

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

CODE
ENFORCEMENT



PLACERVILLE OFFICE:
2850 FAIRLANE COURT
PLACERVILLE, CA 95667
BUILDING (530) 621-5315
(530) 622-1708 Fax
PLANNING (530) 621-5355
Counter Hours: 8:00 AM to 4:00PM
bldgdept@co.el-dorado.ca.us
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:
3368 LAKE TAHOE BLVD
SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330 & 542-9082 Fax
Counter Hours: 8:00 AM to 4:00PM
tahoebuild@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:
4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95762
(916) 358-3600
(916) 941-0269 Fax
Counter Hours: 8:00 AM to 4:00PM
bldgdept@co.el-dorado.ca.us
planning@co.el-dorado.ca.us

April 10, 2008

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY
4:47 pm, Jan 18, 2011

DAVID HOLTRY
NANCY L HOLTRY
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 187939
1031 AUTUMN SKY WAY
APN: 117-410-03-100

Dear Property Owners;

COURTESY NOTICE

The Code Enforcement Unit is required to investigate complaints regarding possible violations of county ordinances and/or state codes and laws. This courtesy notice is a request for your cooperation in determining the validity of a complaint regarding your property.

Nature of the Complaint:

1. Structure built without required permits in setback.

We would like to schedule a site visit on or about (April 25, 2008). If you would like to schedule a more convenient date/time, please contact the Code Enforcement Unit at (530) 621-5999. If we do not hear from you we will pursue the complaint of the alleged violation(s). If the complaint is unsubstantiated we will document our findings and close the case.

If the complaint is valid you have the following options:

1. Abate the violations prior to the scheduled inspection. After verification by the Code Enforcement Unit the case will be closed and no fines or penalties will be assessed.
2. Contact the Code Enforcement Unit prior to the scheduled site visit and arrange an inspection. You may propose an abatement schedule in writing for consideration. As long as an approved schedule is followed, enforcement action will be stayed. Potential fines and/or penalties will be discussed as part of the abatement schedule agreement.

Failure to voluntarily abate the violation(s) or comply with an abatement schedule agreement may subject you to the issuance of an administrative and/or criminal citation with associated fees and/or fines.

Permit information is available at the Development Services Department web site at <http://www.co.elderado.ca.us/devservices/>. The permit center is open from 8:00 a.m. to 4:00 p.m. daily at (530) 621-5775 for permit issuance and assistance. You may contact Code Compliance at (530) 621-5999 if you have questions or would like to set up a specific date for the inspection. Thank you for your prompt attention to this matter.

Sincerely, *Jim Silveira*

JIM SILVEIRA
Sr. Code Enforcement Officer
Code Enforcement Unit

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March 3, 2009

DAVID SULLIVAN HOLTRY TR
NANCY LURINE HOLTRY TR et al
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

Dear Property Owners;

NOTICE TO CORRECT Construction without a permit

An inspection was made at the above referenced site on January 28, 2009. The following observations were made:

1. Structure greater than 30 inches high built in side and rear setback area in violation of Zoning Ordinance.
2. Electrical installed without required permits.

*Misdemeanor Violation(s): California Building Code (CBC) Sec 106 - Construction without a permit
County Ordinance 15.16.010 - Adopts the CBC
County Ordinance 15.16.020. - Violations of the provisions of the CBC are a misdemeanor.*

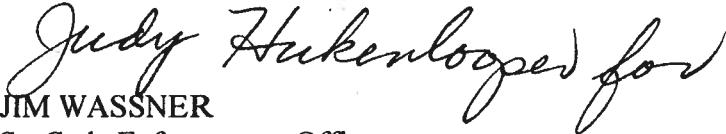
As a result of these violations you are subject to the issuance of an administrative and/or criminal citation with the associated fees and/or fines. A portion or all of the enforcement action may be stayed if you immediately cease use of this illegal structure, obtain required permits, or contact the Code Enforcement Unit to arrange an abatement schedule. Please respond to this letter **in writing** stating the reason the additional time is necessary and provide an outline of your intended plan and time frame to abate the violation(s). The Code Enforcement Unit will review your request and advise you of our findings.

Failure to abate the violation(s) or establish an approved abatement schedule in writing by (April 8, 2009) may result in the issuance of an Administrative Citation with associated fines and fees. If the responsible person fails to make a timely request for an administrative hearing (procedure set forth in section 09.02.390 of the County Code) on the imposition of the administrative penalty, the penalty shall be final. The violation may also be referred to the District Attorney's Office for possible further action. In any case the Notice to Correct will be recorded with the County Recorder per County Ordinance 09.02.150 if the violation(s) are not abated within 30 days. This is not a lien but will produce a flag during a title search and is done to protect prospective buyers per County Ordinance 09.02.140.

11-0052.G.3D3

Please take the time to deal with this problem immediately. Permit information is available at the Development Services Department web site at <http://www.co.el-dorado.ca.us/devservices/>. The permit center is open from 8:00 a.m. to 4:00 p.m. daily at (530) 621-5775 for permit issuance and assistance. You may contact the Code Enforcement Unit at (530) 621-5999 if you have any questions regarding the resolution of this violation.

Sincerely,



JIM WASSNER
Sr. Code Enforcement Officer
Code Enforcement Unit

D4

7008 0150 0003 7571 1667

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To _____
 Street, Apt. No.,
 or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, August 2006

See Reverse for Instructions

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 B. Received by (Printed Name) Addressee
 C. Date of Delivery
 D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Sullivan Holroy Jr
 Nancy Lurme Holroy Jr
 1031 Autumn Sky Way
 El Dorado Hills CA 95762

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

7008 0150 0003 7571 1667 *C#191441-9 J214*

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

11-0052-G-5

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RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of, and employed in El Dorado County where the mailing occurred. My business address is 2850 Fairlane Court, Placerville, California 95667.

I served the foregoing: NOTICE TO CORRECT,

named herein by enclosing a true copy in a sealed envelope and depositing said envelope in the United States mail with postage fully prepaid on March 3, 2009, and addressed as follows:

Name: DAVID SULLIVAN HOLTRY TR, NANCY LURINE
HOLTRY TR et all
Address: 1031 AUTUMN SKY WAY
City: EL DORADO HILLS CA 95762

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct and that this declaration was executed on March 3, 2009, at Placerville, California.

A handwritten signature in cursive script that reads "Judy Hickenlooper".

JUDY HICKENLOOPER
Development Tech.
Code Enforcement Unit

11-0052.G.6 *DB*

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March 8, 2010

DAVID SULLIVAN HOLTRY TR
NANCY LURINE HOLTRY TR et al
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

Dear Property Owners;

NOTICE TO CORRECT Structure inside setback area

This notice is to revise a prior Notice to Correct dated August 10, 2009, which is attached. According to our telephone conversation you have removed the un-permitted electrical wiring and the structure is 120 square feet or less in area. As you were advised, this size of structure does not require a building permit. A covered structure, whether solid roofed or not, is required to be outside the 5 foot side yard setback area. The use does not affect the setback requirements. Therefore the following violation still exists:

Carson Creek Specific Plan 4.4 (2). A structure ("patio cover" over the portable BBQ) is inside the required 5 foot side yard setback area.

