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09-02-94A11 05 RCVD

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the violation/	)	
citation of	)	VIOLATION/CITATION
	)	NO. VC 9-93
JAMES MCCLURG	)	
	)	
	)	
	)	

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon, on August 19, 1994, in the Klamath County Museum Meeting Room in Klamath Falls, Oregon. The hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Mr. Kim Lundahl who also served as recording secretary. This hearing was scheduled to determine whether Mr. McClurg had complied with the Hearings Officer's order dated August 27, 1993, and if not why not. The applicant was not present. Testimony and exhibits were received.

FINDINGS OF FACT

The applicant is and has been maintaining residential use in the 32-foot fifth wheel recreational travel trailer in a mobile home park located 2047 Etna Street, Space "D", as precluded by section 84.040 of the Klamath County Land Development Code. Mr. McClurg has violated the sanitary codes and the Klamath County Building Codes. ORS 446.003 (3) defines a recreational vehicle as a vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and has a gross floor area not exceeding 400 square feet in the set-up mode and as further defined, by rule, by the agency. ORS 801.565 defines travel trailer as a tent trailer

or any other trailer that (1) is of a type designed to be used on the highways; (2) is capable of use for human habitation; (3) is not more than eight feet wide, as measured when any expansion sides or tipouts are in the usual travel position; (4) is six feet or more in height from floor to ceiling, as measured with any expansion sides or tipouts fully extended and the trailer fully telescoped to the full extent; and (5) except for a tent trailer, has four permanent walls when in the usual travel position. ORS 308.380 provides: "The owner of any travel trailer described in ORS 801.565 which is being used either as a permanent home or for other than recreational purposes may apply to the assessor in the county in which it has situs to have the travel trailer assessed for ad valorem taxation. If the assessor determines that the travel trailer is being used either as a permanent home or for other than recreational uses, the assessor shall place the travel trailer on the assessment and tax rolls the same as if it were a mobile home. The assessor shall accept the travel trailer plate for the vehicle and return them to the Motor Vehicles Division of the Department of Transportation, and shall assist in obtaining a permanent identification plate under ORS 820.500, from the division for the travel trailer. Any travel trailer placed on the assessment and tax rolls under this section shall be considered as a mobile home for all purposes." Mr. McClung has failed to apply to have the travel trailer placed upon the assessment and tax rolls.

#### CONCLUSION OF LAW

The applicant continues to be in violation of section 84.040 of the Klamath County Land Development Code.

## ORDER

The Hearings Officer's order dated August 27, 1993 is hereby vacated and Mr. McClurg is ordered to remove the 32 foot fifth wheel recreational travel trailer from the mobile home park located at 2047 Etna Street, Klamath Falls, Oregon by September 30, 1994. In the event Mr. McClurg fails to comply with this order the Code Enforcement Officer shall cite Mr. McClurg to appear in the Klamath County District Court with bail set at \$500.00.

DATED THIS 30th day of August, 1994.

Michael L. Brant  
Michael L. Brant  
Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 2nd day  
of Sept. A.D., 19 94 at 11:05 o'clock AM., and duly recorded in Vol. M94,  
of Deeds on Page: 27598

Evelyn Biehn County Clerk

FEE none

By Quentin Anderson

Commissioners Journal