
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercergov.org



Notice of Violation & Civil Penalties

Pursuant to MICC 6.10.050, this Notice of Violation and Civil Penalties is issued as follows:

Date of Notice Issuance: February 11th, 2021

Location(s): 2906 74th Ave SE, Mercer Island WA 98040

Subject Property: 2906 74th Ave SE, Mercer Island WA 98040

King County Tax Parcel # 531510-0836

Mercer Island Compliance Case # CE20-0058

Notification is being given to the following responsible party or parties:

Premium Homes of Mercer Island LLC.

PO BOX 1639, MERCER ISLAND, WA, 98040-1639

1414 E YESLER WAY, SEATTLE, WA, 98122-5953

WA State UBI # 603 438 959

Nadezhda Maksimchuk

1414 E YESLER WAY, SEATTLE, WA, 98122-5953

PO BOX 1639, MERCER ISLAND, WA, 98040-1639

Barcelo Homes Inc.

1900 S PUGET DR #206, RENTON, WA, 98055

1414 E YESLER WAY UNIT A, SEATTLE, WA, 98122

PO BOX 1639, MERCER ISLAND, WA, 98040-1639

WA State UBI # 603 332 723; WA State Contractor License No. BARCEHI869J9

Bogdan Maksimchuk

1900 S PUGET DR #206, RENTON, WA, 98055

1414 E YESLER WAY UNIT A, SEATTLE, WA, 98122

PO BOX 1639, MERCER ISLAND, WA, 98040-1639

The responsible parties named above are believed to be responsible for the following violations that have occurred or are occurring at the location(s) identified above:

- **MICC 17.14.10(105.1) – Permits Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the construction codes and the Construction Administrative Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. MICC 19.10.020 Applicability and permit required.
- **MICC 6.10.070 (B). Effect.** When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful to conduct the activity or perform the work covered by the order, even if the order has been appealed, until the director has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed. Any violation of a stop work order is hereby declared to be a nuisance and the director is authorized to enjoin or abate such nuisance by any legal or equitable means available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction or abatement, shall be recovered by the city from the person responsible for the code violation in the manner provided by law. Failure to comply with the terms of a stop work order subjects the person responsible for the code violation to civil penalties and costs as set forth in this chapter, including a monetary penalty that shall accrue for each day that a violation of a stop work order occurs.
- **MICC 610.050 (D)3. Repeat Violations.** A repeat violation is a violation that has occurred on the same property, or that has been committed by the same person responsible elsewhere within the city, for which voluntary compliance previously has been agreed to or any enforcement action taken that was not timely appealed or, if appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this subsection, repeat violation does not include each day in violation being counted as a separate violation.) To constitute a repeat violation, the violation need not be the same violation as the prior violation. Violation of a written order of the hearing examiner that has been served as provided in this chapter shall also constitute a repeat violation. Repeat violations will incur double the civil penalties set forth in subsections (D)(1) and (2) of this section. If violations are repeated a third or subsequent time within a 36-month period, the penalties will be five times those set forth above. The city also has authority to suspend or revoke a business license when a responsible party is repeatedly doing work in violation of city regulations (Chapter 5.01 MICC).
- **MICC 610.050 (D)4. Deliberate Violation.** If a violation was deliberate, the result of blatant disregard for direction from the city or knowingly false information submitted by the property owner, agent or their contractor, civil penalties will be incurred at double those set forth above in subsections (D)(1) through (3) of this section.

Facts Constituting Violation(s):

- On October 12th, 2020, city code compliance officer David Henderson, visited the subject address, a private property owned by the Responsible Party(ies), to identify the possible source of the refuse and construction debris being unlawfully dumped at site address 7216 93rd ave SE, which is an active code enforcement case (CE20-0057) involving the Responsible Party(ies).
- On October 12th, 2020, city code compliance officer David Henderson, observed the demolition of a wood burning brick chimney in the process of demolition, noted no permit was issued for this work and posted a stop work order (photo Exhibit 1-A).