As a result of this violation you are subject to the issuance of an administrative and/or criminal citation with the associated fees and/or fines. Failure to abate the violation by April 10, 2010 may result in the issuance of an Administrative Citation with associated fines and fees. If the responsible person fails to make a timely request for an administrative hearing (procedure set forth in section 09.02.390 of the County Code) on the imposition of the administrative penalty, the penalty shall be final. The violation may also be referred to the District Attorney's Office for possible further action. In any case the Notice to Correct will be recorded with the County Recorder per County Ordinance 09.02.150 if the violation(s) are not abated within 30 days. This is not a lien but will produce a flag during a title search and is done to protect prospective buyers per County Ordinance 09.02.140.

D7
11-0052.G.7

Please take the time to deal with this problem immediately. You may call the planning center for additional information and assistance at (530) 621-5355, or the Code Enforcement Unit at (530) 621-5999 if you have questions regarding resolution of this violation. The Placerville office will be closed on the second and last Mondays of each month, and the Tahoe office will be closed every Monday until further notice.

Sincerely,

JIM WASSNER
Sr. Code Enforcement Officer
Code Enforcement Unit

March 14, 2009

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit

SUBJECT: Notice to Correct, C# 191441

Jim,

The Chairman of our Four Seasons Civic League talked to one of the El Dorado County Planning Commissioners about "Setback" violations in this community. He recommended that in my case I file for a permit even though my structure doesn't require one being less than 120 sq ft. He said unless there is a life threatening situation the project would more than likely be approved.

Is this what you would recommend that I do? Another question; what about the other 50 to 100 homeowners in our development that are in violation of the setback limitations? Does the county only act upon complaints or can the county take action knowing that a property owner is in violation by visual awareness just by driving in our development?

It seems to me that if the county required a bunch of homeowners to remove their patio covers, arbors, trellis, etc. that would stir up a hornets nest so to speak. I do not think that the county or homeowners want that nor is it even necessary. I believe there is a better way to approach this problem that will be beneficial to both the county and homeowners.

I have drafted a proposed amendment to the regulations outlined in the attachment for the intent of presenting to a Planning Commissioner for his consideration. What office in the county does rulemaking, is it Planning Services or some other unit?

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

(916) 933-5130

May 17, 2010

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit
2850 Fairlane Court
Placerville, CA 95667

SUBJECT: Trellis, Case # 191441

Mr. Wassner,

First I would like to address the comment you made in your email dated April 6th, in which you state *"I spoke to Roger Trout regarding your assertion that your structure does not need to comply with setback requirements."* In your statement you state that I said that my structure does not need to comply. That statement is false as I have never asserted that I don't need to comply. My assertions have been that I do in fact comply, that is my trellis is in compliance according to the codes.

In a response to my April 7th question, you referred the matter to Mr. Trout but I have not received a response. Maybe it would be best if you, Mr. Trout, and I meet to discuss the issue at hand. If we meet I will explain what I have learned from the County Zoning Ordinance, Miscellaneous Development Requirements, Chapter 17 of the California Uniform Building Code and the February 19, 2010 letter that reviews the codes.

According to Code Section 17.06.050 only Buildings are subject to the setback requirements. Buildings are defined as *"structures having a roof supported by columns or walls, and designed for the shelter or housing of any person, animal or chattel."*

According to the above code there are three elements all of which must be present to constitute a Building. 1) A structure, 2) a roof and 3) designed for housing or sheltering of people, animals or chattel (property).

Although my project is a structure it does not have a solid roof nor is it designed for housing or for shelter; therefore it is not a Building subject to the minimum setback limitations.

In various correspondences my trellis has been referred to as a *"shade cover"*, *"patio cover"*, a *"roof over the patio"* etc. In reality my trellis has a small open overhead area with horizontal slats that does not provide any shelter for people, animals or property. Therefore, it doesn't matter what it is called, it is not a Building according to the code.

Furthermore, the California Building Code, Title 24, Part 2, Chapter 15, Section 1502 clearly does not consider an open structure such as a trellis with horizontal slats to constitute a roof. In this code it only refers to solid roof structures. This makes sense

DIO

because in order to provide shelter for people, animals and property the roof would have to be solid.

Examples of structures that are Buildings and therefore subject to the set back limitations are as follows: A house because it provides shelter for people, a barn provides shelter for animals, a garage provides shelter for automobiles and other property, and storage sheds provides shelter for property.

In the February 19, letter Mr. Trout correctly states, "*A Trellis is not considered a structure that needs to meet setbacks, because it does not meet the full definition of a Building: it does not have a roof and it clearly is not intended for the sheltering of people, animals, or chattel. Trellises are intended and used for support of vegetation.*" And that is exactly what my Trellis project is used for.

It is clear from reading all of the codes that all patio covers, arbors, and trellises regardless of style or configuration, but only those without a solid roof, do not meet the definition of a Building and thus are not subject to the minimum setback limitations.

Would you and Mr. Trout like to meet with me to discuss this issue?

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Roger P. Trout, Development Services Director
A.L. Hamilton, Senior Legal Services
Supervisor Ray Nutting

D11
11-0052.G.11

INFORMATION BULLETIN

May 26, 2010

RELEVANT INFORMATION:

Structure: Something that is constructed

My comment: This could be but not limited to a shelter, building, deck, or sidewalk.

Shelter: Something that covers or affords protection

My comment: This could be but not limited to a shelter from rain, snow, sun, wind.

Building:

California Building Code: Any structure used or intended for supporting or sheltering any use or occupancy.

El Dorado County Zoning Ordinance: "Building" means any structure having a roof supported by columns or by walls, and designed for the shelter or housing of any person, animal or chattel.

Merriam Webster's Collegiate Dictionary: A usually roofed and walled structure built for permanent use.

Wall:

Merriam Webster's Collegiate Dictionary: One of the sides of a room or building connecting floor and ceiling or foundation and roof; something resembling a wall (as in appearance, function, or effect).

California Building Code: "Shear Wall": A wall designed to resist lateral forces parallel to the plane of a wall.

The purpose for a wall is to provide structure both vertical and horizontal, protection, and/or privacy.

Roof: Roof framing versus roof assembly

Roof framing: the structure that supports the roof assembly

Roof assembly: a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof deck, vapor retarder, substrate or thermal barrier, insulation, vapor retarder and roof covering.

A roof may be constructed of framing only and not have a roof assembly. The extent of the roof structure is dependent of the purpose of the roof.

