

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF REDMOND**

In the Matter of the Appeal of the )  
Director’s Determination that a wooden )  
structure destroyed by fire in May of )  
2016 was an Illegal Nonconforming )  
Structure; )

**LARRY HOOPER,** )

Appellant, )

City of Redmond Planning and )  
Community Development Department, )

Respondent )

*(14609 NE 91<sup>st</sup> Street is the location of )  
the structure at issue)* )  
\_\_\_\_\_ )

**Appeal File No: LAND-2016-02140**

**DECISION  
DENYING APPEAL**

**I. BACKGROUND AND PROCEDURAL SUMMARY<sup>1</sup>.**

On or about May 6, 2016, a wooden portion of a larger building located on Larry Hooper’s property, located at 14609 NE 91<sup>st</sup> Street, was destroyed by fire. Following the fire, Mr. Hooper had informal contacts with various city staff to explore his options to rebuild the structure. He has never applied for any building permit to rebuild or replace the wooden structure. Instead, he requested and received a response from the City, in the form of a November 16, 2016 letter from Redmond Planning and Community Development Director, Robert Odle, explaining that the wooden building located on Mr. Hooper’s property is/was an Illegal Nonconforming Structure for purposes of applying Redmond development codes so it is not covered by various city codes that apply to legal nonconforming structures. Mr. Odle’s letter expressly provided that it was a final decision of the Department regarding the illegal nonconforming status of the wooden structure lost

<sup>1</sup> There is no factual dispute regarding any portion of this summary.

1 to fire on Mr. Hooper's property, and that such decision could be appealed to the Hearing  
2 Examiner.

3 On or about November 29, 2016, Mr. Hooper submitted a timely written appeal.  
4 The appeal was set for hearing on January 18, 2017. Shortly thereafter, the appellant  
5 requested a continuance, in the form of a letter from his attorney dated January 6, 2017.  
6 Under terms of a prehearing order issued on January 11, 2017 by the previous Examiner  
7 handling this matter, Ms. Rice, the hearing was re-set for February 15, 2017 (with  
8 applicable review timelines extended until sometime in March of 2017) and re-assigned to  
9 the City's undersigned *pro tem* Hearing Examiner. The open record appeal hearing  
10 occurred on February 15, 2016, where the Examiner received sworn testimony from  
11 witnesses called by the respective parties. At the conclusion of the hearing, the parties were  
12 granted an opportunity to submit legal briefs addressing case-law or legal authority that  
13 would support their positions in this appeal. The Examiner received copies of post-hearing  
14 briefs on February 24<sup>th</sup>. Following review of the parties' briefs, the Examiner determined  
15 that no further briefing would be necessary, so the Record for this matter closed on  
16 February 27<sup>th</sup>. This Decision is now in order.

## 11 II. RECORD.

12 True and correct copies of all exhibits, briefs, and materials submitted into the  
13 record for this appeal, as well as a digital recording of all hearing testimony, are maintained  
14 by the City Clerk's Office.

### 14 EXHIBITS

#### 15 City Documents

16 C-1 Appeal Report  
17 C-1 Updated Appeal Report  
18 C-1 Attachment A: King County Parcel Data  
19 C-1 Attachment B: Application for Appeal  
20 C-1 Attachment C: Notice of Appeal Hearing  
21 C-1 Attachment D: Redmond Response  
22 C-1 Attachment E: Property Map with Measurements  
23 C-1 Attachment F: Building Permit 1971  
24 C-2: PowerPoint Presentation  
25 Proposed Witness and Exhibit List  
26 City's Post-Hearing Supplemental Brief

#### 24 Appellant Documents

25 A-1: Hearing Memorandum with Exhibits A-F

26 **DECISION DENYING APPEAL BY LARRY  
HOOPER, LAND-2016-02140**

**REDMOND HEARING EXAMINER'S OFFICE**  
C/O CITY CLERK'S OFFICE  
15670 NE 85<sup>TH</sup> STREET  
REDMOND, WASHINGTON 98052