- On January 8th, 2021, city code compliance officer David Henderson, received a written compliance request to investigate a possible addition to the subject property in violation of the posted stop work order. In response to the compliance request, compliance officer David Henderson performed a site investigation at the subject address on January 12th, 2021 and confirmed that a new roof had been built over a second story deck in violation of the posted stop work order (photo Exhibit(s) B, 1-B, 2-B). The Responsible Party(ies) was notified that this work was a violation of the posted stop work order and they were required to comply with the Stop Work Order in effect.
- On January 27th, 2021, city compliance officer, while monitoring the subject address for adherence to the posted stop work order observed a main floor addition had been built in violation of the posted stop work order (photo Exhibit C)

The responsible parties have the following multiple documented code violations within the last 36 months, which is a violation of MICC 6.10.050(D)3 for violations repeated a third or subsequent time.

- CE 20-0057, 10/7/2020, 7216 93rd Ave SE Premium Homes of Mercer Island LLC- and other Responsible Party(ies) performed work without the required permits. A stop work order was issued for site grading and grading within the dripline of regulated tree without required permits, including the unauthorized removal of a Stop Work order, and the continuance of work in violation of the stop work order on two separate dates.
- CE18-0140, 11/21/2018, 7223 93rd Ave SE, Stop Work order issued to Responsible Party Barcelo Homes for construction of retaining walls within drip lines of trees and in the public right of way without required permits.
- CE19-0007, 01/30/2019, 9104 SE 50th Street, Unauthorized removal of a Stop Work order. Unlawful Continuance of work in violation of Stop Work order. NOV issued to Responsible Party Barcelo Homes and civil penalty fee paid.
- CE19-0023, 04/01/2019, 9104 SE 50th Street, Violation of Voluntary Compliance Agreement, driving machinery within the drip lines of protected trees, NOV issued to Responsible Party Barcelo Homes and civil penalty, priority violation, fees paid, monitoring tree survival for 5 years.
- CE20-0017, 02/13/2020, 4719 90th Ave SE, Interior remodel, and addition without permit. Stop work posted. Unauthorized removal of a Stop Work order. Unlawful Continuance of work in violation of Stop Work order.

The Responsible Party(ies) deliberately removed the posted Stop Work order and deliberately continued work in violation of a Stop Work order, which is a violation of MICC 6.10.050(D)(4) for a deliberate violation. The continuance of work in violation of the posted stop work order is a blatant disregard for city direction that no work was to continue while the order was to remain in place and not until the required corrective actions were taken. Thus, the violation of the stop work order was knowingly committed and is a deliberate violation. In addition to written information on the posted stop work order that notifies the continuance of work is unlawful, the Responsible Party(ies) were made aware of Stop Work order regulations during previous code enforcement cases. Prior cases that included the Responsible Party(ies) involving unlawful removal of a Stop Work order and unlawful continuance of work in violation of a Stop Work order, include the following:

- CE19-0007, 01/30/2019, 9104 SE 50th Street, Unauthorized removal of a Stop Work order by Responsible Party Barcelo Homes. Unlawful Continuance of work in violation of Stop Work order. NOV issued and civil penalty fee paid.
- CE20-0017, 02/13/2020, 4719 90th Ave SE, Interior remodel, and main floor addition without permit

by Responsible Party Barcelo Homes. Stop work order posted. Unlawful Continuance of work in violation of Stop Work order.

- CE20-0057 Stop work order posted. Unauthorized removal of a Stop Work order by one or all of the Responsible Party(ies) listed in this NOV. Unlawful Continuance of work in violation of Stop Work order.

The Responsible Parties are Ordered to Complete the Corrective Actions as Follows:

1. Immediately cease all construction activity, apply for, and obtain all permits as required by code.
2. Provide written affirmation within 14 days stating you will comply with all effective or future stop work orders and further affirms that you will obtain all required permits prior to starting any work which requires a permit.
3. Provide right of entry into the structure(s) within 14 days of this notice for the inspection of work done without permit(s).
4. Upon city approval of the permit application, pay for and obtain the required permits by March 19, 2021.

