

"I" refers to  
Jacqueline Haag  
as writer but often  
infers  
Gerald  
as well.

## Preliminary Information

Haag, Gerald R. and Haag, Jacqueline V. were in receipt of a Notice of Violation and Order to Abate, Case #1802024, on two separate occasions. The first one delivered on May 9, 2018, was replaced with the one delivered on May 17, 2018, when the respondent notified the Neighborhood Services Code Enforcement Supervisor, Tom Wasinger, on May 9 that the photo supplied as evidence was showing a portion of what the City did during the uninstal of an aged fence on our property for the Woodmen Road Expansion Project, which has not yet been completed and which would prohibit respondents from correcting some of the issues presented in the Notice because there are still two more fixes the City has to do before they have completed their work with our property. Mr. Wasinger, after learning that respondents were going to appeal, then updated and actually significantly changed the terms of the Notice and added a Sanitation Notice and Order as well. Because apparently the documentation can change quite rapidly, respondents are going to answer both Notices, just to be sure, and handle the Sanitation Notice and Order separately as proscribed.

## Ordinances and What is in Dispute

In both, the property is correctly identified as 2814 Bluebell Hill Drive in the first paragraph.

### City Ordinance 7.3.103 - May 9, 2018 Notice

In the first (May 9), the second paragraph alleges respondents illegally operated a tree cutting business, AA Forestry, LLC, from my address. **This is not true.**

Paragraphs following on the initial Notice are about the City Code and the remaining information necessary to inform the respondents of their rights, including the date of May 31, 2018, as the date all violations must be remedied. *Attached was Development Assistance Bulletin (DAB) 603 on Home Occupation Permit and an Application for Home Occupation Permit* (italics mine). **This is not needed as no business is conducted on our property.**

### City Ordinance 7.3.105 – May 17 Notice

In the second (May 17), the second paragraph alleges respondents permitted an illegal use of the residentially zoned property... by storing wood cuttings, wood cutting equipment, forklift, and trailers for the commercial business currently known as AA Forestry, LLC.

**In Dispute: see Substance of Appeal below.**

Paragraph three is an explanation of prohibitions within residentially zoned properties, information from the City Code.

Paragraphs following on the second Notice are about the City Code and the remaining information necessary to inform the respondents of their rights, including the date of May 31, 2018, as the date all violations must be remedied. *Attached was an Appeal Form to*

*the City Planning Commission (italics mine).* **According to Katie Sunderlin, this was the wrong Appeal Form.**

### **First Attempts to Resolve**

Our first attempt to mitigate this misunderstanding in both Notices was to seek the complainant information from Mr. Wasinger so I could show them my property and explain what was going on. That information was not made available to me. Because the Notices were served, an **appeal is the only way to have due process.**

This is a complex case. Respondents are still currently in Right of Way process and unable to fully have control of their land. We are in the third year of eminent domain and construction on all four sides of our property (2.51 acres to begin with and reduced by approximately 1 acre), to include temporary easements where a return of our property is made once the Woodmen Road Project has accomplished its tasks and/or the time period has expired for them to do so, and that carries with it a multitude of difficulties, including but not at all limited to the removal of trees and fence panels, the set-up of an orange net temporary fence to contain our dog, the actual relocation of our leach field to a location on the east side of our property, the cavalier return by the Woodmen Road Project of the land comprising a front yard with a 1:3 slope ratio which cannot be walked upon, the debris from the construction site that blows in on the Colorado wind, and sand piled upon our windowsills and mounded on the floor on the very windy days.

Our driveway, which opened onto Woodmen Road, was eliminated and a new road, Bluebell Hill Drive, was created as a public street behind our house and a few other houses. It is very difficult and in many cases impossible to manage and control much of what has been happening to our property. I believe that if the complainant would have waited until the Woodmen Road Project had been completed and we were free to do as we intend, that they may not have made the complaint at all.

### **Substance of Appeal**

1. Raul Acosta is a longtime friend of mine. When he lost his job with HP several years ago he decided to build a business, AA Forestry, LLC, to provide for his wife and family of nine children.
2. If my **address** was listed online as AA Forestry, LLC, it was a misunderstanding. I gave my permission for mail and package delivery to Raul much as I have for my grown daughter who rents just a bedroom in a house in town. She wants the security of her mail being delivered to my home, and AA Forestry wanted to have mail and package delivery to a safe place as well - as I am home during the daytime.

**UPDATE:** I called Katie Sunderlin's office (from the appeal form Tom Wasinger attached to the second, replacement Notice from May 17) on Monday (May 21) and Wednesday (May 23) and left messages for assistance in filling out the appeal form, and did not receive an answer, so I called again Wednesday

afternoon and learned that I did not have the correct form. Katie said she would send it via email but it did not arrive in either my email box or the spam filter. These kinds of things happen from time to time, but in a deadline as tight as the requirements for appeal, it can be devastating. It did get sent the following day. Katie spoke with me and uncovered that my physical address was in many places online. That was shocking news to me, and the **fact** requires I address it.