1 A-1: Resubmitted Color Printouts of Exhibits B-E

2 A-2: Statement

3 A-3: Public Records Request Printout

4 Notice of Appearance

5 Appellant's Post-Hearing Supplemental Brief

6 WITNESSES.

- 7 1. Larry Hooper, the appellant, part owner of property at issue;
- 8 2. Mark Hooper, the appellant's brother, part owner of property at issue;
- 9 3. Sarah Pyle, Senior Planner for the City of Redmond; and
- 10 4. Steven Fischer, Manager of the Development Review Division for the City of Redmond.

11 During the hearing process, both parties were represented by counsel. Attorney Aaron Okrent appeared on behalf of the appellant. Attorney Daniel Kenny appeared on behalf of the City. The attorneys submitted post-hearing briefs on behalf of their clients.

12 **III. FINDINGS OF FACT.**

13 Based on the testimony and evidence included as part of the Record for this matter, the Examiner issues the following findings of fact regarding this appeal:

- 14 1. Any statements of fact in previous or following sections of this document that are deemed findings of fact are hereby adopted as such, and are incorporated herein by this reference.

15 ***Standard of Review; Substantial Weight; Burden of Proof.***

- 16 2. Under RZC 21.76.060(I)(4), the standard of review for the pending appeal is whether the challenged decision or determination is supported by a preponderance of the evidence or if it was clearly erroneous.

- 17 3. Under RZC 21.76.060(I)(4), the Hearing Examiner is required to accord substantial weight to the challenged decision of the Department Director.

- 18 4. The same provision of the city's code includes language assigning the burden of proof to the appellant in matters such as this. *See* RZC 21.76.060(I)(4).

- 19 5. Based on all the evidence included in the Record, and granting deference required to the Director's challenged determination, the Examiner finds that the appellant failed to meet his burden of proof. Instead, the preponderance of the evidence supports the Director's decision.

1 ***Summary of key findings.***

2 6. There was no testimony or evidence that would establish that the wooden structure  
3 at issue was constructed under authority granted by any city or other government-issued  
4 permit. The burden was not on the city to find a permit, as the appellant sought to shift the  
5 argument.

6 7. Testimony by the Hooper's established that they could not locate any records in  
7 their possession, or previous owners of their property, to support any allegation that the  
8 wooden building was built under a lawfully issued city building permit. They were  
9 questioned extensively about their efforts to locate a permit, and their responses were clear  
10 – they could not find a permit, and had no compelling explanation for why one did not  
11 exist. They were also unable to point to any evidence that might support the possibility that  
12 a permit was issued, in the form of witness testimony by a contractor who did any work, or  
13 from a previous owner or tenant who might have first-hand knowledge about the subject.  
14 Instead, the appellant relied on conclusory statements, implying that the City must have lost  
15 the permit for the building, without any credible or convincing proof to support such claim.

16 8. City evidence and records support the more likely conclusion – that no permit was  
17 ever issued to authorize construction of the wooden structure. The City witnesses did not  
18 dispute the appellant's claims that the wooden structure was built at some point in the  
19 1970s.

20 9. King County Tax Assessor records introduced into evidence reflect that the wooden  
21 structure is not/ was not ever included as part of the building square footage listed for the  
22 property. Smaller buildings generally face smaller assessed values, and smaller property  
23 tax bills. The Assessors office has no compelling reason to omit reference to any legal  
24 building space that it could tax. City witnesses credibly and convincingly offered testimony  
25 summarizing how city-issued building permits have been collected by the Assessor's office  
26 for many years, as a means to keep their valuation records current for tax purposes. If a  
27 permit had been issued for the wooden building, then it is likely that the Assessor's office  
28 would have included new square footage for the building size reported for the Hooper's  
29 property. The appellant could not provide any convincing evidence or argument to refute  
30 such scenario.

