

D-200173

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AUG 19 2020

STATE OF WASH.
UTIL. & TRANSP. COMMISSION

Pavel Afichuk
Modern Homes LLC
2710 S 355th Pl.
Federal Way, WA 98003

**You must act within 15 days of receiving this
notice**

Please indicate your selection on the enclosed form and send it to:

Washington Utilities and Transportation Commission
ATTN: RECORDS
PO Box 47250
Olympia, Washington 98504-7250

**If you do not act within 15 days, the Commission may refer this matter to the Office of
the Attorney General for collection and legal action.**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

PENALTY ASSESSMENT: D-200173
PENALTY AMOUNT: \$6,000
Investigation # 8159

Pavel Afichuk
Modern Homes LLC
2710 S 355th Pl.
Federal Way, WA 98003
afichukpv@yahoo.com

UBI: 603 185 301
Phone: (253) 632-5411

The Washington Utilities and Transportation Commission (Commission) believes that Modern Homes LLC (Modern Homes or Company) has violated Revised Code of Washington (RCW) 19.122 by failing to provide the required notification to utility operators prior to excavating. RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 for each subsequent violation within a three-year period.

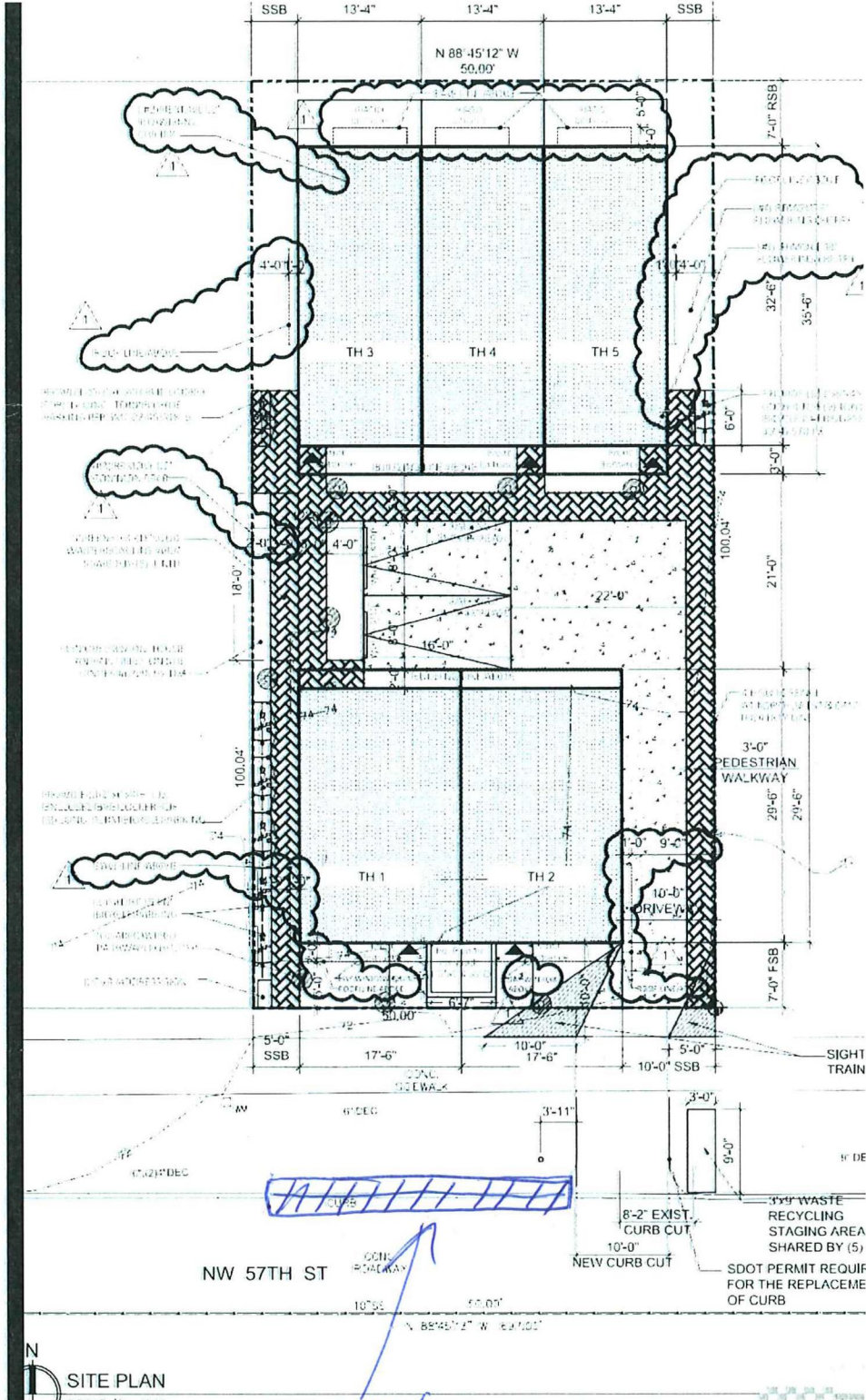
The Commission reviewed findings and recommendations made by the Washington State Dig Law Safety Committee (Safety Committee) and hereby notifies you that it is assessing a \$6,000 penalty against Modern Homes on the following grounds:

On February 18, 2020, the Safety Committee heard the complaints for cases 19-056 and 19-057 against Modern Homes regarding alleged violations of the Washington state dig law, RCW 19.122 that occurred on April 30, 2019, and May 2, 2019, at 8360 19th Ave. NW, Seattle Washington. The complainant in this case was Puget Sound Energy (PSE). The Safety Committee determined that the Company committed the following violations:

- One violation of RCW 19.122.030(2) for failing to submit a utility locate request not less than two business days before beginning excavation on April 30, 2019; and
- One violation of RCW 19.122.030(2) for failing to submit a utility locate request not less than two business days before beginning excavation on May 2, 2019.

The Safety Committee recommends that the Commission assess the following \$6,000 penalty against Modern Homes:

- \$1,000 penalty for the violation of RCW 19.122 that occurred on April 30, 2019; and



N
 SITE PLAN
 SCALE 1" = 1'-0"
 LOT SIZE 5,002 SF

WORKING AREA

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT D-200173, Investigation # 8159

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred and enclose \$6,000 in payment of the penalty.
2. **Accept conditions.** I admit that the violations occurred and enclose \$1,000 toward the payment of the penalty. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$5,000 of the penalty amount subject to the following conditions:
- Modern Homes owner and field supervisors attend Dig Safe training provided through NUCA within twelve (12) months of the date of this Notice; and
 - Submit documentation of that attendance to the Commission within five (5) days of attending the training;** and
 - Modern Homes incurs no additional violations of RCW 19.122 within twelve (12) months of the date of this Notice.
3. **Contest the violation.** I believe that the alleged violation(s) did not occur for the reasons I describe below:
- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provide above.
4. **Request mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 08/10/20 [Month/Day/Year], at Federal Way [City, State]

PAVEL AFICHUK
Name of Respondent (Company) – please print


Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”