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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)	Hearing Examiner File:
)	
DOUGLAS B. MACDONALD,)	W-19-007
)	Department Reference 002180-19N
)	
from a Determination of Non-Significance)	Response to Motion to Extend Appellant’s
issued by the Director, Seattle Department)	Final Witness and Exhibit Deadline
of Transportation.)	
_____)	

I. INTRODUCTION

Mr. MacDonald failed to file his final witness and exhibit list by the February 24, 2020 deadline set in the Prehearing Order. Now, Mr. MacDonald asks to extend his witness and exhibit filing deadline to March 3, 2020. Mr. MacDonald missed his filing deadline and his motion to extend the deadline should be denied.

II. FACTS

The following is a chronology of relevant dates and deadlines:

- February 11, 2020: appellant sends second set of discovery including 58 interrogatories including interrogatory subparts;

- 1 • February 19, 2020: City responds to interrogatories, produces 35 additional
- 2 documents, and provides a privilege log;
- 3 • February 24, 2020: appellant’s final witness and exhibit list, and exhibit copies
- 4 deadline;
- 5 • February 24, 2020: appellant files motion for discovery hearing;
- 6 • February 26, 2020: City sends MacDonald draft SEPA checklists sent to the Law
- 7 Department for review with redactions;
- 8 • March 2, 2020: City’s final witness and exhibit list, and exhibit copies; and
- 9 • March 9 and 10, 2020: the hearing.

10 III. ISSUE

11 The Prehearing Order required Mr. MacDonald to file his witness and exhibit list by
12 February 24, 2020. As of the date of this response to his motion to extend his filing deadline, Mr.
13 MacDonald’s witness and exhibit list has not been filed. This failure has substantially prejudiced
14 the City’s ability to prepare for the hearing. Should Mr. MacDonald’s request to extend his
15 witness and exhibit list be extended to March 3, the day after the City’s witness and exhibit list is
16 due on March 3, 2020?

17 IV. ARGUMENT

18 Mr. MacDonald argues the extensive volume of the City’s discovery response—some
19 8,000 plus documents—warrants an extension of his witness and exhibit filing deadline. The fact
20 that the City responded to his over-broad and unduly burdensome discovery request with
21 thousands of documents is not a basis to extend a filing date Mr. MacDonald already missed.
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23

1 Further, the City responded to his second extensive discovery request. The fact that the
2 City released draft checklists that were sent to the Law Department for review is not a reason to
3 extend Mr. MacDonald's already-missed witness and exhibit list filing deadline.

4 **V. CONCLUSION**

5 Mr. MacDonald's failure to comply with the Prehearing Order and the prejudicial effect
6 on the City should not be exacerbated by extending his filing deadline to March 3, 2020.

7 Mr. MacDonald's motion should be denied.

8 Dated this 27th day of February 2020.

9 PETER S. HOLMES
Seattle City Attorney

10 By: *s/Patrick Downs, WSBA #25276*
11 Assistant City Attorney
12 Seattle City Attorney's Office
13 701 Fifth Ave., Suite 2050
14 Seattle, WA 98104-7097
15 Ph: (206) 684-8200
16 Fax: (206) 684-8284
17 Email: patrick.downs@seattle.gov
18 *Attorneys for Respondent*
19 *Seattle Office of Housing*
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1 **CERTIFICATE OF SERVICE**

2 I certify that on this date, I electronically filed a copy of **the City’s Response to Motion**
3 **to Extend Appellant’s Final Witness and Exhibit Deadline** with the Seattle Hearing Examiner
4 using its e-filing system.

5 I also certify that on this date, a copy of the same document was sent by email to the
6 following party:

7 **Douglas B. MacDonald**
8 **dbmacdonal@earthlink.net**
9 *Appellant*

10 the foregoing being the last known address of the above-named party.

11 Dated this 27th day of February 2020, at Seattle, Washington.

12 *s/Alicia Reise*
13 ALICIA REISE, Legal Assistant