

GRANT COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF

CE 17-019

John and Mary Huntwork
12959 Rd. A5 NW, Ephrata, WA

)
) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW AND**
) **DECISION AFFIRMING**
) **CITATION**
)

I. FINDINGS OF FACT

1. On April 18, 2017, a complaint was filed with the Grant County Planning Department regarding the property located at 12959 Rd. A.5 NW Ephrata, Washington. This complaint was assigned file # CE 17-019.
2. This site is located in the Rural Residential 1 zoning district.
3. Grant County records show this parcel of land is owned by John and Mary Huntwork as of January 13, 2011.
4. A site visit was conducted on the property by Grant County Planning Department on May 5, 2017. Grant County Code violations were noted to be present during this visit. These violations included a recreational vehicle that appeared to be set up for occupancy and several hogs and pigs in a pen on the property.
5. This property was previously under enforcement for the same violations under case number CE 15-086. Pursuant to the Grant County Code, a Warning Notice was sent to the property owner on November 23, 2015 by first class mail and certified mail, informing him of the code violations present at the site and instructing the property owners to remedy the code violations in 30 days from the date on the Warning Notice.
6. Regarding CE15-086, Mr. and Mrs. Huntwork did not comply with the Warning Notice and a citation was issued on February 18, 2016.
7. In that matter, Mr. and Mrs. Huntwork alleged that they own the property pursuant to a grant by Land Patent.
8. The matter was referred to the Grant County Prosecutor's Office who issued a letter to Mr. and Mrs. Huntwork on April 13, 2017 stating, in part, "Your claim that your recorded Land Patent exempts your property from Grant County Rules and Regulations, including tax

liability, has no recognized legal significance in Washington State. Therefore, unless a competent court of jurisdiction rules otherwise, you are subject to applicable rules and regulations.”

9. No further action has been taken on CE 15-086.
10. A second violation was issued to Mr. and Mrs. Huntwork on May 4, 2017. This citation included the requisite information outlined in GCC 25.16.100(2)(a)-(h). This citation is given reference number 17-019.
11. On May 15, 2017 Mr. and Mrs. Huntwork notified Grant County Planning of their request for a contested hearing.
12. Appellant’s position is that they have a Land Patent and because of this, Grant County may not impose rules, regulations or ordinances, and the Land Patent holder is not bound by such.
13. Essentially, and for the purposes of this decision, Mr. and Mrs. Huntwork are claiming that land use regulations set by the State of Washington and the County of Grant do not apply to Mr. and Mrs. Huntwork as owners of the property located at 12959 Rd. A.5 NW, Ephrata, Washington because of their claim of a Land Patent.
14. Grant County Community Development staff conducted a search of Federal Land Patents of the United States Department of Interior, Bureau of Land Management, General Land Office which did not reveal the Land Patent for any person with the last name of Huntwork. This search was conducted on May 16, 2017.
15. The Grant County Hearing Examiner set the open record public hearing to occur on June 14, 2017.
16. Mr. and Mrs. Huntwork requested a continuance of this hearing due to health issues of Mr. Huntwork. Based upon this request, the Hearing Examiner reset the open record public hearing to July 5, 2017 at 1 p.m. in the Grant County Commissioners Hearing Room.
17. On July 5, 2017, the open record public hearing on the contested citation, CE 17-019, was held. Admitted in to the record were the following exhibits:
 - 17.1 Exhibit A. April 18, 2017 (received date) Complaint filed against Appellant;
 - 17.2 Exhibit B. Tax Sifter Page and zoning map for parcel #16-0914-038;
 - 17.3 Exhibit C. May 3, 2017, Site photographs;
 - 17.4 Exhibit D. November 23, 2016, Warning Notice;

