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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercergov.org](http://www.mercergov.org)

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## Notice of Violation

**Pursuant to MICC 6.10.050, this Notice of Violation is issued as follows:**

**Date of Notice Issuance: March 3, 2023**

**Location(s):** 2630 77<sup>th</sup> Ave SE, Mercer Island WA 98040

**Subject Property:** 2630 77<sup>th</sup> Ave SE, Mercer Island WA 98040

**King County Tax Parcel #** 5315101626

**City of Mercer Island Compliance Case #:** CE23-0005

**Notification is being given to the following responsible person or persons:**

**1. T-C 77 Central LLC**

730 Third Ave  
New York, NY 10017

Notification also being given via registered agent for T-C 77 Central LLC:  
Corporation Service Company  
300 Deschutes Way SW, Suite 208  
MC-CSC1  
Tumwater, WA 98501

**2. Jenny Richards, Regional Manager, Cushman & Wakefield**

11235 SE 6th St, Suite 200A  
Bellevue, WA 98004

**3. Nora Grant, Property Manager, Cushman & Wakefield**

77 Central Apartments  
2630 77th Ave SE  
Mercer Island, WA 98040

**One or more of the responsible persons named above are believed to be responsible for the following violations that have occurred or are occurring at the location(s) identified above:**

**1) Violations of MICC 17.12 – Uniform Housing Code (UHC):**

- a. **UHC SECTION 202- SUBSTANDARD BUILDINGS.** Building or portions thereof that are determined to be substandard as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Chapter 11 of this code.
- b. **UHC SECTION 204- VIOLATIONS.** It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use occupy, or maintain any building or structure or cause or permit the same to be done in violation of this code.
- c. **UHC 701.1 Heating.** Dwelling units, guest rooms and congregate residences shall be provided with heating facilities capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with Section 3102 of the Building Code, the Mechanical Code and all other applicable laws. Unvented fuel-burning heaters are not permitted. All heating devices or appliances shall be of an approved type.
- d. **UHC 1001.1 General.** Any building or portion thereof that is determined to be an unsafe building in accordance with Section 102 of the Building Code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.
- e. **UHC 1001.2 Inadequate Sanitation.** Buildings or portions thereof shall be deemed substandard when they are insanitary. Inadequate sanitation shall include, but not be limited to the following:
  - 6. Lack of adequate heating facilities
- f. **UHC 1001.4 Nuisance.** Buildings or portions thereof in which there exists any nuisance as defined in this code are deemed substandard buildings.

- 2) Violation of MICC 6.10.020(A) Declaration of public nuisance.** All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances. All conditions determined to be code violations may be subject to and enforced pursuant to the provisions of this chapter, except where specifically excluded by law or regulation.

**Facts Supporting Violation(s):**

1. On November 15, 2022, the City received a code compliance request from a tenant at 77- Central Apartments regarding the lack of permanent heating facilities within their unit, stating that they have been without heat since mid-October 2022 and had notified the property manager in writing, but their permanent heating system had not been restored. On November 17, 2022, an inspection was made by Building Official, Don Cole, confirming the permanent heat was not operational. The tenant stated that the Property Manager informed her the heat would be restored by the first week of December 2022. **The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:**
  - **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances.
  
2. On December 15, 2022, the City received further tenant complaints about the continued lack of heat within their respective dwelling units. The Building Official contacted the property manager at 77 Central Apartments, Nora Grant with Cushman & Wakefield, and she confirmed that there were still units without heat but that heat should be restored within two weeks (by the end of December). **The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:**
  - **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances.
  
3. On January 4th, 5th and 6th, 2023, the city received further tenant complaints that the heat had not been restored to their respective dwelling units. On January 6, 2023, Building Official, Don Cole, called the property manager office and the assistant property manager, Ivy Knapp, informed him that the service company was onsite, had isolated the leak and anticipated all heating systems would be back in service by the end of the workday. The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:

- **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances.
4. On January 9, 2023, the city received further tenant complaints that the heat had not been restored to their respective dwelling units. Building Official, Don Cole, called the regional manager for Cushman & Wakefield, Jenny Richards, she stated the heating repairs at the 77 Central Apartment are their top priority and they will continue their repair efforts until all units have their permanent heating systems restored. She apologized for their mistaken predictions about the anticipated restoration dates for the heating systems, citing several factors including their team’s unfamiliarity with the repair times for some of the equipment, mentioning delays in the supply chain, holidays and bad weather, limited availability of service technicians, and unfortunately finding that some of the repaired systems needed further repairs. Expressing her reluctance to make another prediction given their track record, she believed that permanent heating facilities serving all units would be operational before the end of January 2023. The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:
- **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisance.