Purpose for Setback: Provide physical separation from other structures to establish visually open space and fire protection.

Trellis: A frame of latticework used as a screen or as a support for climbing plants.

Gazebo: A freestanding roofed structure usually open on the sides.

Lattice: A framework or structure of crossed wood or metal strips.

Arbor: A shelter of vines or branches or of latticework covered with climbing shrubs or vines.

Pergola: A structure usually consisting of parallel colonnades supporting an open roof of girders and cross rafters.

Colonnade: A series of columns set at regular intervals and usually supporting the base of a roof structure.

CONCLUSION:

A pergola has an open roof of girders and cross rafters.

The primary structure in the photographs has an open roof of girders and cross rafters.

The purpose of a roof is to provide shelter.

The latticework in this case is used to resist lateral forces parallel to the plane of a wall.

The primary structure shown in the photographs is classified as a "Per gola." Based on the Zoning Ordinance a pergola is a building. In this case the pergola provides shelter from the sun. The California Building Code does not require permits for limited types of structures less than 120 square feet of floor area. Even if a permit is not required a structure must comply with all code requirements. In the case under consideration the building does not comply with the building code setback requirements of Table 602. The building must meet the setback requirement of Table 602 or the fire resistive standards in other sections of the building code.

*Excluded
per News Officer*

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March 3, 2009 8-10-09

DAVID SULLIVAN HOLTRY TR
NANCY LURINE HOLTRY TR et al
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

Dear Property Owners;

NOTICE TO CORRECT Construction without a permit

An inspection was made at the above referenced site on January 28, 2009. The following observations were made:

1. Structure greater than 120 square feet built in side setback area without required permit.
2. Electrical installed without required permits.

*Misdemeanor Violation(s): California Building Code (CBC) Sec106 - Construction without a permit
County Ordinance 15.16.010 - Adopts the CBC
County Ordinance 15.16.020. - Violations of the provisions of the CBC are a misdemeanor.*

As a result of these violations you are subject to the issuance of an administrative and/or criminal citation with the associated fees and/or fines. A portion or all of the enforcement action may be stayed if you immediately cease use of this illegal structure, obtain required permits, or contact the Code Enforcement Unit to arrange an abatement schedule. Please respond to this letter **in writing** stating the reason the additional time is necessary and provide an outline of your intended plan and time frame to abate the violation(s). The Code Enforcement Unit will review your request and advise you of our findings.

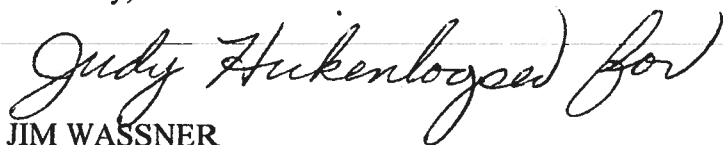
Failure to abate the violation(s) or establish an approved abatement schedule in writing by (September 14, 2009) may result in the issuance of an Administrative Citation with associated fines and fees. If the responsible person fails to make a timely request for an administrative hearing (procedure set forth in section 09.02.390 of the County Code) on the imposition of the administrative penalty, the penalty shall be final. The violation may also be referred to the District Attorney's Office for possible further action. In any case the Notice to Correct will be recorded with the County Recorder per County Ordinance 09.02.150 if the violation(s) are not abated within 30 days. This is not a lien but will produce a flag during a title search and is done to protect prospective buyers per County Ordinance 09.02.140.

11-0052.G.14

D14

Please take the time to deal with this problem immediately. Permit information is available at the Development Services Department web site at <http://www.co.el-dorado.ca.us/devservices/>. The permit center is open from 8:00 a.m. to 4:00 p.m. daily at (530) 621-5775 for permit issuance and assistance. You may contact the Code Enforcement Unit at (530) 621-5999 if you have any questions regarding the resolution of this violation.

Sincerely,



JIM WASSNER

Sr. Code Enforcement Officer

Code Enforcement Unit

D15

7009 0080 0000 7323 9563

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OFFICIAL USE

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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
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Sent To
 Street, Apt. No.,
 or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Sullivan Holley Tr
Thermy Luvine Holby Tr etal
1031 Antunon Sky ways
El Dorado Hills CA
95762

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
David Sullivan Holley
- B. Received by (Printed Name) Addressee
Nancy L. Holby
- C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

7009 0080 0000 7323 9563 **C# 191441-7J2H**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

11-0052-G-16

1716

DEVELOPMENT SERVICES DEPARTMENT

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named herein by enclosing a true copy in a sealed envelope and depositing said envelope in the United States mail with postage fully prepaid on August 10, 2009, and addressed as follows:

Name: DAVID SULLIVAN HOLTRY TR, NANCY LURINE

HOLTRY TR et all

Address: 1031 AUTUMN SKY WAY

City: EL DORADO HILLS CA 95762

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct and that this declaration was executed on August 10, 2009, at Placerville, California.

A handwritten signature in cursive script that reads "Judy Hickenlooper".

JUDY HICKENLOOPER
Development Tech.
Code Enforcement Unit

11-0052.G.17

D17

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

<http://www.co.el-dorado.ca.us/devservices>



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(530) 573-3330
(530) 542-9082 FAX
tahoebuild@co.el-dorado.ca.us
Counter Hours: 8:00 AM to 4:00 PM

INTERPRETATION

DATE: July 23, 2009
TO: Development Services Department Staff
FROM: Roger P. Trout, Development Services Director
SUBJECT: Encroachment of Trellises into Side and Rear Yard Setbacks

Background:

Section 17.14.050.A of the County Code permits the following:

Uncovered and unenclosed patios or terraces, cornices, canopies, eaves, bay windows (which do not qualify as habitable area under the Uniform Building Code), attached heating and air conditioning equipment or similar architectural features may extend into any required yard by not more than fifty percent (50%) of the required width or depth.

Previous interpretations have clarified how this provision applies to decks which included the statement that "all covered porches, decks, balconies, patios, etc. must be located outside of the required yard setbacks." (See August 11, 1988 Planning Director Interpretation.) The purpose of this interpretation is to clarify how this provision applies to arbors, trellises and similar garden structures on residential lots.

Discussion:

In 1992 Section 17.14.050 was amended to provide additional clarity and exemptions to the setback requirements. At that time Subsections B and C were added. Subsection B lists certain improvements permitted in the front yard (including fences that are 50% open and not exceeding 7' in height and other structures not exceeding 30" in height.) Subsection C established reduced setbacks of in the side and rear yards for pools and portable sheds (5'), propane tanks (10'), and chimneys.

An arbor or patio cover, whether solid or made of open construction, clearly does not fall within the context of an uncovered or unenclosed patio or terrace and therefore must meet the setback requirements of the zone district.