- 17.5 Exhibit E. November 30, Signed Return Receipt for Certified;
 - 17.6 Exhibit F. Multiple letters from Appellant;
 - 17.7 Exhibit G. February 18, 2016 Citation;
 - 17.8 Exhibit H. March 9, 2016, Letter form Appellant;
 - 17.9 Exhibit I. April 13, 2016, Letter from Grant County Prosecutor's Office;
 - 17.10 Exhibit J. May 4, 2017 Citation for Second Violations;
 - 17.11 Exhibit K. Unclaimed Certified Copy of Citation;
 - 17.12 Exhibit L. May 15, 2017 Unsigned Citation requesting hearing;
 - 17.13 Exhibit M. May 15, 2017 Statement from Appellant;
 - 17.14 Exhibit N. May 16, 2017 Land Patent Database Search for "Huntwork"; and
 - 17.15 Exhibit O. Order setting open record public hearing.
18. Exhibits A-O were admitted into the record.
19. Testifying on behalf of Mr. and Mrs. Huntwork was John Huntwork. Mr. Huntwork submitted the following exhibits:
- 19.1 Exhibit 1. 64 pages of documents including what was identified by Mr. Huntwork as their Land Grant Patent, and a United States Supreme Court case, *Hughes vs. Washington*, 389 U.S.290 (1967);
 - 19.2 Exhibit 2. 20 pages including what Mr. Huntwork identified as their Declaration of Land Patent;
20. Exhibit 1 and Exhibit 2 were also admitted in to the record.
21. At the open record public hearing, Mr. Huntwork confirmed that he was in violation of the Grant County Code as set forth in Citation CE 17-019. Mr. Huntwork confirmed that his son was living in the recreational vehicle and that he is raising pigs on his property for his use.
22. Mr. Huntwork testified that he believes he is not required to comply with State and local zoning regulations because his predecessor in interest acquired the property by a Land Grant Patent.

23. Mr. Huntwork testified that the Land Grant Patent set forth in the first five pages of Exhibit 1 is the Land Patent that applies to his property.
24. The Hearing Examiner explained to Mr. and Mrs. Huntwork and Grant County Representatives that the Hearing Examiner did not believe that he has granted authority to determine the legality of a Land Patent or the applicability of a Land Patent to a particular piece of property.
25. Grant County staff's position was that Land Patents do not preempt local zoning code regulations.
26. The Hearing Examiner conducted substantial research in the area of the applicability of state and local zoning codes to Land Patent lands in the State of Washington.
27. The Hearing Examiner is unable to find any case law addressing the issue as to whether or not owners of parcels of land originally created as a Land Grant are required to comply with state and local zoning regulations.
28. The case provided by Mr. and Mrs. Huntwork, *Hughes vs. Washington*, is distinguishable on its facts and is not applicable to this matter.
29. Although the Hearing Examiner does not have the authority to determine the applicability of an alleged Land Grant to a particular piece of property and does not have the authority to determine the legality of a Land Grant Patent, the Hearing Examiner finds as follows:
 - 29.1 The identified Land Grant (first five pages of Exhibit 1) relied upon by Mr. and Mrs. Huntwork appear to relate to lands granted by the Federal Government to Northern Pacific Railroad for the express purpose of the construction of a railroad and telegraph line from Lake Superior to the Puget Sound.
 - 29.2 It also appears that this document reserved certain lands to the U.S. Government surrounding this grant to the Northern Pacific Railroad.
30. There is nothing in this Land Grant that the Hearing Examiner can use to match this Land Grant to the property now owned by Mr. and Mrs. Huntwork.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. The Grant County Code has been duly enacted by the Grant County Board of Commissioners.
3. The Grant County Zoning Code is applicable to all lands within Grant County unless specifically exempted.

4. There's no indication in the Grant County Code that land owned by Mr. and Mrs. Huntwork are exempt from any of the provisions, including all land use regulations.
5. Even assuming the Land Grant presented by Mr. and Mrs. Huntwork as evidence in this case is legal and does apply to their property which is the subject of this violation, there is absolutely no legal authority in the State of Washington that duly enacted zoning code and regulations do not apply to Land Grant properties now owned by private citizens.
6. The Hearing Examiner has not been granted the authority to determine the legality of a particular Land Grant or the application of a particular Land Grant to a particular piece of property.
7. Assuming a Land Grant is legal and applies to this particular property, the Hearing Examiner has the authority to decide whether the Grant County Code applies to Land Grant Properties.
8. The Grant County Code applies to the property located at 12959 Rd. A.5 NW, Ephrata, Washington.

DECISION

Based on the above Findings of Fact and Conclusions of Law, Citation CE 17-019 issued to John and Mary Huntwork at 12959 Rd. A.5 NW, Ephrata, Washington, is hereby **AFFIRMED** in all respects.

Dated this 19th day of July, 2017.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp