

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

MUP-12-014(W)

DAVID MILLER

From a land use decision by the Director,
Department of Planning and Development

Department reference:
3012505

ORDER

The Applicant moved for Summary Judgment and Dismissal on May 22, 2012. The Appellant filed a response and a motion for summary judgment on May 29, 2012. The Director filed a response on June 4, 2012. The Applicant filed a reply on June 4, 2012. Because the Hearing Examiner lacks jurisdiction to grant relief in this matter, the appeal must be dismissed.

The appeal contends that the Director's decision approving a four unit lot short subdivision was in error because the proposal was not reviewed pursuant to SEPA or design review. Short subdivisions are categorically exempt under SMC 25.05.800.F from SEPA review (and therefore from design review). However, the Appellant argues that the Applicant split a non-exempt 9-unit project into two smaller projects and that therefore this proposal is not exempt and should have been required to go through SEPA and design review.

Under HER 3.02(a), an appeal may be dismissed without a hearing if the Hearing Examiner determines that it fails to state a claim for which the Hearing Examiner has jurisdiction to grant relief. SMC 23.76.022 identifies the types of SEPA decisions which may be administrative appealed to the Hearing Examiner. The Director's determination that a proposal is categorically exempt is not a decision that may be appealed to the Hearing Examiner. Because the Hearing Examiner lacks jurisdiction to grant relief in this matter, the appeal is hereby DISMISSED.

Entered this 5th day of June, 2012.



Anne Watanabe
Deputy Hearing Examiner
Office of Hearing Examiner
P.O. Box 94729
Seattle, Washington 98124-4729
(206) 684-0521 FAX: (206) 684-0536

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