Trellises, on the other hand, are basically latticework fences. *Webster's* defines a trellis as a "frame of latticework used as a screen or as a support for climbing plants." Trellises should then be treated as a fence, pursuant to the provisions of Section 17.14.155, which allows a fence up to 7' high within the setback, and over 7' but not higher than 10' with a notarized statement from the adjacent property owner stating he has no objection.

A previous interpretation has allowed encroachment into the setback for similar structures when the property line abutted the common open space for a specific development (Carson Creek Specific Plan) and the homeowners association, who owns the open space provided written approval. This is a unique circumstance, however.

Interpretation:

Arbors, defined as open-design covers to provide shade or support of plants, must meet the setback requirements established by the zoning ordinance for the zone district.

Trellises, defined as frames for the support of climbing plants may be allowed within the setbacks, provided that they meet the requirements of §17.14.155.B of the County Code. (Maximum height seven feet, or between seven and ten feet with a notarized statement of no objection from the adjacent property owner.)

H:\My Documents\Permit Center\Interpretations\Trellis.doc

D19

September 9, 2009

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit

SUBJECT: Notice to Correct, C# 191441

Mr. Wassner,

This letter is in response to the above referenced Notice to Correct which specifies two violations:

- 1) *Structure greater than 120 square feet built in side setback area without required permit.*
- 2) *Electrical installed without required permit.*

I believe I am now in compliance with the above two items. My small arbor is about 70 square feet which is significantly less than the 120 square feet limitation and I have decommissioned the electrical system. That is there are no electrical outlets on the arbor nor is there any electrical source to the arbor.

I hope that this will now resolve this Notice to Correct.

My small arbor is located within the side setback area but was approved by the Four Seasons Home Owners Association and I was hoping that the county would make a rule change to allow Home Owner Association's the authority to approve small structures not normally permitted by the county. There are a lot of other home owners that have small structures in setback areas that would benefit from such a rule change. The Home Owners Association does not approve projects that are objectionable to them.

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Jonathan Fong

D20
RECEIVED
SEP 10 2009
EL DORADO COUNTY
BUILDING DEPARTMENT

11-0052.G.20

September 26, 2009

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit

SUBJECT: Arbor Modification

Mr. Wassner,

During a telephone conversation you said that the trellis portion of my project is OK because it is not considered a fence but that the Arbor portion of my project is located in the side yard setback area and needs to be modified.

When I talked to County Planning they said a structure that sits outside of a setback area can have an overhang that extends into the setback area by not more than fifty percent of the required setback area as set forth in Section 17.14.050 Encroachment into required yards.

Therefore, I plan to take the top off of the arbor and then convert the vertical portions of the arbor that remain into two things, a trellis and a small arbor as follows. That vertical portion up against the fence on the west side I will make into a trellis which will match the existing trellis and the vertical portion on the east side, which sits outside of the setback area, I will make into a "T" type arbor by installing horizontal boards on top. I will make sure that these boards do not extend more than fifty percent (2 ½ feet) into the setback area.

Therefore, my over all project will consist of trellises along the fence and a small arbor outside of the side yard setback area.

This is the plan I will take to my Home Owners Association for approval. If you disagree with this plan or have any questions please contact me.

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Jonathan Fong

D21

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

<http://www.co.el-dorado.ca.us/devservices>



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September 30, 2009

Mr. David Holtry
1031 Autumn sky Way
El Dorado Hills, Ca 95762

Re: Encroachment of Trellises into Side & Rear Yard Setbacks; Code Case 191441

Dear Mr. Holtry:

Pursuant to our recent conversations, please find enclosed a copy of Chapter 17.14, Miscellaneous Development Requirements, and a copy of Roger Trout's direction to staff on the implementation of Section 17.14.050 and 17.14.155.

Should you have additional questions after reviewing the above referenced documents, I may be reached by calling 530/621-5697.

Sincerely,



Mark Millard
Senior Planner, Permit Center

Enclosures (2):

1. Chapter 17.14
2. Encroachment of Trellises into Side & Rear Yard Setbacks; Roger Trout, July 23, 2009

D22

October 5, 2009

Mark Millard
Senior Planner
County of El Dorado

OCT 6 AM 9:50
UNENCLOSED
PLANNING DEPARTMENT

Re: Encroachment of Arbor; C# 191441

Dear Mr. Millard:

As you know I have a small arbor and trellis in a setback area and I proposed to the county (letter Sept 26, 2009) a way of modifying it to be in compliance with the rules. The project would consist of a trellis and a small "T" type arbor about 7 feet long sitting outside the setback area with a 2 ½ foot overhang extending into the setback area.

Thank you for providing me with a copy of Chapter 17.14 of the rules and a copy of Mr. Trout's interpretation, dated July 23, 2009, of the subsection in question (17.14.050.A). I will refer to it as subsection A.

I have some concerns with Mr. Trout's conclusion that an arbor is not covered in subsection A. The good thing about subsection A is that the intent of the rule is included within the rule itself. That is this subsection allows structures that sit outside of setback areas to have overhead projections that extend into setback areas as long as the structure is not designed for habitation. Subsection A reads as follows:

"Uncovered and unenclosed patios or terraces, cornices, canopies, eaves, bay windows (which do not qualify as habitable area under the Uniform Building Code), attached heating and air conditioning equipment or similar architectural features may extend into any required yard by not more than fifty percent (50%) of the required width or depth."

In Mr. Trout's background statement he refers to an earlier interpretation (August 11, 1988) that says, "all covered porches, decks, balconies, patios, etc. must be located outside of the required yard setbacks". There is nothing wrong with this statement because such structures as decks are not allowed to extend into setback areas because the foundation of such structures would necessarily have to be in the setback and that is why they would not be the type of structures covered in subsection A. But Mr. Trout leaps to the conclusion that the purpose of the above was to clarify how this provision applies to arbors, trellises and similar garden structures on residential lots. That has to be a misinterpretation of the interpretation. If that was the purpose of the 1988 interpretation then it would have said so. It is clear that subsection A applies to structures with overhead extensions such as eaves and canopies and not decks, balconies and such.

In Mr. Trout's discussion he states that subsections B and C were added but does not discuss subsection A at all. Subsection B covers front yards and subsection C covers other things which are in addition to those covered in A and B. He gives no reasoning or

D23

analysis for his conclusions but just makes a statement that an arbor does not fall within the context of an uncovered or unenclosed patio or terrace and therefore must meet the setback requirements.

Mr. Trout's interpretation is not in harmony with the rule and some applications of it would not make since. For example, an eave of a building could extend 50 percent into a setback area but the eave of an arbor could not. Mr. Trout makes another statement not in harmony with the rule. He says an arbor or patio cover, whether solid or made of open construction does not fall within the context of an uncovered patio.