31 10. The examiner finds on a more likely than not basis that, if the wooden structure was  
32 built under authority granted by a city building permit, that the county tax assessor records  
33 would include such space on the property summary for the parcel.  
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1 ***Highlights from witness testimony and exhibits.***

2 11. Larry Hooper testified that he purchased the property in 2004. He summarized  
3 points raised in his one-page type written statement, with 6 paragraphs, addressed to the  
4 undersigned Examiner. Mr. Hooper's written statement, submitted into the record at the  
5 hearing, describes some of the relief requested as follows:

6 *“[t]he purpose of appearing before you is [to] ask for equity. The city*  
7 *employees must follow it to the letter and it is not up to them to interpret or*  
8 *judge. The sole purpose of my appeal is to appear before a person of*  
9 *reasonable judgment and the authority to grant me a permit to rebuild or*  
10 *any remedy or recommendation to overcome this hardship.”*

11 12. Larry Hooper<sup>2</sup> submitted appellant's Exhibit C, a photo of a mark made in the  
12 wooden structure's concrete foundation, that appears to read: "RPB-76". Based on this  
13 mark, Mr. Hooper generally explained that he felt such mark on the concrete foundation  
14 means that the foundation was poured in 1976, and the wooden structure must have been  
15 constructed in that time period. In follow-up questions, Mr. Hooper explained that the "76"  
16 mark appears in the rear, center portion of the foundation. His testimony was credible. In  
17 the absence of any contrary evidence, the Examiner finds that it is likely that the foundation  
18 for the wooden structure was poured at some point in 1976, with the building placed on top  
19 of the foundation shortly thereafter. Without any evidence to support his claim, Mr.  
20 Hooper testified that he believes the wooden structure complied with city setback  
21 requirements in effect in or about 1976.

22 13. Larry Hooper testified that he accepts that the City of Redmond cannot find a permit  
23 for the wooden-structure addition. He believes that it is improper to shift the burden of  
24 proof onto a landowner to prove that an old permit exists. He asserts that the city lost the  
25 permit. He noted that the impact of the loss to his family business is particularly  
26 significant, because they are a small business, and rely on rental income from the wooden  
structure. He testified that it was a great hardship to continue without the wooden structure,  
as it existed before the fire.

14. Mark Hooper testified that he typically handles paperwork and bookkeeping for  
issues concerning the building at issue. He was present for several inspections by City  
officials who appeared at the building over the years, for electrical and fire permits issued  
for items inside the buildings on the site. The City cross-examined Mr. Hooper, focusing  
on whether such permits involved structural or building permit information submittals for  
either the wooden or concrete structure on the site. He confirmed that the City did not

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24 <sup>2</sup> To avoid confusion, because Larry Hooper and his brother Mark Hooper both testified at the hearing, they  
25 are frequently referenced using their full names. When the term Mr. Hooper is used in a particular paragraph,  
26 it refers to the person first noted using their full name in the same paragraph, i.e. Larry or Mark Hooper.

1 require any building permit to be submitted in order to obtain electrical permits. The line of  
2 questioning pursued by the city during Mark Hooper's cross-examination was not a picture  
of clarity, and holds little value to the disposition of this appeal.

3 15. Shortly after the appellant rested, the Examiner clarified that the appellant did not  
4 offer any testimony focusing on the proximity of the wooden structure to city hall, which  
was one of the items listed as supporting his written appeal.

5 16. Ms. Pyle testified for the City, partly relying on a slide presentation, which is  
6 included in the Record as *Exhibit C-2*. Her testimony and the City's appeal response  
7 statement was mostly a criticism of the appellant's appeal submittal, as to form, with  
8 argumentative points and minimal reference to substantive authority to support the City's  
positions and statements.

