

THE HEARING EXAMINER OF THE CITY OF SEATTLE

MAGNOLIA COMMUNITY COUNCIL,)	
MIKE APPEL, M. JEANNE COULSON,)	
EDWARD R. COULSON, DEBBIE)	Hearing Examiner File: MUP 21-016
MULLINS, JONATHAN E. MULLINS, and)	and MUP 21-017
JANIS TRAVEN,)	
)	Department Reference: 3028072-LU
Petitioners,)	
)	DECLARATION OF EDWARD R.
v.)	COULSON IN SUPPORT OF EX PARTE
)	MOTION FOR ISSUANCE OF
CITY OF SEATTLE,)	SUBPOENAS DUCES TECUM
)	
Respondent.)	
_____)	

Edward R. Coulson declares:

1. I have personal knowledge of the following facts and could competently testify thereto if called as a witness.
2. I am an appellant in this case and am serving as the authorized representative for Magnolia Community Council (MCC) and the other individual appellants who joined in this appeal. I am also a mostly retired business and construction law attorney, but am not representing MCC and the other appellants in this appeal.
3. Prior to being approached by MCC to assist in this appeal in late April, I was completely unaware of any of the land use proceedings involving Oceanstar's application for a conditional use permit or any other aspect of its proposed project (Project).

4. I attended the zoom prehearing conference on May 18, 2021. The Hearing Examiner set dates for various procedural deadlines, including a briefing schedule requested by Oceanstar for a motion to dismiss, to begin June 3 and be completed by June 24, and set the hearing for four days, beginning August 19, 2021. The Hearing Examiner instructed the parties to work out discovery and mediation possibilities among themselves. The Hearing Examiner issued her prehearing order on May 19, 2021.

5. Based on my 40 years' experience as a trial lawyer and my lack of knowledge of the factual or legal background of the case, I was very concerned about doing the discovery and other investigation to adequately prepare for the hearing in four months, particularly in light of Oceanstar's desire to bring what I considered would be a futile motion to dismiss.

6. On May 25, I sent an email to the parties to the appeal, outlining what I thought MCC discovery needs would be. I stated I anticipated taking at least the depositions of the two individuals connected with Oceanstar, Robert Desautel and Walter Kuhr, and the project architect, Tom Brown. I also anticipated taking some basic document discovery, such as communications regarding the design, construction and future use of the Property, minutes or notes of meetings regarding the Property, and development agreements regarding the Property. I also stated I agreed to conduct discovery without the necessity of formal motions and inquired of Oceanstar's and Friends of the Last 6000 (Friends) willingness to agree as well. A copy of my email is attached as Exhibit 1, redacted for the paragraph about mediation.

7. Oceanstar's lawyers, Courtney Kaylor and David Carpman, Friends lawyer, Margaret Boyle, and I had a conference call on June 1, 2021. We discussed Oceanstar's proposed motion to dismiss and my thought that it was unlikely to succeed. On discovery, I believe Oceanstar agreed that no motions were necessary and that they would accept service of subpoenas, but that they did not want to do discovery until after a ruling on the motion to dismiss. In order to alert them to MCC's desired discovery, I proposed serving them with MCC's motion for issuance of subpoenas by June 15, with a response by June 30, which we

anticipated would be after the Hearing Examiner's ruling on the motion to dismiss. I proposed depositions for the week of July 13, with a reluctant backup of the week of July 30. I was concerned about filing MCC's initial witness and exhibit lists by July 15, and Ms. Kaylor agreed to allow MCC to amend its lists after submitted.

8. Oceanstars lawyers, Ms. Boyle and myself had a follow up conference call on June 18. Among other things discussed, I repeated my concerns about the compressed schedule and stated my desire to at least get my discovery requests out. Ms. Kaylor agreed to accept service on behalf of Mr. Desautel and Mr. Kuhr, and we discussed again doing the depositions the week of July 13. I repeated my desire to depose the architects, Tom Brown and Eric Drivdahl, as well as an Oceanstar related individual, Kathy Shepard.

9. I filed MCC's ex parte motion for issuance of subpoenas on June 22. In an email exchange that same day, Ms. Kaylor informed me that she failed to check her calendar when we discussed depositions and she was out July 12-16. Although she said we "could look" at July 19 and 20, July 30-August 9, the second date range I suggested, might be better. I responded that I would prefer depositions during the week of July 19 or July 26. A copy of this email exchange is attached as Exhibit 2.

10. The Hearing Examiner issued a minute order on June 22, staying the ex parte motion until her ruling on the motion to dismiss, which she expected by June 28. She asked MCC at that point to either confer with counsel and reach an agreement or revise the motion (which I took to mean to revise and file).

11. The Hearing Examiner issued her ruling on the Motion to Dismiss on June 28 (Order). Oceanstar's counsel and I had a conference call on June 29. We discussed the Order and its impact on MCC's prior motion for issuance of subpoenas, which I felt was very little. Ms. Kaylor said she would go back and look at my motion. We agreed to continue the discussion two days later, on July 1, at 4:00 pm.

