

676 21-1

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No. 67621-1-1

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

King County, a political subdivision of the State of Washington,
Respondent,

v.

F. Raymond Haversat, Appellant

REPLY OF APPELLANT
F. Raymond Haversat

F. Raymond Haversat
Pro-Se, as Appellant)
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SEATTLE, WA 98101



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TABLE OF AUTHORITIES

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II. STATEMENT OF THE CASE

January 28, 2008 King County issued a Notice and Order against appellant for code violations on property owned by the appellant.

April 15, 2009 King County filed suit against the appellant for code violations on property owned by the appellant.

March 4, 2010 King County filed a motion for Summary Judgment.

June 8, 2010 a Summary Judgment [Default] was entered in favor of King County.

III. ARGUMENT

The order entered should be void under CR 60(b)(5) as the requirements for a Summary Judgment were not met. No oral arguments were heard and were not waived by the parties. The only order that could have been entered is a default judgment.

(LCR 56(c) (1) Argument. The court shall decide all summary judgment motions after oral argument, unless the parties waive argument.)

The order entered should be void under CR 60(b)(1). Appellant was denied due process (CP65). Appellant was not advised of a

confirmed hearing date by his withdrawing council. The original hearing date was set for April 2, 2012. It was then re-noted for April 30, 2012. There is not a Notice of Hearing, a Motion or an Order enlarging the period to the 05/20/2010 or 06/08/2010 hearing dates. (CP 69). There is no Order under CR6(b)(1) enlarging the period from April 30, 2012 to May 20, 2012 and there is no Order enlarging the period from May 20, 2012 to June 8, 2012. In addition the May 15, 2012 request is beyond the expiration date as defined in CR6(b)(1) which in this case would be April 30, 2012. Therefore enlargement would require a motion under CR6(b)(2)

CR6(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done

Appellant sought to have the June 8, 2010 order vacated.

The trial court abused its discretion in treating the motion as a CR59 action. The motion to Vacate was filed as a CR60 and should be treated as such. To be a CR59 it would have had to be filed within 10 days of the judgment filing. It was filed in the time allotted for CR 60 in the form of a CR60. It was a request to vacate the order based on the criteria of CR60.

The Trial court erred by not granting the motion to vacate the judgment under CR 60(b)(4). The language of the complaint that exposed the trespassing was not included on the Notice and Order; nor was the information on the Counties Trespassing. On examining the case file it shows that on more than one occasion county employees went on the property without permission or a court order (*CP 107, 125*) The Complainant violated the Appellants property rights by trespassing on the Appellant's property. (*CP 84*) Exhibit A The county also is shielding the complainant from questioning and possible legal action by withholding his/her name. The County (James Toole) was given permission by appellant for a **one time** visit on the property in 2005, but was explicitly excluded from entering the house.

The Trial court erred by not granting the motion to vacate the judgment under CR 60(b)(11). The appellant has suffered considerable financial loss and stress as the result of repeated ongoing theft and vandalism. The county (Ms Derraitus) admitted that boarding up the buildings would not

stop anyone if they wished to get in.(*CP 9-10*) The county is adding insult to injury with the Summary Judgment. Appellant is being penalized for being a victim; because neither he nor the King County Police have been able to stop the thefts and vandalism. The county in its declarations reiterated that the violations still existed; but did not reference the considerable effort being done to achieve compliance or the ongoing problems with theft and vandalism hampering efforts (*CP 8-10*). There were no notes in the case filed obtained by the appellant from DDES on Ms Deraiatus's visits or the progress being made. The property was in compliance by Ms Deraitus on May 19, 2010; but the certificate of compliance was not filed until June 8, 2010. There was no reason to seek a Summary Judgment to force compliance. Even though the property is now in compliance and occupied; the problem still persists. The latest incident being June 10, 2012 when his pickup truck was destroyed by an arson fire.

VI. CONCLUSION

The ruling denying the motion to vacate should be reversed

December 4, 2012

Respectfully submitted,
F. Raymond Haversat

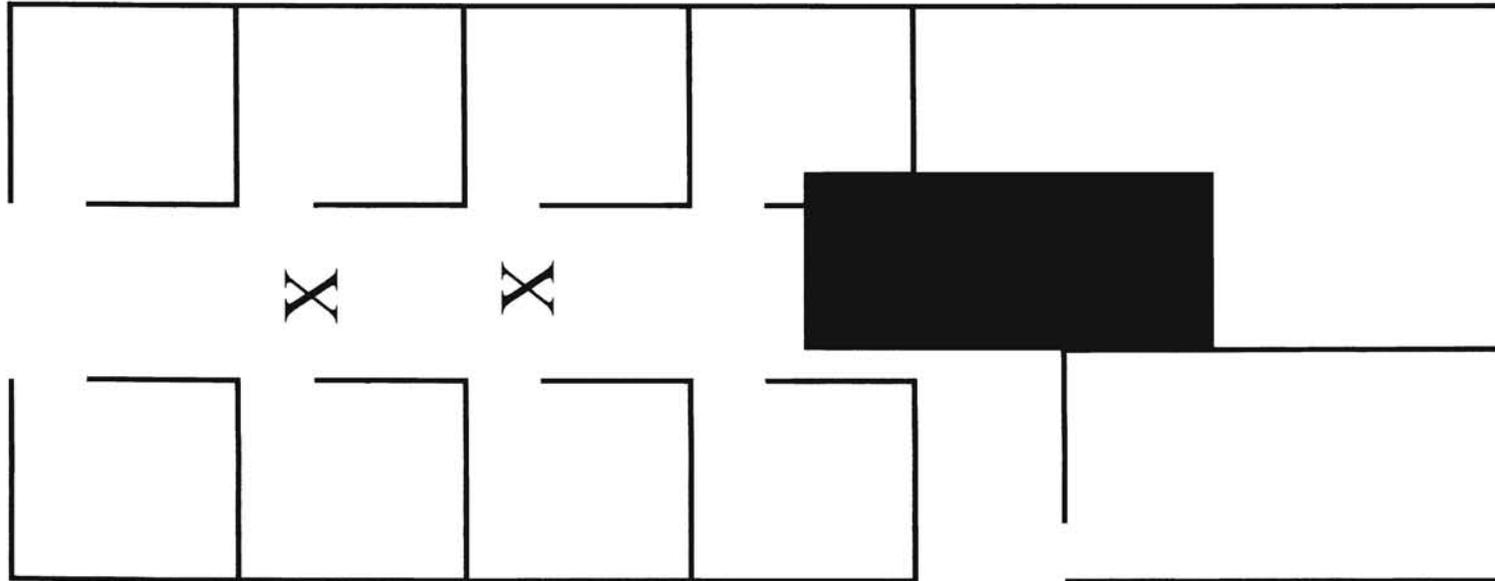
Digitally signed by F. Raymond Haversat
DN: cn=F. Raymond Haversat
Date: 2012.12.05 17:00:21 -08'00'

Signature

Pro-Se

Pasture

Pasture



Yard between House & Barn

Southeast 384th St

The x's represent the posts referred to in the complaint, the blue area approximates the location of recyclables strewn about by vandals. Neither of these areas can be seen without trespassing on the property