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**BEFORE THE BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY**

**IN THE MATTER OF THE APPEAL OF HEARINGS OFFICER DECISION
REVOKING CUP 70-96, ALBERT and STACIE PEUGH,
APPLICANTS/APPELLANTS**

1. NATURE OF THE CASE:

The referenced case, a Conditional Use Permit for a Kennel in the RS zone approved OCTOBER 3, 1996, was heard by the Hearings Officer JANUARY 17, 1997. An ORDER REVOKING the permit was entered JANUARY 28, 1997. The permit holders filed an appeal of this ORDER FEBRUARY 7, 1997. A hearing on this appeal was conducted by the Board of County Commissioners MARCH 4, 1997.

The appeal was heard pursuant to the procedure set out in Article 33 of the Klamath County Land Development Code.

2. THOSE WHO PARTICIPATED:

A listing of those who participated at this Hearing is on file with the Planning Department. The Planning Department was represented by Kim Lundahl, Senior Planner. Karen Burg, Planning Assistant, was the recording secretary. Members of the Board who heard the appeal were: Al Switzer, William R. Garrard, and M. Steven West.

3. CASE DESCRIPTION:

The Hearings Officer entered Order JANUARY 28, 1997 REVOKING an approval dated OCTOBER 3, 1996 allowing the applicant to maintain seven dogs on property commonly known as 2988 Hope St., Klamath Falls, OR 97603 and zoned for Suburban Residential uses (Art 51.5). A Kennel being considered via the Conditional Use Permit Process (Sec. 51.530 H).

The appellants submitted a five page letter dated February 14, 1997 setting out their grounds for Appeal. This letter was paraphrased by the appellant at Hearing and is on file at the Planning Department.

4. FINDINGS:

The Board finds after consideration of the record and argument entered that:


The Hearings Officer correctly interpreted and made findings appropriate to the action taken, REVOCATION of the Permit.

5. ORDER:

The Board of Commissioners, upon review of the record, testimony and argument presented, hereby **UPHOLDS** the Hearings Officer **ORDER REVOKING** the permit entered JANUARY 28, 1997, and attached.

FURTHER, the appellants are allowed until 90 days from the date below to bring their property in compliance with the Land Development Code by removing all but four of the dogs from the location.

DATED this 12th day of March, 1997



Al Switzer, Chair

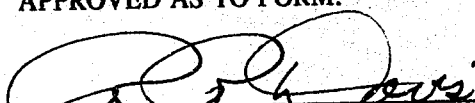


William R. Garrard, Commissioner



M. Steven West, Commissioner

APPROVED AS TO FORM:



Reginald R. Davis, County Counsel

APPEAL RIGHTS

This decision may be appealed to the Land Use Board of Appeals within 21 days of the date of mailing. Please contact the Planning Department for information as to this procedure. Failure to file an appeal within the allowed timeframe may affect your right to appeal this decision.

ATT: EXHIBIT A - Hearings Officer Order January 28, 1997

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request for)	
a conditional use permit by)	Conditional Use Permit
)	Case No. CUP 70-96
)	
PEUGH)	
)	
)	
)	

This matter came before Michael L. Brant, Hearings Officer for KLAMATH County, Oregon, on January 17, 1997, 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 and the recording secretary was Assistant Planner Karen Burg. The KLAMATH County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter. The KLAMATH County Planning Department staff report was received. Based upon the evaluation of the staff report and consideration of the evidence received, the hearings officer makes the following findings of fact and conclusions and makes the following decision. Mr. Peugh, the applicant, testified. Mr. Bicknell, the complainant also testified.

FINDINGS OF FACT

The applicant was granted a conditional use permit to maintain a kennel to accommodate seven (7) dogs which were represented to be family pets belonging to the Peugh children. Subsequent to the granting of the CUP Mrs. Peugh made statements which caused the Planning Department to investigate the quantity of dogs being kept by the applicants. Mr. Peugh admitted that he had maintained nine

dogs for a short period of time while the extra dogs were ill. Mr. Bicknell testified that the dogs are very aggressive, noisy and caused the Bicknells to fear for their own safety. Mr. Bicknell introduced an audio tape which he played containing sounds of dogs barking and snarling.

CONCLUSION

It became apparent that the Applicants have been shuffling dogs to avoid detection that they were keeping more dogs than their permit allowed. The Applicants have been and are in violation.

ORDER

It is hereby ordered that conditional use permit 70-96 is hereby revoked. The applicants shall remove all but for (4) dogs from their premises by February 5, 1997.

Dated this 28th day of January 1997 .

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 13th day
of March A.D., 19 97 at 11:53 o'clock A. M., and duly recorded in Vol. M97
of Deeds on Page 7433.

FEE

No Fee

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

by

Hutton Ross