This is what I determined by revealing that **fact** to Raul and by examining the web myself: Raul handles his business information on the Secretary of State's website. He corrected that. He does not have the interest or ability to work with Facebook, his website, or any other online features. That task he delegated to his oldest son, who does have that skill. However, it is **also fact** that both the Woodmen Road address and the Bluebell Hill address had been used online, which indicates a long term intention on the part of my friend, Raul. To his credit, he became ashamed that he had caused all these problems for me with the City by using my address online. He would not reveal why he did it other than to say people just show up at his business (it never, to my knowledge, happened on my property).

However, despite this egregious act by misappropriating my address, nothing about this appeal changes. Every point is truthful and accurate to the best of my knowledge. In addition, he is diligently working to remove everything from our property by May 31, no matter the results of this appeal or any stay or vacation of the Notice, if any. **An extension of 30 days is helpful and is hereto requested.**

3. The **fence panels** cannot be removed from the north side of the barn on respondents' property until the Woodmen Road Project has been completed concerning our property. There are two outstanding fixes that we have been assured will be taken care of by the City that may or may not need access to the property that a premature fence replacement would prohibit, including additional erosion control due to the height of the roadbed of Bluebell Hill, a provision of the Woodmen Road Project which replaced the dirt utility trail accessible only by Woodmen Road and our former driveway.
4. Respondents are **not illegally operating a tree cutting business** on our property, in the barn, or in the house. The photo showed to me as evidence was of the north side of our barn with the fence panels stacked up and leaning against it, a small, neat pile of 17 natural fence posts, and a large piece of plastic sheeting likely blown in from the construction site. The plastic has already been removed, though I cannot guarantee something else won't show up tomorrow
5. Attaching a **Home Occupancy Permit** is unnecessary. No business is operated on our property.
6. There are piles of **wood cuttings** on my property. On Tuesday, May 1, 2018, Raul and I had gone to every tree on my property, and there are many, and we trimmed and trimmed the dead and unsafe limbs from the trees. It took six hours to accomplish and Raul gathered them and placed them in piles on the property so he can come on his next opportunity and chip them and spread them on our walk paths. The **wood cutting equipment** is way too undersized to be used in his

- business, but he keeps it for my property. Once he finishes the chipping and spreading he has always set it aside for the next time. He has done this for years to mitigate fire danger on my property from all the cigarettes thrown out the windows of cars that travel along Woodmen Road, and now, perhaps, Bluebell Hill Drive, especially these past three years with the WRP construction crews.
7. During 2016 the people charged by the Woodmen Road Project to relocate my leach field sent a worker over with a chainsaw to remove a gallant silver maple from their path. When I saw what they were trying to do to it I asked them to stop for a moment. I called my friend Raul to get his advice. He left his work to come over and remove a portion of the tree that was in the way. Because of his knowledge and skill, he saved two-thirds of that aged and lovely tree.
  8. I am a gardener. I have two fabric greenhouses on my property and approximately 4,000 sq. feet of tillable garden. I do not sell my excess produce but instead take some to the Marion House Soup Kitchen and invite friends to come take what they need during the harvest. I also can and freeze. Likewise, because Raul is a conservationist (like most foresters), he **recycles trees** rather than let that **wood** fill up our landfill.
  9. Almost all of the equipment on our property is ours. Gerry had to move it from the north side of the barn in 2016 because of the Woodmen Road Project. I believe much of the equipment in the Notice is ours (**trailers**, tractor, and seasonal attachments, cargo mounts, etc.) save a **single** black pull-behind trailer.
  10. Please note that our property became Bluebell Hill Drive in December of 2016. Prior to that, as Woodmen Road, there was no intercourse to the neighborhood at all. The back of our property was a rarely used dirt utility trail, accessible only through our driveway on Woodmen. If we wanted to enter Columbine Estates (our neighborhood), we had to drive around to Shrider or one of the other streets. If someone in the neighborhood wanted to see us for any reason, they had to enter our property from Woodmen. Now, of course, we are fully integrated to the larger neighborhood. Perhaps people in the neighborhood are seeing perfectly normal things and drawing assumptions about them that are unwarranted, especially once we can have our property back in its entirety.
  11. The **forklift** is a recent and perhaps a low cost impulse buy by my friend, Raul. It has not yet been used nor will it be used until he moves it to his own work property in the close and foreseeable future. Gerry and I had agreed to let him park it for a short time on our property.
  12. Respondents have lived in this house on this property (though before the Woodmen Road Project it was 2.51 acres) for more than 21 years. Just six months after we moved in on September 1, 1997, Larry Lane stopped by the house on his way home in Briargate from his job with the City and told us our house was going to be taken in eminent domain. Shocked by this news, we asked when it would happen. He said five years. Four years and eleven months later we were called to a neighborhood meeting and told about the Woodmen Road Project and shown architect drawings and proposed layouts. Our house was scheduled for demolition then and several times subsequently. Only within the last three years did that change when the decision was made to move to a CFI (Continuous Flow Intersection) plan for the Project at Union and Woodmen.