The rule allows an uncovered and unenclosed patio to have extensions within setback areas. I asked county staff to tell me what does such a structure look like? I received no answer to that question. I would say that it would not be a patio with a solid cover nor would it be a patio with no cover because there would be nothing that could extend into a setback area. The structure that makes since is a patio with open construction. Such a structure would not allow for habitation and therefore could have an overhead extension into the setback area if the base is located outside of the setback area.

Several months ago I met with a planner in the Placerville office where in he explained that a deck or similar structure could not be built within the setback area but an arbor built with the base outside of the setback area can extend 50 percent into the setback area. He drew a sketch showing the setback line and overhead projection extending into the setback area. His explanation is in harmony with what the rule states.

Another statement made by Mr. Trout that I disagree with is that a trellis should be considered a fence. He uses Mr. Webster as his source but Mr. Webster does not say that a trellis is a fence. Code enforcement told me that my trellis was OK but the arbor was the only thing that needed to be fixed.

Unfortunately I have received different opinions from different staff from time to time and have become a little frustrated. I believe Mr. Trout's interpretation of the rules is not in harmony with the rules and therefore would be considered underground regulations. I believe rules should be interpreted by legal staff and not by the staff that implements or enforces them. Therefore, I ask that this matter be reviewed by the agency's legal staff and issue a written opinion. If you give me the name and address of such I will make this request directly to them.

Thank you,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Jim Wassner
Jonathan Fong

RECEIVED
PLANNING DEPARTMENT
OCT 16 9 50 AM '95

D24



David Holtry
<davidholtry@yahoo.com>
10/05/2009 11:40 PM

To mmillard@co.el-dorado.ca.us
cc Jonathan.fong@edcgov.us
bcc
Subject Code Case 191441

Mr. Millard,
Please see the
attachment.
David Holtry



Letter to Millard.doc

RECEIVED
PLANNING DEPARTMENT
OCT 6 AM 9:45

D25

October 8, 2009

Ray Nutting
District Supervisor

On Tuesday I was with the Four Seasons Civic League delegation at the EDCTC Citizen Advisory Committee meeting. It was good to see and hear you and John Knight at the meeting. I think you will agree that most of the people there want a change in the El Dorado County Transportation Commission but the purpose of this letter is not to discuss that. You will be meeting with us, the Four Seasons Civic League on October the 14th, and asked for us to come up with some tough questions on any subject.

I have an issue for you to be thinking about. I am having a problem with the County Planning staff or as they may say they are having with me. This involves a matter that you would normally not be involved with but it could get a little sticky and become a bigger issue within the Four Season community and else where and I believe you can help resolve it.

The Four Seasons Home Owners Association approved my small arbor and trellis project over the objection of my neighbor. He then complained to the county. A county Code enforcement inspector came out about a year ago, looked at the project and said he had more important things to work on than this one. He said if I needed to do anything I would be notified in writing. I didn't receive anything but then many months later another inspector came out in response to another complaint by my neighbor. The inspector took pictures and said I would be notified in writing concerning his inspection. Later I received a notice that I was in violation because of two things. The structure was over the 120 square foot limit and I had electric outlets on the structure. I sent a letter saying that I removed the electrical outlets and said my arbor is significantly less than 120 SF and therefore I am not in violation of the items in the notice.

Code enforcement via telephone said the trellis portion is OK but the top of the arbor still needs to be removed. I sent a letter, dated Sept 26, 2009, explaining how I could convert the arbor into two parts. One part would be converted into a trellis like the existing one and the remaining part would be a "T" type arbor extending only 2 ½ feet into the setback area which is allowed according to county rule, Section 17.14.050.A.

County planning said via telephone no I have to remove the top of the arbor as well as the small decorative boards on top of the trellis because they are covers which cannot extend into setback areas according to them. The staff is contradicting what they said before and they are misinterpreting the rule. It appears that county staff is purposely interpreting the rule to disallow my proposed change. I have asked the county for a legal opinion on this. (See attachment, Letter to Millard Oct 5).

You can see my frustration, I am being told different things from different people but more importantly it is clear that the county is spending too much time and effort on an insignificant project, one that even code enforcement doesn't want to be involved with any more because it is not one requiring a permit.

D26

I sent a proposed rule change (See attachment, Proposed Rule Change) to the county some time ago which when implemented will free county staff from spending time on issues covered by Home Owners Associations. One county staff person said they wouldn't want to propose such a rule change because they may lose work. I do not think they have to worry about that nevertheless that is not a valid reason to object to the rule change. It will save the county money and also help avert more disputes in the Four Seasons Community and others. There are many who have patio covers, arbors, etc. in setback areas but that have been approved by the Association because they are not objectionable. When you come you will see many of them as you drive into the development. Several members of the Four Seasons Civic League have such structures.

If one person is required to remove their small arbor then it is only fair that all the others do likewise. County staff says they are not concerned if people are out of compliance as long as no one complains. I do not think that is the way it should be handled. Rather than force a neighbor to complain to the county about the other 50 home owners out of compliance, I believe it would be better, and less costly to the county, to make the rule change giving the Association approval authority over small projects that the county does not permit anyway. Since the county staff is reluctant to do it I am asking you if you could spearhead this proposed rule change as outlined in the attachment mentioned above.

As I see it this issue may end up in one of three ways.

- 1) My arbor and trellis remain as is because the county makes a rule change as recommended in the attachment to allow the Home Owners Association to resolve this kind of issue.
- 2) My arbor is converted into a trellis and smaller arbor as outlined in my letter dated September 26, 2009.
- 3) My arbor and trellis and all other structures in the community encroaching in setback areas are removed.

Which of the above outcomes do you favor? I hope it is number (1) because that is one you can help bring about and it will save the county money and will avert many home owners from needing to remove their patio covers. Number (2) is the next best option but Number (3) will make many people very hostile and upset. You can see my project below and if you are interested in seeing others peoples projects I can provide pictures of them for you. There are about 12 on my street alone.

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

(916) 933-5130

Cc: Jim Wassner
Jonathan Fong
Mark Millard

11-0052.G.27

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

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February 18, 2010

Mr. David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

DRAFT

**Re: Interpretation of County Code Regarding Arbors and Trellises
CE #191441**

Dear Mr. Holtry:

During the past several months we have exchanged correspondence regarding your trellises and arbors and whether they comply with zoning ordinance requirements regarding setbacks. The purpose of this letter is to clarify the interpretation.

The Zoning Ordinance requires setbacks between buildings and property lines. (17.06.050 Definitions: "K" (Building), "V" (Front Yard), "MM" (Rear Yard), "RR" (Side Yard), "WW" (Yard).) Buildings are defined as "structures having a roof supported by columns or by walls, and designed for the shelter or housing of any person, animal or chattel." Arbors are considered structures because they have a roof and are designed for shelter of persons or property.

