

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal by ) Hearing Examiner File:  
 ) **MUP-18-022**  
 )  
David Moehring and adjacent ) APPELLANT'S MOTION  
Neighbors to 2300 W Emerson Street ) FOR SUBSTITUTION OF A PARTY  
of the SDCI Determination of ) and  
Non-significance of 2300 W Emerson ) SUBPEONAS  
 )

**I. Substitution of a Party**

Pursuant to 'Washington State Court Rules: Rules of Appellate Procedure' (Rule 3.2) or the applicable Hearing Examiner Rule (i.e., HER 2.02, t), David Moehring, the representative of the appellant neighbors to 2300 West Emerson Street, moves to transfer an appellant party's interest from the subject of this appeal. The household of Richard Brownfield of 3807 23<sup>rd</sup> Ave West, Seattle, is hereby removed from those requesting relief from the appeal. No other household or entity except as remaining in the original appeal is offered as a substitution of the Brownfield household party. No other withdrawal of any other portion of this appeal is to be considered.

**II. Subpoena of Mentioned Parties**

Pursuant to HER 3.12 Subpoenas, David Moehring, the representative of the appellant neighbors to 2300 West Emerson Street, moves to subpoena those mentioned in the appeal to provide testimony. Those mentioned include Seattle staff Mr. Ben Roberts, Seattle Landscape Architect, of the Seattle Department of Transportation (hereafter 'SDOT') located at phone 206-233-8735. Mr. Roberts has been indicated on the drawings

1 and in the Seattle Department of Construction and Inspections (Hereafter 'SDCI' or the  
2 Department') as the person who will inspect tree protection at the time of construction.  
3 Another person mentioned within the appeal to subpoena is the arborist of the Applicant,  
4 Tony Shoffner of Shoffner Consulting located at address 21529 4<sup>th</sup> Ave W, #C31,  
5 Bothell, WA 98021. The appeal questions if this Bothell arborist is qualified to evaluate  
6 trees on the Right of Way (ROW) on behalf of SDOT. A third person to subpoena is  
7 James Strange, Jr. who represents Geotech Consultants located at address 2401 10<sup>th</sup>  
8 Avenue East, Seattle, WA 98102. This Geotech Consultants' engineer report is identified  
9 within the appeal. They are the entity providing the Geotechnical Information Summary  
10 as well as other relative engineering documents for the Department's determination.  
11 By the rules of the Hearing Examiner, each of these subpoenas are for the purpose to  
12 require these persons to appear and testify at a deposition or hearing, or for a person to  
13 produce specified documents or other physical exhibits. The Appellant requests the  
14 motion for the subpoena of any of these persons may be withdrawn if the Applicant or  
15 Department also intends on using any of these parties or entity representatives within  
16 their testimony. Any fees associated with these subpoena's should be outlined to the  
17 Appellant with a schedule of rates including the minimum expenditures attributed to a  
18 direct activity or task outside of their normal responsibilities. Upon the Hearing  
19 Examiner's acceptance of the subpoenas and Appellant's acceptance of the schedule of  
20 rates, the Appellant will submit the request for documents and other physical exhibits  
21 (including their relevance) in a timely manner as determined by the Hearing Examiner  
22 with the Discovery period.  
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1 In accordance with HER 2.04 (time), the hearing date should be at least seven (7)  
2 calendar days after the receipt of the Department's Exhibit & Witness List and at least  
3 seven (7) business days after the fulfilled and complete receipt of the timely requested  
4 production documents. An existing Public Records Request to SDCI and SDOT currently  
5 have stated production dates as late as November 20, 2018.  
6

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8 Dated this 16<sup>th</sup> day of October 2018.  
9

10 Respectfully submitted,  
11

12   
13  
14 David Moehring, 3444B 23rd Avenue West

15  
16 Copy:

17 BONNIE MCDONALD  
18 3823 23RD AVE W, Seattle 98199

19 For information only:  
20 RICHARD BROWNFIELD  
21 3807 23RD AVE W, Seattle 98199  
22  
23  
24  
25  
26  
27  
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## Certificate of Service

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies, via e-mail, of the attached David Moehring, the Neighbor to 3641 22nd Ave West, **Appellant's Motion to SUBSTITUTION of a PARTY, and SUBPEONAS** to every person listed below, in the matter of the **Determination of Non-significance of 2300 W Emerson**, Hearing Examiner File No. MUP-18-022.

**Department:**

Lindsay King  
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**Applicant:**

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Dated October 16, 2018



David Moehring  
Appellant, Neighbor to 2300 W Emerson Street  
3444 23rd Ave West  
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