

Barbara Dykes Ehrlichman, Deputy Hearing Examiner

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

In the Matter of the Appeal of

**NEIGHBORS TO MIRRA HOMES  
DEVELOPMENTS**

From a Short Plat Decisions  
Issued by the Director, Department of  
Construction and Inspections

Hearing Examiner File:  
**MUP-19-019 (P) & MUP 19-020 (P)**

Department Reference:  
3032834-LU & 3032833-LU

**SDCI RESPONSE TO REVISED REQUEST  
FOR SUBPOENA, AND MOTION  
IN LIMINE**

The appellant, Neighbors Mirra Homes (appellant hereafter), in a prehearing conference on May 29, 2019 sought to subpoena witnesses to testify at the appeal. This request was subsequently revised to include several witnesses in a Revised Request of Subpoenas on June 27<sup>th</sup>, 2019. That revised list included the following:

- Harold Scoggins, Fire Chief
- Nathan Torgelson, Director, Seattle Department of Construction and Inspections
- Hiro Ikeda, P.E., Structural Plans Engineer
- H. Michael Xue, P.E.

The Department respectfully asks that this subpoena not be issued for these individuals. In this case, the issue that remains before the Hearing Examiner is whether the Department erred in concluding projects 3032864-LU/3032833/LU met the criteria for approval of a short subdivision pursuant to Seattle Municipal Code Section 23.24.040. None of the above referenced people, save Director Torgelson can opine on the application of those criteria. The responsibility for that application falls to SDCI Planner, David Landry AICP, who will be presenting on behalf of the department at the hearing. The appellants will have opportunity to question any relevant facts in the record and how they bear on the Department's analysis at that time. All other relevant correspondence from these internal reviewers is either available in the

SDCI Response to Revised Request for Subpoenas, MUP-19-019 (P) & MUP 19-020 (P)

record or is subject to pending public records requests by the applicant. If those requests are not fulfilled in time for the hearing, the Department has no objection to a short postponement of the hearing date.

Particularly inappropriate is the appellant's request to question SDCI Director Torgelson regarding a letter sent to a Henry McGuire in July 2018. That informational letter does not constitute a "final land use decision" and is not the subject of this appeal. To the degree that the letter touched upon application of the Seattle Land Use Code, the appellant, would have needed to file a code interpretation request under SMC Section 23.88.020 to challenge that reading of the code. The appellants have not filed such a request and the line of inquiry is wholly disconnected from the application of the Short Subdivision Criteria, which is the subject to this appeal.

The conclusion that this Short Plat meets the criteria for approval has and will be amply represented by the permit record, Director's report and Staff attending the hearing on behalf of the Department. By the appellant's own admission, a final list of subpoenas is only possible once all the Public Records requests have been fulfilled. At a minimum, the Department asks that no subpoenas be issued until such time the appellant can clearly articulate what facts revealed in those public records requests are the subject of interest and if so, under what basis they may be challenged.

Dated July 3, 2019.



David Landry, AICP  
Senior Land Use Planner  
Seattle Department of Construction and Inspections

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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 of the attached SDCI Response to Revised Request for Subpoena via email or in person, to each person listed below, in the matter of the appeal of Robert Arnaud and Lan Tran, Hearing Examiner Files **MUP-19-019 (P) & MUP 19-020 (P)**

In person:

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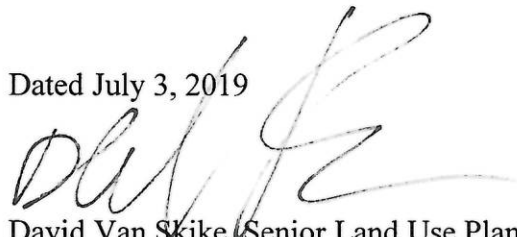
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Dated July 3, 2019



David Van Skike, Senior Land Use Planner  
Seattle Department of Construction and Inspections