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6 BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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8 In the Matter of the Appeal of:

9 DOUG WAUN

10 Denial for a Marijuana Business License issued ) DEPARTMENT'S MOTION TO  
by the Director, Regulatory Compliance & ) CONTINUE SEPTEMBER 13, 2018  
11 Consumer Protection Division, Department of ) 1:00 P.M. HEARING  
Finance and Administrative Services, )  
12 )  
13 )  
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14 **I. RELIEF REQUESTED**

15 This appeal hearing is scheduled for Thursday, September 13, 2018 at 1:00 PM. Faith  
16 Lumsden, Code Compliance Director for Seattle Department of Construction and Inspections, has  
17 been identified as a necessary witness for both Appellant, Doug Waun, and for the City Department  
18 of Finance and Administrative Services. Ms. Lumsden is unavailable on September 13<sup>th</sup> due to a pre-  
19 scheduled vacation out-of-state. Additionally, the City has filed a Motion for Summary Judgment  
20 and Appellant's response is due September 12, 2018. There is no dispute that the decision on that  
21 motion will be dispositive and will eliminate the need for a full hearing. Due to the witness's  
22 unavailability and due to the pending motion, the Department requests a 30-day continuance of the  
23 hearing. This is the first request for a continuance in this case.

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### **III. ISSUE PRESENTED**

Is the unavailability of a necessary witness good cause for a continuance of the hearing under Hearing Examiner Rule 2.20?

#### IV. EVIDENCE RELIED UPON

## V. AUTHORITY AND ARGUMENT

This is the first request for a continuance of the hearing. Witness Faith Lumsden is the SDCI employee who is most familiar with the permit for Seattle Cannabis Co.'s building and the application of the Land Use Code. She is on scheduled vacation out-of-state on the date of the hearing and unavailable to testify. Furthermore, the City has a pending Summary Judgment motion which will resolve the legal issue in this case. Continuing the hearing would allow Ms. Lumsden to be present for the hearing and will allow time for the Hearing Examiner to rule on the Department's Motion for

DEPARTMENT'S MOTION TO CONTINUE HEARING - 2

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Summary Judgment which will obviate the need for a hearing. Since this is the first request for a continuance, the Department submits that a witness's unavailability is good cause for a short continuance.

**VI. CONCLUSION**

For the reasons stated above, the Department requests a 30-day continuance of the hearing in this case.

DATED this 6<sup>th</sup> day of September, 2018.

PETER S. HOLMES  
Seattle City Attorney

By:

  
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*Attorney for Respondent, Regulatory Compliance &  
Consumer Protection Division, Department of  
Finance and Administrative Services*

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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury under the laws of the State of Washington, that on this date, I caused to be served a true and correct copy of the foregoing document, **Department's Motion to Continue and Declaration of Stephanie P. Dikeakos in support**, on the parties listed below and in the manner indicated:

Drew Duggan  
Miller Nash Graham & Dunn  
2801 Alaskan Way, Suite 300  
Pier 70  
Seattle, WA 98121  
*Counsel for Appellant*

(x) U.S. First Class Mail, postage prepaid  
(x) via e-mail [drew.duggan@millernash.com](mailto:drew.duggan@millernash.com)

the foregoing being the last known address of the above-named party.

Dated this 6<sup>th</sup> day of September, 2018, at Seattle, Washington.

  
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IANNE T. SANTOS