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8 BEFORE THE HEARING EXAMINER
9 FOR THE CITY OF SEATTLE

10 In the Matter of the Appeal of

11
12 MAGNOLIA COMMUNITY COUNCIL AND
13 OTHERS; and FRIENDS OF THE LAST 6,000

14 From a decision issued by the Director, Seattle
15 Department of Construction and Inspections
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Hearing Examiner File: MUP 21-016 (CU)
and MUP 21-017 (ECA)

Department Reference: 3028072-LU

DECLARATION OF PHILIP M. POWELL
IN SUPPORT OF APPLICANT'S
RESPONSE TO EX PARTE MOTION FOR
ISSUANCE OF SUBPOENAS DUCES
TECUM

19 I, Philip M. Powell, declare:

20 1. I am competent to testify and make this declaration based on my personal
21 knowledge.
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23 2. I am the General Counsel for Global Seas LLC ("Global Seas"), one of the
24 entities to which the Appellant Magnolia Community Council ("MCC") seeks to direct a
25 subpoena in its Ex Parte Motion ("Motion") for Issuance of Subpoenas Duces Tecum
26 ("Subpoenas"). Because Global Seas acts as the management company of its related entities,
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28 DECLARATION OF PHILIP M. POWELL IN SUPPORT
OF APPLICANT'S RESPONSE TO EX PARTE
MOTION FOR ISSUANCE OF SUBPOENAS
DUCES TECUM – Page 1

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1 including Oceanstar LLC ("Applicant") and Nina Fisheries, Inc. ("Nina Fisheries"), my role as
2 General Counsel extends to and encompasses matters related to the other entities to which the
3 Subpoenas are directed.

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5 3. I have reviewed the Motion filed by MCC. Requests #1, #3 and #4 in the Motion
6 are burdensome. The Applicant is the owner of the Property on which the Project will be
7 located. Nina Fisheries, also named in the Subpoenas, is the Applicant's governor. Robert
8 Desautel, Walter Kuhr, Lil Kuhr and Kathy Shepherd, also named in the Subpoenas, are Nina
9 Fisheries' governors. "Golden Seas, LLC," another entity named in the Subpoenas, is most
10 likely a typographical error. Global Seas is a management company through which the
11 Applicant operates. Global Seas has eight employees who may have documents, including
12 correspondence, relating to the design, use, and/or potential disposition of the project that is the
13 subject of this appeal ("Project"). In order to respond to the Subpoenas, the Applicant would be
14 required to search all of these employees' electronic and written correspondence, both internal
15 and external, and digital and paper files for any document mentioning the Project dating to prior
16 to the presubmittal conference for the Project in 2017. This task would be extremely time
17 consuming and would require the Applicant to retain an outside consultant to perform the search.
18 Even with the assistance of an outside consultant, this broad a search over this length of time
19 would require substantial employee time. This is particularly difficult now, during the pollock
20 fishing season, which is Global Seas' primary business, and is currently occupying all of its
21 employees. As in-house counsel for Global Seas, I am involved in internal and external
22 correspondence and preparation and review of documents in order to provide legal advice. The
23 Applicant also uses outside counsel. All of the correspondence and documents would need to be
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1 reviewed for attorney-client and work product privilege. Even Request #3 (for meeting minutes)
2 alone would require enormous effort. Global Seas holds weekly meetings at which handwritten
3 minutes are taken. Most of the topics discussed do not involve the Project, but the Project may
4 have been discussed at some meetings. Assuming that minutes from 2017 to 2021 must be
5 produced and reviewed, this item alone involves the location, review and possibly redaction of
6 192 sets of handwritten minutes. Even greater effort would be required to search through all the
7 types of documents subject to the Subpoena. The Applicant estimates the search would produce
8 hundreds if not thousands of documents. This search and review process would be extremely
9 burdensome and certainly could not be completed within 2 weeks, the time frame requested in
10 the Subpoena.
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13 4. Request #4 is also burdensome. The Applicant has owned the Admiral's House
14 since 2013. The Admiral's House is used for a variety of purposes, including office and events
15 such as weddings. Since 2013, several companies have had their offices in the house. Hundreds
16 of weddings and other events have occurred. As written, the Subpoena would require the
17 Applicant to identify and provide:
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- 19 • Documents relating to the purchase, including all due diligence materials relating to
20 allowed uses and all related materials associated with the purchase and sale
21 transaction.
- 22 • Leases and other documents, including correspondence and payment records, relating
23 to the individuals and companies that have leased space in the building since 2013.
- 24 • Documents relating to normal maintenance and repair supporting these uses, such as
25 contractor, landscaping, and cleaning contracts since 2013.
- 26 • Agreements and correspondence relating to weddings and other events – down to
27 correspondence with the brides, their families, caterers, and other people and entities
associated with these events – since 2013.

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2 5. In addition to internal communications and files, there are hundreds of potential
3 and actual lessees, families and companies holding weddings and events, vendors, and a variety
4 of other professionals, including attorneys, that the Applicant has worked with with regarding the
5 Admirals House operations. In order to respond to the Subpoena, the Applicant would be
6 required to search all of its employees' electronic and written correspondence, both internal and
7 external, and digital and paper files for any document relating to the use of the Admiral's House
8 dating to 2013. This task would be extraordinarily time consuming and, like Requests #1, #3 and
9 #4, would require the Applicant to retain an outside consultant to perform the search. Even with
10 the assistance of an outside consultant, this broad a search over this length of time would require
11 an enormous amount of employee time. The search would generate thousands or possibly tens of
12 thousands of documents. All of these documents would need to be reviewed for privilege, since
13 both in-house and outside counsel have been involved in matters relating to the use of the
14 Admiral's House. The effort would be incredibly burdensome, could not possibly be done in 2
15 weeks as MCC requests, and would generate no documents actually relevant to this appeal.

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17 6. Requests #5, #6 and #7 are also burdensome. Like the other requests, they would
18 require an extensive search of digital and written communications and files among all
19 employees. Since there is no date range provided, and the requests do not relate to the Project,
20 the search would have to encompass all of the Applicant's ownership, since 2013. For the
21 reasons previously described, such a search would require an outside consultant and significant
22 employee time, could not be completed in 2 weeks, and would be a huge burden.

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24 7. Request #8 is also burdensome because it requires a search of multiple
25 employees' digital and written records for any document that mentions the Admiral House's
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1 landmark status. Since there is no date range in the request, the search would need to extend
2 back to 2013 when the Applicant bought the Admiral's House. As with the previous requests, an
3 outside consultant as well as substantial employee time would be needed to respond to this
4 request. This search and review process would be extremely burdensome and could not be
5 completed within 2 weeks. In all, the Applicant estimates that conducting the searches required
6 to comply with the Subpoena could easily exceed a hundred hours of consultant and employee
7 time.
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9 I declare under penalty of perjury under the laws of the State of Washington that the
10 foregoing is true and correct. Executed this 7th day of July, 2021, at Seattle, Washington.
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13 Philip M. Powell, J.D., LL.M
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