9 17. On clarification, Ms. Pyle confirmed that the appellant has never applied for any  
10 building permit to rebuild the structure destroyed by fire. She expressed the city's deep felt  
11 concern for the plight of the appellant. City staff is not opposed to rebuilding the structure,  
but notes that any new structure will be required to comply with current city codes and  
setbacks.

12 18. Ms. Pyle testified that City record retention requirements provide that Building  
13 Permits and Site Plans are maintained beyond the regular 6-year period used for most other  
14 records. She confirmed that she and Lawrence Chung searched through city records to  
15 locate a building permit for the wooden structure, but could not find one. She noted that the  
city was able to locate electrical and other non-building permits obtained by the appellants,  
as referenced in their testimony.

16 19. To the credit of City staff over the years, and in a manner consistent with the City's  
17 record retention requirements for building permits, Ms. Pyle was able to retrieve and  
18 produce copies of building permit materials from 1970, for the concrete building that still  
19 stands on the Hooper property, located at 14609 NE 91<sup>st</sup> Street. The type of construction is  
20 listed as "concrete", and the size of the building is shown to be "100 x 75", presumably in  
feet, for 7,500 square feet of space. *City Ex. C-1, attachment F, City of Redmond Building  
Permit Application, stamped received on September 29, 1970 [lower right corner]*.

21 20. The most helpful portion of Ms. Pyle's testimony and evidence came in the form of  
22 a single slide, which cross-references key information shown in City Exhibit C-1,  
23 attachments A and F. See *City Ex. C-2, Ms. Pyle's slideshow presentation, on page 11,*  
24 *captioned "Building Permit (Exhibit A and F)".* The slide shows that the King County  
Assessor's Office identifies a single building on the site, with 7,500 gross square feet, the  
same size as the concrete structure authorized in the permit issued in 1970 for the concrete  
building that still stands on the site.

1 21. The appellant stipulated that the concrete building is 7,500 square feet. The wooden  
2 structure that was destroyed by fire was approximately 2,500 square feet. *Testimony of*  
3 *Larry Hooper, and "Hooper Memorandum for Hearing of February 15, 2017, included in*  
4 *the record as Ex. A-1, on page 2.*

5 22. Larry Hooper testified that he experienced a 20+% loss in revenues after the fire,  
6 based on lost rental income for the wooden structure. His hearing memorandum alleges  
7 that: "*when the property is sold the reduction in warehouse space would create a \$400,000*  
8 *loss. This is calculated at \$175 per square foot.*" (*Ex. A-1, at page 2.*)

9 23. Applying Mr. Hooper's reasoning, the Examiner finds that if the wooden structure  
10 was ever properly permitted, then it would have been included in King County tax  
11 assessments for his property, because it carried a significant value. Tax-related exhibits  
12 included in the hearing record establish that the appellant's property taxes have never  
13 included any valuation attributed to the 2,500 square foot wooden structure. Thus, it is  
14 highly likely that the appellant has benefited from a reduced property tax bill, which could  
15 have been significantly higher if the total square footage of the wooden structure was  
16 considered when the property's assessed value was determined. For instance, the King  
17 County tax records included in the record for the Hooper parcel show the same appraised  
18 improvement and taxable improvement value for the 7,500 sq./ft. concrete building on the  
19 site, which comes to \$402,800 in 2016 (as the "Valued Year"). *Ex. C-1, attachment A.* In  
20 other words, King County values the building at \$53.71 per square foot. Even if the 2,500  
21 sq./ft. wooden structure was included at less than half the sq./ft. value as the concrete  
22 structure, at \$25 per sq./ft., the value of taxable improvements on the parcel would have  
23 been increased by \$62,500. The end result is this: whatever the tax rate applicable over  
24 time, the final property tax bill applied to the Hooper parcel has been substantially smaller  
25 than it could have been, if the wooden structure was ever included as part of the valuation  
26 process.