Section 17.14.050.A (Encroachments Into Required Yards) permits encroachments of up to 50% into the required yards for "uncovered and unenclosed patios or terraces, cornices, canopies, eaves, bay windows (which do not qualify as habitable area under the Uniform Building Code), attached heating and air conditioning equipment or similar architectural features."

When considering whether covers over decks, patios and terraces qualify for the 50% setback reduction, the Zoning provision states that such features must be "uncovered." This conflicts with the intent of the provision to permit a roof eave to encroach 50% into a setback. A roof eave clearly covers something, whether it is the ground, a porch, landing, or a patio.

A roof eave, including the eave to a covered patio, would qualify for the 50 % setback reduction. However, the wall holding up the roof and eave needs to meet the zone district setbacks.

Therefore, an arbor's roof may "overhang" 2.5 feet into a 5 foot setback under this interpretation.

A trellis is not normally considered a structure that needs to meet setbacks, because it does not meet the full definition of a Building: it does not have a roof and it clearly is not intended for the

D28

sheltering of people, animals, or chattel. Trellises are intended and used for support of vegetation.

Sincerely,

Roger P. Trout
Development Services Director

Cc: Supervisor Ray Nutting
James Wassner

D29

March 1, 2010

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit

SUBJECT: Trellis, Case # 191441

Mr. Wassner,

Mr. Roger P. Trout's February 19, 2010 letter addressed to me with a copy to you clarifies which structures are subject to setback requirements.

As you know I do not have a building (a structure intended to provide shelter for people, animals, or chattel) that is subject to the setback requirements. I have a Trellis which is used for the support of vegetation and as stated in the letter, is not subject to the setback requirements. Your staff has made an inspection and has photos that show this.

Therefore, in accordance with Mr. Trout's recommendation you can now close this case.

Thank you,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Supervisor Ray Nutting

D30
11-0052.G.30

March 10, 2010

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit

SUBJECT: Trellis, Case # 191441

Mr. Wassner,

Thank you for sending me a copy of the, *Carson Creek Specific Plan 4.4 (2)*.

This document states that the Side Yard setback dimension is 5 feet which we already knew and did not dispute. The document does not set forth what or what can not be in the setback area. In other words the Carson Creek Specific Plan 4.4 does not state that, "*a structure ("patio cover" over the portable BBQ) can not be inside the required 5 foot side yard setback area*" as you claim.

To know what types of structures the setback limitations apply to, one has to go to the Codes discussed in Planning Services letter dated February 19, 2010. As discussed in that letter only Buildings are subject to the setback limitations. My Trellis is not a Building as documented in my March 8th letter.

Therefore, the Notice to Correct dated March 8, 2010 is not valid because my Trellis project is not in violation of the setback limitations stated in the Carson Creek Specific Plan 4.4 (2). Please rescind the March 8th Notice to Correct.

Thank you.

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Roger P. Trout, Planning Services
Supervisor Ray Nutting

May 17, 2010

Jim Wassner
Sr. Code Enforcement Officer
Code Enforcement Unit
2850 Fairlane Court
Placerville, CA 95667

SUBJECT: Trellis, Case # 191441

Mr. Wassner,

First I would like to address the comment you made in your email dated April 6th, in which you state *"I spoke to Roger Trout regarding your assertion that your structure does not need to comply with setback requirements."* In your statement you state that I said that my structure does not need to comply. That statement is false as I have never asserted that I don't need to comply. My assertions have been that I do in fact comply, that is my trellis is in compliance according to the codes.

In a response to my April 7th question, you referred the matter to Mr. Trout but I have not received a response. Maybe it would be best if you, Mr. Trout, and I meet to discuss the issue at hand. If we meet I will explain what I have learned from the County Zoning Ordinance, Miscellaneous Development Requirements, Chapter 17 of the California Uniform Building Code and the February 19, 2010 letter that reviews the codes.

According to Code Section 17.06.050 only Buildings are subject to the setback requirements. Buildings are defined as *"structures having a roof supported by columns or walls, and designed for the shelter or housing of any person, animal or chattel."*

According to the above code there are three elements all of which must be present to constitute a Building. 1) A structure, 2) a roof and 3) designed for housing or sheltering of people, animals or chattel (property).

Although my project is a structure it does not have a solid roof nor is it designed for housing or for shelter; therefore it is not a Building subject to the minimum setback limitations.

In various correspondences my trellis has been referred to as a *"shade cover"*, *"patio cover"*, a *"roof over the patio"* etc. In reality my trellis has a small open overhead area with horizontal slats that does not provide any shelter for people, animals or property. Therefore, it doesn't matter what it is called, it is not a Building according to the code.

Furthermore, the California Building Code, Title 24, Part 2, Chapter 15, Section 1502 clearly does not consider an open structure such as a trellis with horizontal slats to constitute a roof. In this code it only refers to solid roof structures. This makes sense

because in order to provide shelter for people, animals and property the roof would have to be solid.

Examples of structures that are Buildings and therefore subject to the set back limitations are as follows: A house because it provides shelter for people, a barn provides shelter for animals, a garage provides shelter for automobiles and other property, and storage sheds provides shelter for property.

In the February 19, letter Mr. Trout correctly states, "*A Trellis is not considered a structure that needs to meet setbacks, because it does not meet the full definition of a Building: it does not have a roof and it clearly is not intended for the sheltering of people, animals, or chattel. Trellises are intended and used for support of vegetation.*" And that is exactly what my Trellis project is used for.

It is clear from reading all of the codes that all patio covers, arbors, and trellises regardless of style or configuration, but only those without a solid roof, do not meet the definition of a Building and thus are not subject to the minimum setback limitations.

Would you and Mr. Trout like to meet with me to discuss this issue?

Sincerely,

David Holtry
1031 Autumn Sky Way
El Dorado Hills, CA 95762

Cc: Roger P. Trout, Development Services Director
A.L. Hamilton, Senior Legal Services
Supervisor Ray Nutting

D33

DEVELOPMENT SERVICES DEPARTMENT

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August 26, 2010

DAVID SULLIVAN HOLTRY TR
NANCY LURINE HOLTRY TR et al
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

Dear Property Owners;

Development Services Director Roger Trout has reviewed your arguments that zoning setbacks do not apply to your structure as it does not have a solid roof. Mr. Trout has determined that setback requirements do apply to your structure. If the roof portion of the structure is removed, the remaining construction can be classified as a trellis which does not require a building permit and may be located inside the setback area. If the roof portion of the structure remains, the structure must be located outside the setback area. If the roof is larger than the supporting structure, the overhang may encroach into the setback area by 50%, or in your case 2 ½ feet. If the roofed portion of the structure is greater than 120 square feet in area it will also require a building permit.

