



**PROCEEDINGS BEFORE A WASHOE COUNTY
ADMINISTRATIVE ENFORCEMENT HEARING OFFICER**

IN THE APPEAL OF

Case No. WVIO-PLA18-0259

JESSICA RICHARD

ADMINISTRATIVE ORDER

1. Pursuant to the Washoe County Enforcement Code ("Code") at 125.120, *et seq.*, the Respondents above-named have appealed an administrative enforcement action brought by Washoe County ("County"). An administrative hearing was held on this appeal on August 15, 2018 at 1:00PM to determine whether the Washoe County Code violations cited in an Administrative Penalty Notice, and the penalties and/or fees assessed as part of the notice, should be affirmed, modified, or dismissed.

2. Respondents were self-represented at the hearing or were represented by:

County was represented by Bob Webb, Planning Manager, and Brian Farmer, Code Enforcement Officer II, of the Department of Community Services.

3. This Administrative Order is issued on ^{November 5} ~~August 15~~, 2018 pursuant to the authority granted at Code 125.220 through 125.2290, inclusive, and is **final as of this date** unless appealed in accordance with Code 125.275.

4. I have received and reviewed the evidence, including documents and testimony, provided at the hearing, and am ready and able to determine this appeal. The property at issue is located at: 5235 CAROL DRIVE, SUN VALLEY, NV 89433 (APN: 085-043-18).

6. In the Administrative Penalty Notice, the respondent was assessed a \$100 administrative penalty. The respondent was also assessed \$0 in administrative action fees. The total administrative penalties and fees assessed is \$100.

Affirmed, the respondent shall pay the assessed administrative penalties and fees.

Dismissed, the respondent is not required to pay the administrative penalty and fees.

Modified, the penalty and/or fees is modified as follows:

~~_____~~
~~_____~~
~~_____~~

Pursuant to section 5 of this order, the respondent is found in violation of the Washoe County Code and is assessed an Administrative Hearing fee of \$ 50.

Total administrative penalties and fees assessed: \$ 0

All penalties and fees noted in section 6 of this order must be paid by \$ 0

This matter is referred back to the enforcement official for the following actions:

~~_____~~
~~_____~~
~~_____~~

7. The respondent must complete the following additional actions by _____:

~~_____~~
~~_____~~
~~_____~~

8. Failure to comply with all provisions of this Administrative Order is a misdemeanor criminal offense and Respondents may be issued a misdemeanor criminal citation. Conviction of a misdemeanor criminal offense is punishable as provided for in NRS 193.150, as amended. Any misdemeanor criminal actions do not provide an excuse to disobey this order, to not correct the cited violations, nor they bar any further enforcement actions by the County.

9. This Administrative Order is final as of the date noted in section 3 of this order.
- a. You may choose to appeal the provisions of this Order specific to the violations of Washoe County Code Chapter 110 [section 5(b), (c), and (d) of this Order] to the Washoe County Board of Adjustment by filing an appeal application within 20 calendar days of the date of this Order. Appeal applications are available from the Washoe County Planning and Building Division:

In person: Washoe County Administration Complex, 1001 East Ninth Street, Reno
2nd Floor, Building A

On-line: https://www.washoecounty.us/csd/planning_and_development/applications/files-planning-development/application_files/applications_only/ax_boa_app_2017.pdf

To request an application by mail call 328-3600 or e-mail to planning@washoecounty.us.

Appeal applications must be filed in person at the Planning & Building Division Offices at 1001 East Ninth Street, 2nd Floor, Building A, Washoe County Administration Complex, Reno. There is no charge for an appeal action before the Washoe County Board of Adjustment.

- b. You may choose to take the decisions of this Order directly to judicial review following the provisions of WCC section 125.275.

The filing of any appeal or actions for judicial review shall postpone all deadlines and other enforcement or collection efforts established in this Order until the appeal or judicial review is concluded.

Ordered:

Administrative Enforcement Hearing Officer

Printed Name

Date

Signature

3 **ADMINISTRATIVE ORDER**
4 **DISMISSING VIOLATION(S) WCC Sec. 110.406.50**

5 JESSICA RICHARD (hereinafter RICHARD) purchased property commonly known
6 as 5235 Carol Drive, Sun Valley, NV 89433 (APN: 085-043-18) from John Mouchou in
7 2016. It had considerable debris, including a trashed mobile home. An anonymous
8 complaint of debris on the property was presented to Washoe County Code Enforcement
9 (hereinafter WCCE).
10

11 After investigation, an Administrative Enforcement Warning was first posted by
12 WCCE at the property and was issued June 8, 2018 for violation of WCC Section 110.406.50,
13 having a fence that abutted Carol Drive that was over four-and-one-half (4.5) feet in the
14 required front yard setback. The property has a six-foot chain link fence with privacy slats
15 instead.
16

17 At the time of the first hearing on this matter August 15, 2018, WCCE indicated that
18 RICHARD was nearing completion of the process of clean-up of the property and that the
19 sole reason for the notice of the violation was to require RICHARD to clean up her property
20 because debris that is behind a six-foot fence, is essentially deemed to be "not visible."
21

22 Mr. Mouchou testified that the fence had a permit and was built by a contractor who is now
23 deceased and that a variance in the late 1980's that was approved in a Sparks Court before
24 Judge Larma Volk, who even chose the color of the fence. Sparks Court Clerk stated that
25 Court records only go back a maximum of twelve years, according to a telephone
26 conversation with this Hearing Officer. In any event, Mr. Mouchou's testimony is credible,
27
28

1. particularly in light of the fact that there is uncontroverted testimony that a number of the
2 homes on Carol Drive have six-foot high fences.

3 In order to resolve this case, the parties were instructed at the hearing to do the
4 following: 1) WCCE was to contact the initial anonymous complainant and determine if he
5 was satisfied with the clean-up efforts by RICHARD; and 2) RICHARD was to find any Court
6 Record that may exist with regard to the variance. The matter was continued until October
7 24, 2018.

9 At the time of the re-hearing on October 24, 2018, WCCE testified that the clean-up was
10 satisfactory to the anonymous complainant. RICHARD was unable to find further
11 documentation regarding the variance. There was additional testimony that the clean-up
12 had cost the family about eight thousand dollars (\$8,000) which was their "life savings" and
13 they could not afford any further work on the fence, which they hoped to keep.

15 In light of the fact that the debris was not caused by RICHARD and that she has
16 completely remedied the underlying reason for the cited violation – which was merely
17 WCCE's bootstrap method to have her clean-up the property and based upon the principles
18 of equity and ethics and having considered the testimony and all evidence on file herein and
19 good cause appearing,
20

21 IT IS HEREBY ORDERED that the Cited Violation(s) of Washoe County Code WCC
22 section 110.406.60 Fences, Walls or Perimeter Planting is not supported by the evidence and
23 is dismissed.

24 DATED this 5th day of November, 2018.

26
27 
28 ELIZABETH WEBB BEYER,
ADMINISTRATIVE ENFORCEMENT HEARING OFFICER