27 24. The Hooper's argue that the photos used on King County tax records clearly show  
28 the wooden structure on their property before it was destroyed, so the City should have  
29 known that it existed. While they are correct – that the tax records include pictures  
30 showing the existence of the wooden structure on the property – the significance of such  
31 fact is greatly diminished by the Hooper's admission that they never noticed how the Tax  
32 Assessor only included the 7,500 sq./ft. concrete building as an 'improvement' on their  
33 property. There is no evidence in the record to show that the Hooper's asked to correct  
34 their tax valuation, to include the approximately 2,500 sq./ft. wooden structure as a valuable  
35 'improvement' on their property.

36 25. Mr. Fischer testified that he generated the letter signed by Mr. Odle, which is the  
subject of this appeal. He described his professional duties and city staff efforts taken  
under his oversight to locate permits issued by the City for the Hooper property. He  
testified that the City has exhausted all research opportunities to find a permit for the

1 property. Mr. Fischer provided substantial, credible testimony to support the statements  
2 and determination explained in Mr. Odle's letter, particularly the Planning Department's  
3 final decision deeming the Hooper's wooden structure that was lost to a fire on May 6,  
2016 to be an illegal nonconforming structure built without a permit. *Ex. C-1, attachment  
D, Odle letter dated Nov. 16, 2016.*

4 26. Mr. Hooper's written appeal statement, his written materials submitted as part of  
5 this hearing process, and his testimony in the hearing, all allege that the City must have lost  
6 the permit issued for construction of the wooden building.

7 27. Based on the City's ability to locate permit records that authorized construction of  
8 the concrete building on the site, which are from 1970; that City staff credibly confirmed  
9 their exhaustive efforts to locate all archived permit records for the Hooper property; and  
10 that City staff was able to locate a number of electrical and other non-building permits  
11 issued for the subject property over the relevant time period, the Examiner finds that it is  
12 more likely than not that the City staff would have been able to locate copies of any  
13 building permit documents authorizing construction of the wooden structure from or about  
14 1976, if such permit was ever really issued.

15 28. Mr. Hooper's appeal statement and testimony generally alleges that he should be  
16 allowed to rebuild the wooden structure, as-it-was before the fire, because the building  
17 stood on the site and was used without interruption for 30 years. His Appeal Memorandum  
18 and testimony generally asserts that he believes the multiple building inspections performed  
19 by city employees on his buildings since he owned the property (since 2004) could have or  
20 should have provided an opportunity for him to be told that his wooden structure had a  
21 nonconformity issue. He alleges that City staff was aware of the wooden structure's  
22 existence, and should have known that it had a nonconformity issue and told him about it.  
23 His written statement reads in relevant part: *"The City, being aware of an alleged  
24 nonconforming issue, could have informed me of a potential issue and I could have sought  
25 to have it classified as an "as built construction." Ex. A-1, at page 4.*

26 29. City witness testimony established that, because the wooden structure was built  
without a building permit, Mr. Hooper would have never been able to obtain an "as-built"  
approval for his wooden structure that would deem the building to be a "legal  
nonconforming structure". Ms. Pyle testified that an "as-built" approval is generally an  
after-the-fact determination issued by the City, after construction is complete. She credibly  
explained that Mr. Hooper would not have been able to use the "as-built" approval process  
to render his wooden building to be a legal nonconforming structure. Presumably, if a  
building is constructed fairly recently without a building permit, it may be able to obtain as  
"as-built" after-the-fact permit approval, and if the structure was built in compliance with  
all city development regulations in effect at the time, it would then be considered a "Legal"  
conforming structure. On the other hand, as with Mr. Hooper's wooden structure which  
was built without any city building permit, any request for an "as-built" approval may

1 record the existence of the structure, but it would not necessarily allow the nonconformities  
2 to continue if they are capable of correction, and it would certainly not entitle the illegal  
3 nonconforming structure to be rebuilt as-was before the fire or other casualty. If anything,  
4 an “as-built” review process would have merely placed Mr. Hooper on notice that his  
5 wooden building was an illegal nonconforming building that is not entitled to restoration  
6 and reconstruction rights provided to legal nonconforming structures.