**Voluntary Compliance Notice:**

5. On January 19, 2023, the Building Official contacted the local property manager, Nora Grant. She confirmed 27 units were currently without heat, and provided an update that testing determined the need for additional parts, further stating that restoration of heat to all units was now delayed until mid-February 2023. Based on this information, on January 25, 2023, the City issued a voluntary compliance notice to Jennifer Richards, Regional Manager Cushman & Wakefield, to restore the permanent heating facilities to all dwelling units by February 17, 2023. As of the date of this notice of violation, the person(s) responsible did not complete the corrective actions listed in the Voluntary Compliance notice. The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70° F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:

- **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances.
6. On February 18, 2023, the City received further tenant complaints that permanent heating facilities had not been restored to their respective dwelling units. The Building Official, Don Cole, contacted the property manager at 77 Central Apartments, Nora Grant, she confirmed that permanent heat had been restored to one dwelling unit, but that 26-dwelling units were currently without heat, stating that the parts were still being manufactured in Thailand and the status of their completion and shipping was not known at this time. The failure to maintain the permanent heating system within each dwelling unit to be capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms are violation(s) of Mercer Island City Code as follows:
- **UHC Sections 701.1 Heating, 202, 204, 1001.1, 1001.2** – The person(s) responsible did not maintain a permanent heating system within each dwelling unit that is capable of maintaining a room temperature of 70°F at a point 3 feet above the floor in all habitable rooms. The City has found that due to the lack of adequate heating facilities, each affected dwelling unit is substandard, is a public nuisance, constitutes a code violation, and shall be abated by repair.
  - **MICC 6.10.020** - All code violations are determined to be detrimental to the public health, safety, welfare and environment and are declared to be public nuisances.

**The Responsible Person(s) are Ordered to Complete the Corrective Actions as Follows:**

- 1) The responsible person(s) shall immediately repair the permanent heating system within all dwelling units to effective operation capable of maintaining a temperature of 70 degrees Fahrenheit at a point 3-feet above the floor within all habitable rooms. The responsible person(s) shall submit to the City confirmation from the installing contractor that the repair work has been satisfactorily completed. The compliance date for completion of these Corrective Actions is March 17, 2023.
- 2) The responsible person(s) shall not allow the occupancy of any vacant dwelling units unless the permanent heating system within the dwelling unit is currently capable of maintaining a temperature of 70 degrees Fahrenheit at a point 3-feet above the floor within all habitable rooms.

**The compliance date for satisfactory resolution of the Corrective Actions above is March 17, 2023. If the violation is not corrected on or before this date 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 of Violation shall be as follows:**

**MICC 6.10.050(D)1**

D. Civil penalties.

1. Civil penalties. A civil penalty for violation of the terms and conditions of a notice of violation, stop work order or voluntary correction agreement shall be imposed at the rate of \$100.00 per day for each violation, accruing for every day after the compliance date listed in the notice of violation. Thirty days after the compliance date, the penalty will increase to a rate of \$250.00 per day for each violation. Sixty days after the compliance date, the penalty will increase to a rate of \$500.00 per day for each violation, up to a maximum total penalty of \$50,000.00 for each violation.

Under MICC 6.10.050, the City may suspend, revoke, and/or place a hold on future permit applications and/or file a notice with the King County recorder's office to notify the public of the presence of an unresolved Notice of Violation on the property if the penalty is not paid. Additionally, unpaid penalties will be sent to a collection agency for the purposes of collecting penalties and costs assessed pursuant to MICC 6.10.100 and RCW 19.16.500. The collection agency may add fees or interest charges to the original amount assigned to collections as allowed by law.

**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 with the City Clerk 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(s), that assessed and accrued civil penalties are due, and that the named party(ies) is/are 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 [Don.Cole@mercergov.org](mailto:Don.Cole@mercergov.org) Thank you for your cooperation.

Sincerely,

Don Cole  
Building Official  
City of Mercer Island, Community Planning and Development