

In the Matter of the Appeal of )  
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 SAFE AND AFFORDABLE SEATTLE )  
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MUP 18-019  
 RESPONSE TO SDCI’S MOTION TO EXCLUDE  
 AND LIMIT TESTIMONY

It is safe to presume at this late date in the case that we can dispense with the pretense about where this matter is going. It is clear in this and other matters that have come before the Office of Hearing Examiner (OHE) in at least the last two years that the preferred standard of administration and operation of the Office of Hearing Examiner is one, premised on extinguishing as many aspects of at least any land use related appeals as possible, and then failing that to circumscribe an appellant’s case so severely that it has little if any chance of surviving hearing process. All of this appears to be done in collaboration with the more than ample and adept assistance of the City’s Attorney and Construction and Inspections offices.

Testament to this pattern of operation, last year in 2017 a record number of land use matter appeals before the OHE were dismissed. Of 34 appeals filed almost 80% of them were dismissed. In comparison, in the years 2015 and 2016, while there were not a similar number of cases as in 2017, in 2015 of 17 cases filed none were dismissed, and in 2016, only 29% of land use related cases were dismissed.

Office of Hearing Examiner - Disposition of Land Use/SEPA Appeals							
	Cases Filed or Held Over	Cases Dismissed	Cases Remaining	Affirmed	Affirmed & Modified	Reversed	Remanded Dismissed
2015 Quantity							
Master Use Permit (MUP)	17		17	10	5	1	1
SEPA Only	4		4	4			
2016							
Master Use Permit (MUP)	24	7	17	17			
SEPA Only	7	3	4	1		3	
2017							
Master Use Permit (MUP)	34	27	7	6			1
SEPA Only	7	7	0				
Percentages							
2015 88%							
Master Use Permit (MUP)	17	0.00%	100%	59%	29%	6%	6%
SEPA Only	4	0.00%	100%	100%	0%	0%	0%
2016 100%							
Master Use Permit (MUP)	24	29.17%	71%	100%	0%	0%	0%
SEPA Only	7	42.86%	57%	25%	0%	43%	0%
2017 86%							
Master Use Permit (MUP)	34	79.41%	21%	86%	0%	3%	0%
SEPA Only	7	100.00%	0%	0%	0%	0%	0%

The 2017, 79.41% dismissal rate of land use appeal cases represents at 275% an almost tripling of the number of those cases dismissed. While not all of the cases were dismissed outright by the Hearing Examiner (and especially at the City’s behest), a small number were withdrawn by appellants for example. However, the record number of cases being dismissed in 2017 when in prior years only a nominal to no number of cases were dismissed indicates that something is grossly wrong with the operation of the Office of Hearing Examiner.

It cannot be that suddenly in 2017 appellants’ appeals were more unsustainable than during any other time in the operation of the Office of Hearing Examiner.

In 2018 the OHE looks to be on the basis of its case management and operation practices on the same path as it was last year – so gutting or dismissing cases that the end result is the same a reduction in the workload of the OHE is achieved.

There are multiple cases during 2018 that shed light on the type of strategy that is being used by OHE to for one reason or another whittle down the number of cases that proceed to hearing, or in the alternative, make it to hearing with their fundamental case intact and thus result in greatly shortened amounts of OHE time and hearing examiners' time devoted to holding hearings.

2018's rate of dismissal for land use related appeals is set to at least meet OHE's pattern of engaging in case management through the use of dismissal of cases in whole or in part – of the 30 cases that have moved through the appeal process, 19 have been dismissed or 63%.

Be that as it may, Appellant's exhibits two through ten are on point with the core subject of the hearing, items #3 in part and item #4 in its entirety related to the determination and decision by the director. Exhibit #2 is relevant in that goes to the standing of the City and the Low Income Housing Institute in this matter; that challenge is not extinguished and will be raised at time of hearing. Exhibits #3, 4, 5, and 6 all contain the substantive and documented materials that relate to the very things that are being challenged – those related to the environmental effects of air, noise, and transportation directly related to the project.

Finally it is entirely interesting that the City objects to its own records being part of the record, particularly those related to another one of it's land use planning instruments that it has concocted to provide cover for the license that it has taken with Seattle's land use, building, and fire codes related to the plethora of transitional encampments, be they interim or temporary.

Filed on behalf of the Safe and Affordable Seattle on this 19<sup>th</sup> day of October, 2018.



Elizabeth A. Campbell, MPA  
Founder and Director of SAS

Filed on behalf of Elizabeth A. Campbell on this 19<sup>th</sup> day of October, 2018.



Elizabeth A. Campbell, MPA  
Individually