7 30. Testimony by City witnesses conceded the fact that numerous city personnel have  
8 performed inspections on Mr. Hooper’s buildings located on his property over the years.  
9 However, they maintain that Fire and Electrical inspectors are not performing inspections  
10 that include determinations as to the legal conforming status of any structure. The City  
11 asserts that it is not reasonable to expect such inspectors to know if an older structure was  
12 built with a valid city building permit. Instead, City witnesses allege that Fire inspectors  
13 are conducting inspections to observe compliance with relevant fire and life safety codes,  
14 and that electrical inspectors look for compliance with relevant electrical codes.

15 31. The appellant submitted a collection of City inspection worksheets, fire and  
16 electrical permits, written or issued for his property from 2014-2016, obtained using public  
17 record requests submitted to the City. *Ex. A-1-F*. These records corroborate the Hooper’s  
18 testimony that they regularly obtained fire and electrical permits for necessary work on  
19 their property while they owned the site. All evidence in the record indicates that the  
20 Hooper’s have conducted themselves as responsible property owners in the City of  
21 Redmond.

22 32. Larry Hooper testified that the “Correction Required” as noted on page 3 of his  
23 *Exhibit A-1-F*, captioned “*City of Redmond Inspection Worksheet (INSP-2015-16326)*”,  
24 dated March 2, 2016, was caused by his tenant in the Concrete Building on his property.  
25 He testified that the tenant built a “box inside the box” of his building without a permit, to  
26 apply decals on cars or some other purpose. He only learned of the problem after the City  
issued its inspection report. The comment section of the inspection worksheet reads in  
relevant part: “*3/2/15 gs [initials for Gary Smith, Primary Inspector] Room inside of the  
warehouse did not have sprinkler coverage. This room was added without a permit. Will  
need to come to city to obtain a permit and plan to install sprinkler coverage to the room.  
Other possibility is to remove this additional room.*”

33. The “Inspection Worksheet” was not challenged by the City. It establishes that at  
least one city inspector took the time and initiative to note where some work on Mr.  
Hooper’s building was performed without a permit. It reduces the weight of city witness  
testimony and arguments to the effect that Fire inspectors do not look for building permit  
violations, just Fire code violations.

34. Based on all the evidence and testimony contained in the Record for the this appeal  
– including without limitation all reasonable inferences and conclusions that can be drawn

1 from city staff's inability to find a building permit for the wooden structure, despite  
2 exhaustive efforts to locate such document; and the appellant's failure to offer any credible  
3 evidence to establish that a permit was ever issued for the wooden structure, despite the  
4 opportunity to locate witnesses like prior owners, tenants, or contractors to support such  
5 assertion – the Examiner finds and concludes that the wooden structure was built without a  
6 city issued building permit.

7 35. Because the wooden structure was constructed without authorization provided by a  
8 city building permit, it was not a legal structure since the time of its construction.

9 36. There is no dispute that city zoning codes, particularly setbacks, have changed over  
10 the relevant time period, and that any building legally constructed in the mid-1970s may be  
11 deemed a legal non-conforming structure under today's zoning code, due to changes in  
12 setbacks and the like.

13 37. Unfortunately, the wooden structure on the Hooper property was not a legal  
14 nonconforming building at the time of its destruction by fire in May of 2016.

15 38. City protections and special code exceptions are available for owners of legal  
16 nonconforming structures that are destroyed by fire or other casualty. *See RZC*  
17 *21.76.100(F), particularly subsections (4) re: continuance of legal nonconformities, (8) re:*  
18 *restoration, and (9) re: alteration or expansion.* The same is not an option for illegal  
19 nonconforming structures. RZC 21.76.100(F)(9)(f), captioned "Illegal Uses or Structures"  
20 reads as follows: "*Illegal uses or structures have no vested rights, and no rights or*  
21 *privileges are conferred upon such uses or structures by this section. Illegal uses and*  
22 *structures shall either be brought into legal conforming status or shall be removed*".