The compliance date for completion of the Corrective Actions listed above is March 19, 2021.

If the violation is not corrected on or before March 19, 2021, and this notice is not appealed, the determination is final, and penalties are due and additional daily penalties shall begin to accrue.

Pursuant to MICC 6.10.050, penalties for noncompliance with this Notice and Order shall be as follows:

- Civil penalty in the amount of One Hundred dollars (\$100) per day for each violation listed herein is hereby imposed and shall begin to accrue if Corrective Actions are not completed and the violations are not abated by the compliance date established above.
- Thirty days after the compliance date, civil penalty will increase to a rate of Two Hundred Fifty dollars (\$250) per day for each unabated violation.
- Sixty days after the compliance date, civil penalty will increase to a rate of Five Hundred dollars (\$500) per day for each unabated violation, up to a maximum total penalty of \$50,000 for each violation.
- Hold on Future Permits. The director may place a hold on the issuance of future permits on a property if:
 - A notice of violation or stop work order has been issued; and
 - The appeal period has passed, or an appeal was brought but it was dismissed; and
 - The violation has not been corrected and/or penalties or fines have not been paid; and
 - The permits relate to the violation.
- A hold on future permits will prevent the issuance of any land use or building permit for the subject property, and for the person responsible on any other property within the city, until the violation is resolved, corrective actions are taken, and penalties are paid. The director may use their discretion to issue exceptions to this subsection for emergencies or hazardous situations, or other situation they deem reasonable.
- A notice on title with compliance case file number will be recorded at the county recorder's office to notify

the public of the violation and posted stop work order on the subject property. This notice will include:

1. A notice of violation or stop work order has been issued; and
2. The appeal period has passed, or an appeal was brought but it was dismissed; and
3. The violation has not been corrected and/or penalties or fines have not been paid; and
4. The violation relates to real property owned by the responsible party.

The City will not record a release of such notice until all violations specified in the notice of violation have been corrected or abated.

Distinguished from the penalties above, the Person(s) Responsible are ordered to pay civil penalties for the unlawful removal of a Stop Work order and the unlawful continuance of work in violation of a Stop Work Order as follows:

- The City finds that the unlawful continuance of work in violation of a Stop Work order occurred on two separate days: 01/08/2021; 01/28/2021. The responsible parties are required to pay civil penalties pursuant to MICC 6.10.050(D) and 6.10.070(B). These penalties include:
 - A civil violation with penalties that accrue at the rate of \$100 per day.
 - A priority violation for the continuance of work in violation of the stop work order, with an additional penalty up to \$10,000. MICC 6.10.050(D)(2) provides 3 criteria for setting the penalty within this range; based on these criteria, the City sets the penalty at \$4,444 for the following reasons:
 1. Difficulty and time to resolve the violation: City staff time expended in monitoring/inspecting the stop work order and corresponding with neighbors related to the violation is medium.
 2. Resulting ill-gotten financial benefit to the person responsible: The persons responsible for this violation did receive a financial benefit, although it is difficult to quantify the exact amount of the benefit from performing this work. The benefit is likely medium.
- Violations Repeated a third or subsequent time - The City finds that the violations listed in this NOV meet the criteria in MICC 6.10.050(D)(3) for violations repeated a third or subsequent time. Enforcement action was taken on 10/12/20 when a stop work order was issued for demolition without required permit. Thus, the continuance of work in violation(s) of the stop work order is a repeat violation. Furthermore, the supporting facts document the following violations by the responsible party(s) constitute repeated, third and subsequent violations within the last 36 months, which is subject to five times the civil penalties listed above:
 - CE18-0140, 11/21/2018, 7223 93rd Ave SE, Stop Work order issued for construction of retaining walls within drip lines of trees and in the public right of way without required permits.
 - CE19-0007, 01/30/2019, 9104 SE 50th Street, Unauthorized removal of a Stop Work order. Unlawful Continuance of work in violation of Stop Work order. NOV issued and civil penalty fee paid.
 - CE19-0023, 04/01/2019, 9104 SE 50th Street, Violation of Voluntary Compliance Agreement, driving machinery within the drip lines of protected trees, NOV issued and civil penalty, priority violation, fees paid, monitoring tree survival for 5 years.
 - CE20-0017, 02/13/2020, 4719 90th Ave SE, Interior-remodel, and addition without permit. Stop work posted. Unauthorized removal of a Stop Work order. Unlawful Continuance of work in violation of Stop Work order.
 - CE20-0057, 10/7/2020, 7216 93rd Ave SE, Stop Work order posted for grading without the required permit.

