to the property owner as listed in the assessment records. Ronald Freeman, Sherman Oaks, CA., responded that the property had been sold under contract to Tom and Jean Prewitt, the respondents.

"The respondents were contacted and agreement reached for bringing the mobile home into Code compliance and therefore allow residential use to be established.

"By December 7, the respondents had failed to follow through with securing a storage permit and "Warning No. 1" was personally delivered to the respondents.

"On December 20, 1989, the "storage permit" was obtained from the Building Department. This permit will expire June 20, 1990.

"The stipulated agreement of November 20, 1989 called for the obtaining of a mobile home placement permit by January 22, 1990. That date came and went and the placement permit had not been secured. Accordingly "Warning No. 2" was issued to the respondent and agreement reached wherein the placement permit would be secured by February 1, 1990.\*\*\*

"The Officer has discussed the situation with the resident deputy and he believes the respondents continue the residential use."

3. In her testimony to the Hearings Officer, Ms. Prewitt asserted she and her husband only occasionally stayed overnight on the property and she produced receipts for three nights they stayed in a local motel. She also stated they were close to getting water available to the site and septic

approval. She produced a letter from several nearby residents saying respondents were not staying on the property.

4. Numerous letters were received indicating the Prewitts are living on the premises.

5. "Residential" use is defined in LDC Section 91.001 as the "occupancy of living accommodations on a wholly, primarily non-transient basis" and "residence" is defined in LDC Section 11.002 as "permanent living quarters for a family and not temporary or overnight accommodations."

6. It is apparent that the Prewitt's were using the mobile home on their property as a "residence" and that they are making "residential" use of their property and that this use constitutes a "nonconforming use" of the property as defined by LDC 97.002.

ORDER:

Tom Prewitt and Jean Prewitt are found to be in violation of the Klamath County Land Development Code for establishing a "residential use" in a mobile home only presently allowed on the property under a storage permit.

Tom Prewitt and Jean Prewitt are ordered to:

1. Immediately cease and desist from any residential use of their property without first obtaining the proper approvals from the Klamath County Planning and Building Departments.

2. Respondents are ordered to permit inspection of the mobile home upon demand by the Code Enforcement Officer and/or Deputy Norm Hatcher of the Sheriff's Department.

3. The Respondents are ordered to appear before the Hearings Officer June 29, 1990 to verify the required placement permit has been secured from the Building Department.

In the event that the Respondents fail to comply with this Order, or in the event that either Respondent violates the Code relating to the residential use of their property, then the Klamath County Planning Director is ordered to issue a citation or citations per Klamath County Ordinance 57 which may result in the imposition of fines of up to \$500.00 per day.

DATED this 7<sup>th</sup> day of May, 1990.

Richard C. Whitlock  
RICHARD C. WHITLOCK, HEARINGS OFFICER

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

STATE OF OREGON: COUNTY OF KLAMATH: SS.

Filed for record at request of Klamath County the 9th day  
of May A.D., 19 90 at 11:25 o'clock A M., and duly recorded in Vol. M90  
of Deeds on Page 8821

Evelyn Biehn, County Clerk

By Pauline Mullendore

FEE none

Return: Commissiones Journal