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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:) Hearing Examiner File:
)
SEATTLE MOBILITY COALITION,) **W-18-013**
)
Appellant.) MOTION TO STRIKE
)
From a Determination of Non-Significance issued)
by the Seattle City Council.)
)
_____)

I. INTRODUCTION

The Respondent Seattle City Council Central Staff (hereafter “City”) hereby makes this motion to strike Appellant Seattle Mobility Coalition’s post-hearing attempt to file additional evidence in the record with the verbatim transcript of testimony by Ketil Freeman in addition to the signed declaration by Courtney Kaylor including attached exhibits. This post-hearing and extra record communication is improper and should be stricken from the record

II. FACTS

On July 26, 2019 the Hearing Examiner closed the record in the SEPA appeal filed by the Appellant, save only for the site visit to be conducted by the Examiner. On September 6, 2019, the Appellant, without being directed or allowed to do so by the Appellant uploaded these two extra-record documents to the Examiner’s online document system and sent an email to the

1 Examiner and all of the parties with the text of the documents. These documents include the
2 verbatim transcript of testimony from Ketil Freeman; a signed declaration by Courtney Kaylor
3 including five documents marked Exhibits A through E.

4 A. Seattle City Council Sustainability and Transportation Committee Agenda, August 6, 2019

5 B. Staff Presentation to the Sustainability and Transportation Committee, August 6, 2019, pp.
6 40-41

7 C. Seattle Impact Fee Study, August 2019, Cover, p. 17, Appendix A

8 D. Central Staff Memorandum on State Environmental Policy Act Reform, August 3, 2019
9 (without attachments)

10 E. CB 119600, pp. 1, 20 (with relevant provision highlighted)

11 **III. AUTHORITY**

12 Hearing Examiner Rule 2.21(b) states that information submitted after the close of the
13 record shall not be included in the hearing record or considered by the Examiner.

14 **IV. ARGUMENT**

15 The Hearing Examiner closed the record for the appeal hearing on July 26, 2019. The
16 Appellant submitted extra-record information, following the close of the hearing record, in
17 violation of Hearing Examiner Rule 2.21(b). The Appellant's extra-record information must not
18 be included in the hearing record or considered by the Examiner, per Hearing Examiner Rule
19 2.21(b).

20 **V. CONCLUSION**

21 Hearing Examiner Rule 2.21(b) requires that the extra-record information submitted by the
22 Appellant shall not be included in the hearing record and shall not be considered by the Examiner.
23

1 We respectfully request that the extra-record information be excised from the hearing record, or
2 that the Applicant and DPD be given a chance to respond.

3 DATED this 11th day of September 2019.

4 PETER S. HOLMES
5 Seattle City Attorney

6
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1 **CERTIFICATE OF SERVICE**

2 I certify that on this date, I electronically filed a copy of Respondent City’s Motion to
3 Strike with the Seattle Hearing Examiner using its e-filing system.

4 I also certify that on this date, a copy of the same document was sent to the following
5 party listed below in the manner indicated:

6 Courtney Kaylor
7 McCullough Hill Leary PS [X] Email
8 701 – 5th Ave., Ste 6600
9 Seattle, WA 98104
10 Phone: (206) 812-3388
11 Email: courtney@mhseattle.com
12 Lauren Verbanik, Paralegal
13 Email: lverbanik@mhseattle.com
14 *Attorney for Appellant*
15 *Seattle Mobility*

16 DATED this 11th day of September 2019.

17 *s/Alicia Reise*
18 _____
19 ALICIA REISE, Legal Assistant
20
21
22
23