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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)	Hearing Examiner File:
DISCOVERY PARK COMMUNITY)	W-18-002
ALLIANCE, <i>et al.</i> ,)	
From a decision of the City of Seattle, Final)	APPELLANT’S OPPOSITION TO
Environmental Impact Statement.)	THE CITY’S MOTION TO STRIKE
)	
)	
)	

APPELLANT’S NOTICE OF APPEAL IS ALREADY IN LEGAL BRIEF FORM

The City’s position that Appellant’s Notice of Appeal being used as her opening brief forces it to guess at Appellant’s arguments is disingenuous. Appellant’s Notice is an in-depth legal brief. The Notice cites to statute, code, and caselaw. The Notice lays out facts which the city has refused to rebut; as the City points out itself, its response was due November 9, 2018 and no responsive briefing has been filed or served, leaving Appellant’s positions, clearly set out in the Notice, unopposed. The Notice even explicitly states the relief requested by Appellant.

1 The City has cited no rule that indicates a particular form of briefing, or any precedent that
2 failure to so conform justifies dismissal. Substance should prevail over form. CR 7(b)(2); CR 8(f)¹;
3 and, see, *Neal v. Wallace*, 15 Wn.App. 506, 508, 550 P.2d 539 (1976) (motions should be
4 construed to effect substantial justice, with substance controlling over form).

5 **DISCOVERY SHOULD RE-OPEN**

6 The missteps of a formerly pro-se litigant should not result in the denial of her right to a
7 full and fair hearing. By contrast, the City has made no argument why they would be prejudiced by
8 having to actually defend their actions, as alleged by Appellant.

9 **DATED** this 13th day of November 2018.

10 **JOHNSTON JACOBOWITZ & ARNOLD, PC**

11 /s/ Nathan J. Arnold
12 Nathan J. Arnold, WSBA #45356
13 Johnston Jacobowitz & Arnold, PC
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15 Seattle, WA 98121
16 Tel.: 206-866-3230
17 Fax: 206-866-3234
18 Nathan@JJALaw.com
19 *Counsel for Appellant*

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22 ¹ “The Hearing Examiner may look to the Superior Court Civil Rules for guidance.” HER 1.03 (c).

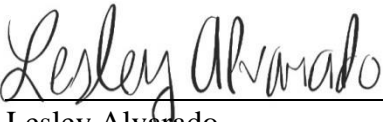
CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury that the following facts are true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the above-entitled action.

On November 13, 2018, I served or caused to be served a copy of the foregoing upon counsel for the City of Seattle, by email, as agreed at patrick.downs@seattle.gov.

EXECUTED this 13th day of November 2018 at Seattle, Washington.


Lesley Alvarado