- Deliberate Violation - The City finds that the violations listed in this NOV meet the criteria in MICC 6.10.050(D)(4) for a deliberate violation. The continuance of work after the posting of the Stop Work Order was a blatant disregard for city direction that the stop work order was to remain in place until the required corrective actions were taken. Thus, the violation of the stop work order was knowingly committed and is a deliberate violation. As a result, the civil penalties are doubled.

Calculation of Civil Penalty:

<u>Priority Violation: Stop Work order violation</u>		<u>\$4,444.</u>
Subtotal		\$4,444
Repeat Violation (3 rd /subsequent)	x5	\$22,220
Deliberate Violation	X2	\$44,440
Total Civil Penalty Ordered to Pay		\$44,440

Payment of the Civil Penalties is Due 14 days from the Service of this Notice. The date of service by first class mail is 3 business days after the date this notice was issued and mailed.

Appeal Procedure:

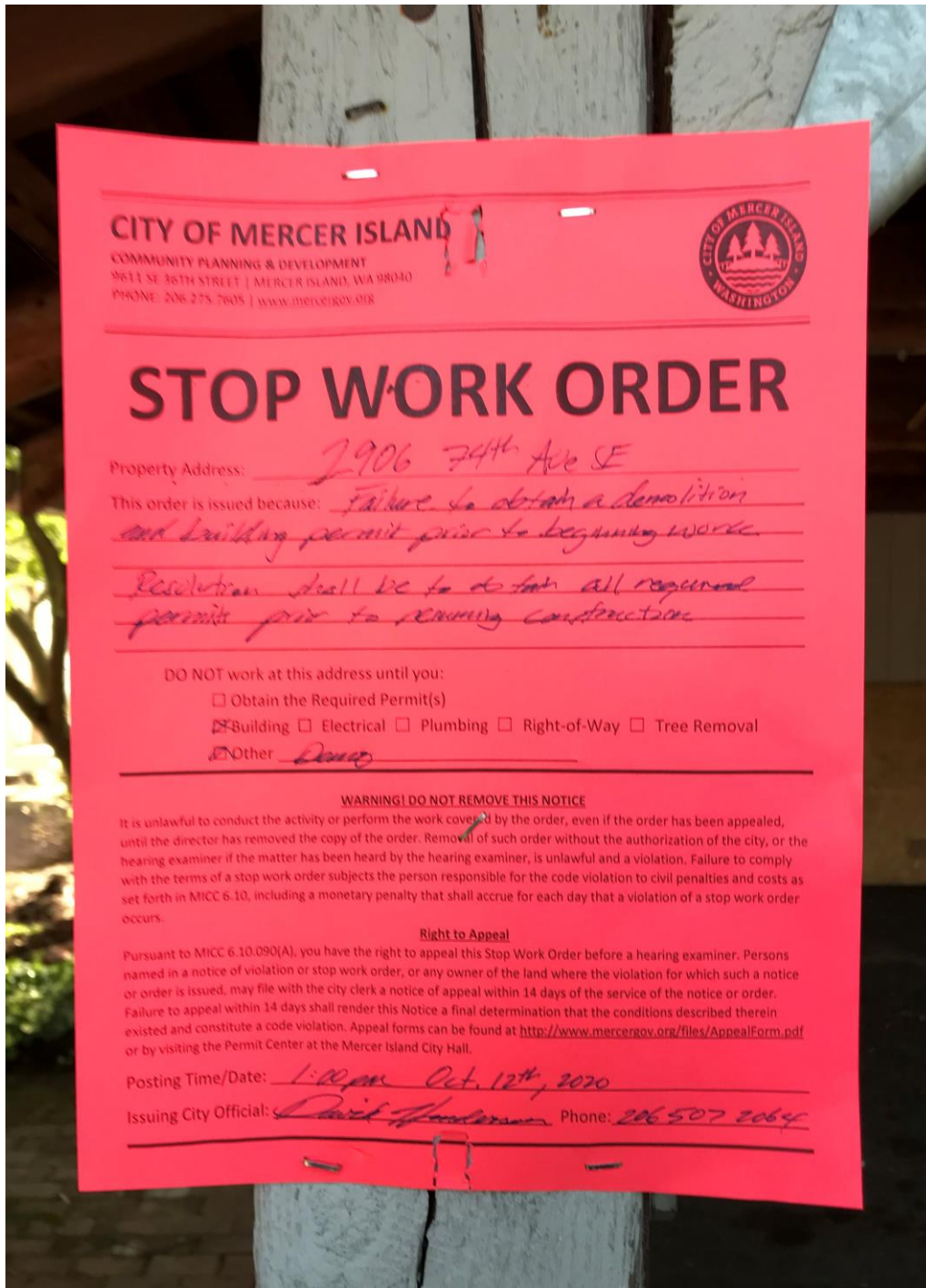
- Pursuant to MICC 6.10.050(B)(5), you have the right to appeal this Notice of Violation & Civil Penalties before a hearing examiner. An appeal must be filed within 14 days of the service of this Notice. Failure to appeal within 14 days shall render this Notice a final determination that the conditions described therein existed and constitute a code violation, that assessed and accrued civil penalties are due, and that the named party is liable as a person responsible. An Appeal form can be found at: <https://www.mercerisland.gov/cpd/page/appeals>