Failure to abate the noted violation(s) within the next 15 days, by September 15, 2010, will cause the first Administrative Citation with a fine of \$100.00 to be issued for a violation of the Carson Creek Specific Plan and possibly construction without the required permit if the structure remains greater than 120 square feet in area. Each day the violation continues is a separate offense. You may request a hearing to contest the citation by paying the \$100.00 citation fine as well as a \$200.00 hearing fee in advance. You will be reimbursed these costs if you prevail at the hearing. Once the hearing has been scheduled you will be required to appear, even if the violation(s) are abated prior to the date of the Hearing. Your failure to attend this hearing will be deemed as a waiving of your rights to the hearing and all objections.

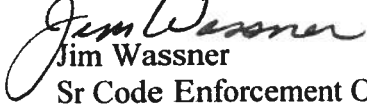
The Hearing Officer may issue an Administrative Order to have the violation(s) abated and can also require the property owner to pay fees to reimburse the County for the cost of administering the Code Enforcement case including letters and site visits. Failure to comply with an Administrative Order is a misdemeanor. El Dorado County Codes explaining hearing procedures are attached for your reference. All of the County Codes may be found on our website at: <http://66.113.195.234/CA/El%20Dorado%20County/index.htm>

D34
11-0052.G.34

08/27/2010

Please take the time to deal with this problem immediately. Permit information is available at the Development Services Department web site at <http://www.co.el-dorado.ca.us/devservices/>. The permit center is open from 8:00 a.m. to 4:00 p.m. daily at (530) 621-5775 for permit issuance and assistance. You may contact the Code Enforcement Unit at (530) 621-5999 if you have any questions regarding the resolution of this violation.

Sincerely,



Jim Wassner

Sr Code Enforcement Officer

cc: Roger Trout, Development Services Director
Ray Nutting, District Two Supervisor

Attachments: El Dorado County Administrative Hearing Ordinances

)
)

D35

7009 1410 0001 4263 5801

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PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*David Sullivan, Holtry To
Nancy Lurine Holtry To et al.
1031 Autumn Sky Way
El Dorado Hills CA 95762*

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]* Agent

B. Received by (Printed Name) *[Name]* Addressee

C. Date of Delivery *[Date]*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2 7009 1410 0001 4263 5801

C# 191441-7 JZH

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

D 36
410052.G.36

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

CODE
ENFORCEMENT



PLACERVILLE OFFICE:

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bdgdept@co.el-dorado.ca.us
PLANNING (530) 621-5355 / (530) 642-0508 FAX
planning@co.el-dorado.ca.us
Counter Hours: 8:00 AM to 4:00 PM

LAKE TAHOE OFFICE:

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SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 FAX
tahoebuild@co.el-dorado.ca.us
Counter Hours: 8:00 AM to 4:00 PM

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of, and employed in El Dorado County where the mailing occurred. My business address is 2850 Fairlane Court, Placerville, California 95667.

I served the foregoing: NOTICE TO CORRECT,

named herein by enclosing a true copy in a sealed envelope and depositing said envelope in the United States mail with postage fully prepaid on August 27, 2010, and addressed as follows:

Name: DAVID SULLIVAN HOLTRY TR, NANCY LURINE

HOLTRY TR et all

Address: 1031 AUTUMN SKY WAY

City: EL DORADO HILLS CA 95762

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct and that this declaration was executed on August 27, 2010, at Placerville, California.

Judy Hickenlooper

JUDY HICKENLOOPER
Development Tech.
Code Enforcement Unit

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September 23, 2010

DAVID SULLIVAN HOLTRY TR
NANCY LURINE HOLTRY TR et al
1031 AUTUMN SKY WAY
EL DORADO HILLS CA 95762

RE: C# 191441
1031 AUTUMN SKY WAY
APN: 117-410-03-1

Dear Property Owners;

A recent review of Code Enforcement case file # 191441 shows an open case involving violations at the above referenced site:

1. Structure built inside the side setback area in violation of Carson Creek Specific Plan.

Our last contact was an ~~Administrative Citation on September 7, 2010~~. Our records do not show any action taken to abate the violation since that time.

An Administrative Hearing has been scheduled on November 12, 2010 at 9:00 AM in the Planning Commission Chambers located at 2850 Fairlane Court in Placerville California. The Hearing Officer may issue an Administrative Order to have the violation(s) abated. Failure to comply with an Administrative Order is a misdemeanor. If the property owner still fails to abate the violation(s), the County will abate the nuisance, bill the owner, and lien the property for all costs incurred in this process per El Dorado County Ordinance 09.02. Code Enforcement may also refer the violation to the District Attorney for prosecution.

Please call the Code Enforcement Unit at (530) 621-5999 if you have any questions regarding the Administrative Hearing process or the abatement of these violations.

Sincerely,

A handwritten signature in cursive script that reads "Judy Hickenlooper for".

JIM WASSNER
Sr. Code Enforcement Officer
Code Enforcement Unit

Attachments: Administrative Citation
El Dorado County Administrative Hearing Ordinances

11-0052.G.38

D38

7009 1410 0001 4413 4180

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City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

D39

9.02.110 Collection of administrative fines or fees.

Fines or fees incurred in connection with code enforcement activities may be recovered through the billing process. Those fees billed shall be paid within 30 days after the date of billing. Any fees not paid within such 30 day period shall be subject to a late fee in the amount of ten percent (10%) of the established fee. The total fee plus late fee as described herein shall accrue interest at the rate of one percent (1%) per month for each month the fees remain unpaid. Any fee which remains unpaid 90 days after the due date shall be referred to the El Dorado County Treasurer for collection purposes and will be subject to additional fees to cover the cost of collection.

9.02.220 Failure to Pay a Monetary Sanction.

If the responsible party does not pay the monetary sanction, the amount of ten percent of the monetary sanction shall be applied and the new total shall bear interest at a rate established by a resolution of the Board of Supervisors from the date such payment was due until paid in full. The County may take any of the following actions to collect the monetary sanction:

(a) Liens. The amount of the unpaid sanction plus interest plus a reasonable administrative fee established by the Board of Supervisors from time to time to cover the cost of collection constitutes and may be declared a lien on any real property owned by the responsible party within the County.

(1) Notice shall be given to the responsible party prior to the recordation of the lien, and shall be served as required by this Chapter.

(2) The lien shall attach when the Director of Development Services or his/her designee records a lien listing delinquent unpaid sanctions with the El Dorado County Recorder's Office. The lien shall specify the amount of the lien, the date of the code violation(s), the date of the final administrative decision, the street address, legal description, and parcel number of the parcel on which the lien is imposed and the name and address of the recorded owner.

(3) In the event that the lien is satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection (a)(2) of this section shall be recorded by the County Recorder.

