

A Resolution of the Haines Borough Assembly adopting written findings of the March 10, 2015 appeal hearing of the Nelson supplemental nuisance abatement order levying additional fines.

WHEREAS, on June 25, 2014, the borough notified Paul A.L. Nelson of its determination he was out of compliance with the assembly's order to clean up the litter on his property on Skyline Drive by midnight, June 21, 2014, and \$1,200 in additional fines had been levied by the borough manager; and

WHEREAS, Mr. Nelson was formally notified of the additional fines two separate times via certified mail with no response; and

WHEREAS, Mr. Nelson received an additional notification after he applied to renew a building permit for this same property and was informed the permit would not be reissued until the fines were paid; and

WHEREAS, as staff believed was his right under HBC 8.12.130, Mr. Nelson submitted a timely appeal; and

WHEREAS, on February 24, 2015, the borough clerk gave the appeal to the assembly and with the assembly's direction the clerk scheduled March 10, 2015 for the appeal hearing; and

WHEREAS, the deputy mayor acted as presiding officer and chose not to administer oaths or compel the attendance of witnesses; and

WHEREAS, Mr. Nelson appeared in person on his own behalf and made the following arguments:

- *it took him 14 days to complete the clean-up, and he believes he complied with the assembly's order by cleaning up his property as quickly as possible,*
- *the borough did not hire a contractor to complete the clean-up of his property when staff determined he had missed the deadline, in spite of the manager telling the assembly that he would do that if the site was not cleaned up on time,*
- *he believes his US and Alaska constitutional due-process rights were violated,*
- *he paid the maximum penalty allowed by borough code when he paid the \$300 imposed by the assembly and the borough staff processed his check; he believes the additional fines were illegally imposed; and*

WHEREAS, Borough Manager David Sosa summarized the borough's supplemental enforcement order to levy fines: Based on daily site inspections conducted by staff, Mr. Nelson failed to comply with the June 21, 2014 deadline imposed by the assembly to remove litter from his property; compliance was not achieved until June 25, and as provided by HBC 8.12.140, the manager levied additional fines totaling \$1,200; he recommended the full amount of levied fines be upheld; and

WHEREAS, two members of the public gave testimony in support of the borough's supplemental abatement order levying additional fines; and

WHEREAS, no members of the public spoke in opposition of the borough's supplemental abatement order levying additional fines; and

WHEREAS, the borough assembly asked questions of Mr. Nelson and Manager Sosa, and considered all written and oral statements before making its decision; and

WHEREAS, given the facts presented, the assembly determined the additional fines were excessive and, as allowed by HBC 8.12.130(H), the assembly took action to modify the supplemental abatement order to reduce the fines from a total of \$1,200 to \$600; and


WHEREAS, this decision is unique to the circumstances of this case; and

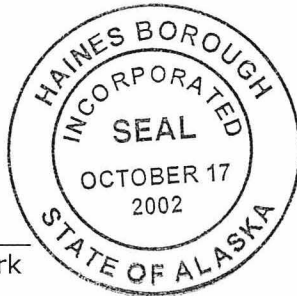
WHEREAS, HBC 8.12.130(H) requires the assembly to adopt its findings by resolution following the public hearing,

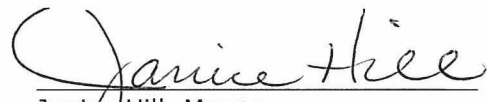
NOW, THEREFORE, BE IT RESOLVED that the Haines Borough Assembly adopts the above-listed findings of the March 10, 2015 appeal hearing of the Nelson supplemental nuisance abatement order levying additional fines.

Adopted by a duly-constituted quorum of the Haines Borough Assembly this 24th day of March, 2015.

Attest:


Julie Cozzi, MMC, Borough Clerk
Deputy Clerk
for J. Cozzi




Janice Hill, Mayor