Our decision all those years ago was to not improve or tend to the house or land with landscaping or maintenance, for there would be no benefit of the cost of such landscaping or maintenance if our home was to be demolished and property taken. We will soon be able to begin the effort to improve and maintain our home and land. If anyone is distressed about the condition of our property, we aren't yet free to make those changes as there are some final Woodmen Road Project construction related work still to be done on our property and one major issue to be resolved, which may take up to 90 additional days. Once our land has been fully returned to us, we can begin at last.

### **Final Reasoning and Request**

- The problems listed on the Notices of Violation and Abatement are in process to be **cured** whether or not this Appeal is decided in property owner's favor or not. We are in agreement with Raul that that is the only honest course of action because of the misuse and misappropriation of our address.
- However, I have paid the filing fees so that the City, represented in this case by the Appeal Council as explained to me by Tom, can see that things are not always as they appear and to make a request. A complaint had been filed and Tom Wasinger dutifully executed the Notice(s). But the property owners were not in knowledge of actions taken by a third party. It was a simple phone call to Katie Sunderlin that made the online presence of this third party known. This, of course, could have taken place with a visit by Tom, or the complainant, in a jiffy, and without the use of the Notice(s).
- In addition, this property and its owners have been unavoidably used and often unavoidably abused for almost three years in the Woodmen Road Project. No one can deny that we have had to bear a disproportionately high burden as homeowners in the heart of the Woodmen Road Project. Very soon the Project will be over and the workers will move on to other projects - and with a moment to catch our breath and revel in the privacy that is going to return to us, we intended (and still intend) to begin the long task of recovery for our property and home. The point here is that so close to the end we were **prematurely served** with a Notice(s) for not being up to neighborhood standards. I believe reasonable people would have granted the grace needed to get there, and again, would not even have made the complaint in the first place had they been aware of our predicament.

In addition, if additional homeowners in Columbine Estate were served Notices as well as we, and if they live along Bluebell Hill, then this is empirical evidence that we are all still shell-shocked by the intrusion on our lives by the WRP these past three years. Most times, no notice was given for workers and equipment on our properties and the noise itself has been horrific. Our neighbor, Janice Gill, actually lost her husband, Danion, and became a widow during this time a year ago in June. According to her, each of the four emergency responders (Ambulance, Fire, Police, and sadly, Coroner) had to call for directions to find her



home as they did not have accurate address for Bluebell Hill though the street had been operational for over six months and we had been instructed to change our addresses. This occurred even after I had called the Falcon Police Station to verify the Bluebell Hill addresses were in the system earlier in April or May. The person who answered was surprised when she discovered we were not, but said she had fixed it. Mrs. Gill would not agree.

Even the simple act of changing address, accomplished easily by a vast majority of homeowners, was made arduous and terrible by the required change from Woodmen to Bluebell Hill Dr. In our case, I missed receiving packages and mail because Bluebell Hill was not in the system they use for deliveries, to include the USPS, Yellow, FedEx, Old Dominion, UPS, and local deliveries from places like Pikes Perk and floral shops. Online, Bluebell Hill was not discoverable for over a year. It took eleven trips to the USPS to gather our mail from the main office over a period of three to four weeks. Some of the creative delivery people sent packages to the nearest Bluebell Hill, which was out of state (despite the zip plus four). I had to learn the deeply embedded phone numbers of Amazon, Walgreens, CVS, and Walmart and other business that have mail order to correct perhaps fifteen addresses at the source because of the invisibility of Bluebell Hill Drive, 80920-3537. It took so many hours I would state them in weeks of labor.

- **REQUEST (Section 7.5.906.A6 Fees):** In light of these items, I am also asking the Appeal Council to consider another option about Neighborhood Services. When to make a complaint is **without cost**, and to appeal such complaint is **so costly**, the situation **increases** complaints and **decreases** appeals. Where is the justice to all community members equally? There is a grave inequity in this situation. I suggest the Appeal Council consider requiring the appeal filing to be paid by the prevailing opinion and arrange it so that – if complainant is in error, complainant pays, and if respondent is in error, respondent pays.

And, above all, to make sure that the person seeking to make a complaint checks first to see if they can solve the problem on site and with the owners if it would be safe to do so. If not, then a visit to resolve could be initiated by Neighborhood Services with the information provided respondent with Notice can be served if a complaint is in fact judged to be corrected.