(b) Special Assessments. The amount of the unpaid sanction plus interest plus a reasonable administrative fee established by the Board of Supervisors from time to time to cover the cost of collection may be declared a special assessment against any real property owned by the responsible person within the County to the extent the responsible person owns more than one parcel within the County. The Board may impose the special assessment on more than one parcel. The Director of Development Services /or his/her designee may present a resolution to the Board to declare a special assessment, and upon passage and adoption thereof, shall cause a certified copy thereof to be recorded with the El Dorado County Recorder's office.

The assessment may then be collected at the same time and in the same manner as ordinary taxes are collected, and shall be subjected to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary taxes.

9.02.230 Recovery of collection costs.

(a) Any person who fails to pay any obligation shall be liable in any action brought by the County for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs.

(b) Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the delinquent obligation.

(c) Collection costs imposed under this provision shall be added to and become a part of the underlying obligation.

9.02.350 Administrative hearings procedures.

This chapter establishes the procedures for the use of hearing officers and the procedures governing administrative hearings for code enforcement actions under this Chapter. (Ord. 4706, 10-24-2006)

9.02.360 Qualification and Disqualification of Hearing Officer.

(a) The Board may appoint any person to serve as a hearing officer deemed to have sufficient knowledge and training regarding the administrative process. No such person appointed need be an attorney or judge.

(b) Any person serving as a hearing officer is subject to disqualification for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law. A hearing officer must not have any personal interest in the outcome of any administrative action under this Chapter or any other provision of the Code.

9.02.370 Powers of hearing officer.

(a) The hearing officer shall preside over administrative hearings.

(b) The hearing officer shall have the power to administer oaths, and may impose such rules of decorum upon the proceeding as will promote the fair and efficient consideration of matters before the hearing officer.

(c) The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.

(d) The hearing officer, upon receipt of a written request which is submitted no later than five business days before the hearing, may issue a subpoena for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena.

(e) The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purpose of granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist, granting a new hearing.

9.02.380 Procedures for requesting an administrative hearing.

(a) No hearing to contest an administrative citation shall be held unless and until a request for hearing form provided by the County has been completed and submitted with a hearing fee and the administrative fine. The refundable hearing fee shall be one hundred dollars (\$200.00) payable to El Dorado County to defray the cost of the hearing and may be changed by resolution of the Board of Supervisors. The request shall state the grounds for requesting the hearing and be filed with the Code Enforcement Unit on or before 10 calendar days after service of an administrative citation or notice to abate.

(b) Any person appealing an administrative citation shall deposit the refundable hearing fee and the administrative citation fine being appealed. Any hearing fee and administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation. If the hearing officer affirms the violation, the hearing officer may impose administrative fees per 09.02.450 equal to the cost of administering the Code Enforcement case. (Ord. 4706, 10-24-2006)

9.02.390 Procedures for notification of administrative hearing.

(a) Where the responsible person has made a timely request for an administrative hearing, the hearing officer shall schedule a day, time and place for the hearing. The hearing shall be scheduled for a date no more than 90 calendar days after receipt of the request for hearing unless both parties agree to a later date.

(b) Written notice of the time and place of the hearing shall be served at least 10 calendar days prior to the date of the hearing on responsible person.

(c) The notice of hearing shall be served by any of the methods of service listed in this Chapter.

9.02.400 Procedures at administrative hearing; admission of evidence.

(a) Administrative hearings are intended to be informal in nature. The hearing officer is not bound by formal rules of evidence, and no informality in any proceeding or in the manner of taking testimony will invalidate any decision of the hearing officer. The rules of evidence of courts of the State of California will be followed but may be relaxed at the discretion of the hearing officer when deviation from the formal rules of evidence will aid in a determination of the truth. The rules pertaining to discovery do not apply.

(b) An objection to the admission of evidence may be made by any party of record and the objection will be ruled on by the hearing officer. When an objection is made to the admission or exclusion of evidence, the grounds upon which the relief sought must be stated briefly. The hearing officer, with or without objection may exclude inadmissible, incompetent, repetitious, or irrelevant evidence. Any evidence offered at the hearing must be material and relevant to the issues of the hearing.

(c) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

9.02.410 Standard of proof.

The County bears the burden of proof at an administrative hearing to establish the existence of a violation of the Code. The standard of proof is by a preponderance of the evidence.

9.02.420 Representation.

Any person or persons may appear at any proceeding, conducted under this Chapter with or without representation by an attorney. No right shall exist for the appointment of counsel.

9.02.430 Failure to attend administrative hearing.

Any responsible person who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and all objections to the notice or administrative citation, provided that the hearing was properly noticed.

9.02.440 Administrative order; compliance with administrative order.

(a) The decision of the hearing officer shall be entitled "administrative order".

(b) Once all evidence and testimony are completed, the hearing officer shall issue an administrative order which affirms, modifies or rejects the enforcement official's action. The administrative order may affirm, modify or reject the daily rate or duration of the administrative fines depending upon review of the evidence and may increase or decrease the total amount of administrative fines assessed.

(c) The hearing officer may issue an administrative order that requires the responsible person to cease violating the Code and to make necessary corrections, repairs, or to complete any other reasonable act requested by the enforcement official, which may be modified by the hearing officer, to bring the property into compliance with the Code. The hearing officer shall include a specific time frame to complete the requested act.

(d) As part of the administrative order, the hearing officer may establish specific deadlines for the payment of administrative fines, fees and costs and may condition the total or partial assessment of administrative fines on the responsible person's ability to complete compliance by specific deadlines.

(e) The hearing officer may issue an administrative order which imposes additional administrative fines as set forth in this Chapter that will continue to be assessed for each day the violation continues until the responsible person complies with the hearing officer's decision and corrects the violation.

9.02.450 Lien.

If the violation is not abated within the time prescribed in the Administrative Order, the Board of Supervisors may cause the violation to be abated as provided in this Chapter and the cost of abatement, including any unpaid fines and civil penalties (Government Code section 53069.4) shall be charged against the real property upon which the violation has occurred and shall be a recorded lien upon such property and assessed and enforced, pursuant to Government Code section 25845.

9.02.460 Failure to comply with the administrative order; misdemeanor.

Failure to comply with an administrative order constitutes a misdemeanor. A misdemeanor is punishable by a fine not to exceed \$1,000.00 or by imprisonment in the County Jail for a period not to exceed six months or by both such fine and imprisonment.

D42

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I served the foregoing: ADMIN HEARING LETTER,

named herein by enclosing a true copy in a sealed envelope and depositing said envelope in the United States mail with postage fully prepaid on September 23, 2010, and addressed as follows:

Name: DAVID SULLIVAN HOLTRY TR, NANCY LURINE

HOLTRY TR et all

Address: 1031 AUTUMN SKY WAY

City: EL DORADO HILLS CA 95762

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct and that this declaration was executed on September 23, 2010, at Placerville, California.

Judy Hickenlooper

JUDY HICKENLOOPER
Development Tech.
Code Enforcement Unit

D43