If you would like to discuss the resolution of this code case or schedule a compliance inspection, please contact me by email at David.Henderson@mercergov.org. Thank you for your cooperation.

Sincerely,

David Henderson
 Code Compliance Officer
 City of Mercer Island

Exhibit A:
Initial investigation and stop work order posted.
Photo taken 10/12/2020.



10/12/2020 1

Exhibit 1-A:
Initial investigation and stop work order posted.
Barcelo Homes Inc. Equipment; chimney demolition material seen on roof; SWO posting.
Photo taken 10/12/2020.



10/12/2020 2

Exhibit 2-A:
Initial investigation and stop work order posted.
Barcelo Homes Inc. Equipment
Photo taken 10/12/2020.



Exhibit 3-A:
Initial investigation and stop work order posted.
Demolition of walls and chimney, in plain view through clear glazed front entry doorway.
Photo taken 10/12/2020.



10/12/2020 4

Exhibit 4-A:
Initial investigation and stop work order posted.
Demolition of walls and chimney, seen in plain view through clear glazed front entry doorway.
Photo taken 10/12/2020.



10/12/2020 5

Exhibit B:
New roof built over existing second story deck, unlawful continuance in violation of posted stop work order.
Photo taken 01/12/2021.



01/12/2021 1

Exhibit 1-B:
New roof built over existing second story deck; unlawful continuance in violation of posted stop work order.
01/12/2021



01/12/2021 2

Exhibit 2-B:
Replacing exterior sheathing; unlawful continuance in violation of posted stop work order.
01/12/2021



01/12/2021 3

Exhibit C:
Continuance of work in violation of SWO; Unpermitted addition.
01/27/2021



01/27/2021 1