

In the Matter of the Appeal by	)	Hearing Examiner Files:
	)	<b>MUP-19-019 and MUP-19-020</b>
	)	
Neighbors to Mirra Homes Developments	)	SDCI Reference 3032834-LU / 3032833-LU
from Decisions Issued by the Director	)	
of the Seattle Department of	)	MOVE TOWARD EXTENSION OF TIME TO
Construction and Inspections	)	REPLY TO SUMMARY JUDGEMENT MOTION
	)	

Pursuant to Hearing Examiner Rules HER 2.16 Motions, the Neighbors to Mirra Homes Developments respectfully requests a one week extension of time of the deadline for responding to the Motion for Summary Judgement (and the incorporated Motion to Dismiss). In addition, the Appellant requests that the due date for the Preliminary Lists of Exhibits and Witnesses also be postponed accordingly by one week.

A. On April 30, 2019 (before the appeal was due on May 10), David Moehring submitted a limited Public Records Request per RCW42.56 to three relative Seattle agencies for information pertaining to the addresses of this appeal. These requests

1 were digitally confirmed and provided with record request account numbers as  
2 follows<sup>1</sup>:

- 3 a. Department of Construction & Inspections - C041446-043019;
- 4 b. Fire Marshal's Office - C041447-043019; and
- 5 c. Department of Transportation - C041448-043019.

7 B. On May 10, 2019, an appeal was submitted by Neighbors to Mirra Homes  
8 Developments and recorded by the Office of the Hearing Examiner as MUP-19-019  
9 for 3416 23rd Ave W and MUP-19-020 for 3410 23rd Ave W.

11 C. On May 29, 2019 at 1:00 PM, a Pre-Hearing Conference was conducted. David  
12 Moehring, representing the Appellants Neighbors to Mirra Homes Developments,  
13 indicated that the then due Public Records request was not received from the three (3)  
14 City agencies and that if a Motion for Summary Judgement would be filed, there  
15 would likely be insufficient time to gather requested evidence from the Public  
16 Records and to know which of the City Staff from the three agencies may need to be  
17 subpoenaed. Also noted at the Pre-Hearing was the fact that a Motion for Summary  
18 Judgement required evidence from the all parties, which is relevant to the timeliness  
19 of receiving public records.  
20

22 D. At the Pre-Hearing, the Appellants presented the letter of subpoena requests with the  
23 relative contacts of City Staff incomplete. The Deputy Hearing Examiner asked  
24 additional information should be added to the request for subpoena including why the  
25 person is relevant and what they will be asked to testify about.<sup>2</sup>  
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27 <sup>1</sup> Reference attached Pages 1-11 of current status of Records Request.

28 <sup>2</sup> Appellant holding on this until Public Records are received.

- 1 E. As of today, only one of the three agencies has partially replied with the public  
2 records that are mandated by RCW42.56 to have been returned within 30 calendar  
3 days – or by May 30 2019. The requests are now 15 calendar days past due. Status of  
4 each includes:  
5  
6 a. SDCI - C041446-043019- promised about June 18;  
7  
8 b. SFD - C041447-043019 – no commitment (reported “working with IT”);  
9  
10 c. SDOT - C041448-043019 – second installment about June 21.  
11  
12 F. With the expected receipt date delayed to approximately June 21 for records relative  
13 to these Subject Properties, the Appellant-requested subpoenas may be prepared by  
14 the Office of the Hearing Examiner (following a request at that time when the names  
15 of the parties are known), by the following week. The Hearing Examiner should  
16 confirm that the already scheduled August 12 hearing date is viable with subpoenas  
17 being served to individuals by the Appellants around July 3<sup>rd</sup>.  
18  
19 G. The Appellants’ Final List of Exhibits, Final List of Witnesses, and copies of Exhibits  
20 to the Department and Applicant are due by Prehearing Order on July 22, 2019. That  
21 date is still viable with the delayed Public records being received around June 21.  
22  
23 H. However, the Appellant’s requested relief for the Preliminary List of Exhibits and  
24 List of Witnesses should be postponed by one week to July 10<sup>th</sup>, which still allows  
25 adequate time between the Preliminary List and the Final Lists due on July 22.  
26  
27 I. The scheduled date of the hearing should not have to change.  
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### III. Argument

Pursuant to HER 2.16, a response to a motion may be filed within seven days after service  
“or [within] such other time as may be designated by the Hearing Examiner.” For the reasons

1 given above, the Appellant requests that the deadline for filing a response to the Applicant's  
2 June 10, 2019 Motion to Dismiss Land Use Appeal and For Summary Judgment be extended  
3 by seven days to July 1, 2019; and the Appellant requests that the deadline for the  
4 Preliminary Lists of Witnesses and Exhibits be extended by seven days to July 10, 2019.  
5

6  
7 Dated this 14th day of June 2019.

8 Respectfully submitted,  
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11

12 David Moehring,

13 Neighbors to Mirra Homes Developments,  
14 3444B 23rd Avenue West  
15 Seattle, Washington 98199  
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## Certificate of Service

I, David Moehring, 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 Neighbors to Mirra Homes Developments **Appellant Motion for an Extension of Time to Reply to Summary Judgement Motion** to every person listed below, in the matter of the **Short Plat Subdivisions**, Hearing Examiner File No. MUP-19-019 and MUP-19-020.

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Dated June 14, 2019



David Moehring  
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