23 39. Despite an invitation to provide citations to legal authority supporting their  
24 respective positions in their post-hearing briefs, neither party cited to any legal authority  
25 that would serve as a basis for the Examiner to apply equitable relief in this situation,  
26 essentially waiving city code requirements that must be satisfied for a building to qualify as  
a "Legal Nonconforming Structure."

40. Instead, Washington case law has long established that a Hearing Examiner only  
holds specific authority and jurisdiction over matters as specified in ordinances and  
resolutions adopted by the local government. Redmond codes do not grant explicit or  
implied powers for any hearing examiner to consider the issue of equitable estoppel, or to  
grant the kind of equitable relief sought in this appeal by Mr. Hooper. *See Chaussee v.*  
*Snohomish County Council*, 38 Wn.App. 630 (Wash. Ct. App. 1984)(A hearing examiner  
and the council lacked jurisdiction to consider the issue of equitable estoppel). In  
*Chaussee*, the Court ruled that the Examiner had no discretion to exempt a landowner from  
specific code requirements based on what he deemed equitable without regard to statutory

1 requirements and the need for substantial evidence to meet statutory requirements. The  
2 case is controlling legal authority in this appeal.

3 41. With respect and sympathy to the appellant, the Examiner cannot waive city codes  
4 and allow him to rebuild his structure as it was before the fire.

5 **IV. CONCLUSIONS OF LAW.**

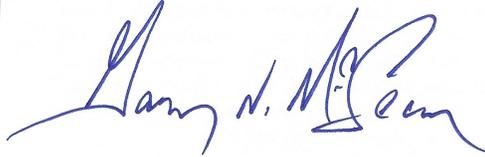
6 1. Based on testimony and evidence in the Record and all findings set forth above, the  
7 Examiner finds and concludes that Mr. Odle's challenged determination is fully supported  
8 by substantial and credible evidence. His determination was not a mistake. It was not  
9 arbitrary or capricious, but was instead a reasonable and accurate application of facts to the  
10 codes at hand. The end result is his conclusion – that Mr. Hooper's wooden structure was  
11 NOT a legal nonconforming structure at the time of the fire.

12 2. Any legal conclusions or other statements made in previous or following sections of  
13 this document that are deemed conclusions of law are hereby adopted as such, and are  
14 incorporated herein by this reference.

15 **V. DECISION.**

16 For the reasons set forth above, the appellant failed to meet his burden of proof, and  
17 the Examiner is without jurisdiction or authority to consider the equitable forms of relief  
18 requested herein. Accordingly, Mr. Hooper's appeal is respectfully **denied**.

19 ISSUED this 14<sup>th</sup> Day of March 2017

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22 Gary N. McLean  
23 Hearing Examiner

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**REQUEST FOR RECONSIDERATION,  
APPEAL TO CITY COUNCIL**

This Decision has been issued by the Hearing Examiner who has specific authority to address Appeals of Type I decisions following an open record hearing. See RZC 21.76.060(D)(4).

*Request for Reconsideration.* Any designated party to this appeal who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner’s decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 10 business days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or issuing a revised decision shall be sent to all parties of record. See RZC 21.76.060(I)(5)

*Appeal.* Appeals of this Decision by the Hearing Examiner may be appealed to the City Council in a closed record appeal proceeding as provided in RZC 21.76.060(M). Type I reviews are exempt from the procedures of RZC 21.76.040, *Time Frames for Review*. For more information on procedures and timelines applicable to any appeal of this Decision, please see relevant provision of the City’s Municipal Code, including without limitation RZC 21.76.050(D)(4) and (F).