12. Less than one hour before the scheduled meeting on July 1, Ms. Kaylor sent me an email, cancelling the meeting and stating her review of the subpoenas duces tecum I proposed to submit. She listed three objections: 1) the time range should be limited; 2) documents should be limited to those relating to the design, not the use or potential disposition of the Buildings, and 3) documents relating to the Admiral's House were outside the appeal. She unilaterally had contacted the architects for possible deposition dates, and indicated she would not make Oceanstar's owners, Mr. Desautel and Mr. Kuhr, available for depositions without further explanation from me. I responded to her email, attaching a courtesy copy of my revised ex parte motion for issuance of subpoenas. To avoid further delay in filing my motion, I invited her to review the motion and call me right away to discuss it. A copy of this email exchange is attached as Exhibit 3.

13. I did not receive a call from Ms. Kaylor so I filed MCC's ex parte motion. Ms. Kaylor immediately emailed a request to the Hearing Examiner's clerk for the opportunity to file a responsive brief to MCC's ex parte motion. This set off a flurry of communications among me, the clerk, and Ms. Kaylor, including my frustration at facing yet another delay that would further prejudice MCC's ability to conduct needed discovery. The Hearing Examiner allowed Oceanstar to file a response and MCC to file a reply. Copies of these emails are attached as Exhibit 4.

14. After filing her response to MCC's motion, Ms. Kaylor emailed me on July 7 to follow up on discovery issues. She again indicated her unwillingness to make Mr. Desautel and Mr. Kuhr available for depositions, demanded zoom depositions for the architects, suggested several dates they were available, and demanded for the first time that the architects be compensated for their time, calling them expert witnesses also for the first time. I responded to her email on July 8, objecting to her demands and repeating what I had said from our very first discovery conference: I wanted to have documents responsive to the subpoenas before taking depositions. A copy of this email exchange is attached as Exhibit 5.

15. Since filing MCC's appeal and as part of my preparation for this case and particularly preparation of MCC's initial witness and exhibit lists, I contacted representatives of Historic Seattle Preservation Foundation (Historic Seattle) and the Landmarks Preservation Board (Board). On July 6, I called Erin Doherty, the Historic Preservation Coordinator for the Board. She was familiar with and discussed the Project with me. Following our call, still on July 6, I emailed Ms. Doherty a public records request for the Board's records relating to the Project. On July 9, Ms. Doherty transmitted the Board and her responses to my request. A copy of our email exchange is attached as Exhibit 6.

16. One of the documents transmitted to me by the Board was a September 30, 2019 email from Ms. Doherty to Jack McCullough, Oceanstar's attorney. A copy of that email is attached as Exhibit 7.

17. MCC's efforts to obtain relevant, necessary and probative evidence have been delayed by Oceanstar's motion to dismiss, response to MCC's ex parte motion, and its refusal to come to any agreement so far regarding almost any aspect of discovery. These delays interfered with MCC's ability to obtain and review documents, to prepare for and depose witnesses, to prepare and file witness and exhibit lists, and overall greatly prejudiced MCC's ability to prepare for and prosecute its appeal.

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

SIGNED this 14th day of July, 2021, at Bend, Oregon.

/s/
Edward R. Coulson

FW: MCC appeals

1 message

Ted Coulson <coule@schweetlaw.com>

Tue, Jul 13, 2021 at 6:57 PM

To: Jeanne Coulson <mjeannecoulson@gmail.com>

From: Ted Coulson

Sent: Tuesday, May 25, 2021 1:41 PM

To: margaret@boylemartin.com; Kaylor, Courtney (Courtney@mhseattle.com) <Courtney@mhseattle.com>; David Carpman <dcarpman@mhseattle.com>; McCullough, Jack <jack@mhseattle.com>; tomb@ghdarch.com; Houston, MichaelT <MichaelT.Houston@seattle.gov>

Cc: Jeanne Coulson <mjeannecoulson@gmail.com>

Subject: MCC appeals

Hello:

Thanks to everyone for their cooperation at the prehearing conference. I would like to address the discovery and mediation issues that we agreed to discuss outside the conference.

Discovery. Although further investigation and research may change our needs, at this point the MCC group anticipates that MCC will need to take the depositions of the two individuals connected with Oceanstar, Robert Desautel and Walter Kuhr, Jr., and possibly Tom Brown. MCC also anticipates some basic document discovery, such as communications regarding the design, construction, and future use of the property, minutes or notes of meetings regarding the property, development agreements regarding the property, etc. MCC is willing to conduct discovery without the necessity of formal motions before the hearing examiner. Would Oceanstar and Friends of the Last 6000 agree to conduct this discovery without the necessity of formal motions as well?

REDACTED

Thanks for your consideration. I look forward to our cooperative efforts to resolve these appeals.

Ted Coulson
206-953-2579

 winmail.dat
18K

EXHIBIT 1

FW: Ex Parte Motion for Issuance of Subpoenas, MUP 21-016

1 message

Ted Coulson <coule@schweetlaw.com>

Tue, Jul 13, 2021 at 6:55 PM

To: Jeanne Coulson <mjeannecoulson@gmail.com>

From: Ted Coulson

Sent: Tuesday, June 22, 2021 2:09 PM

To: Courtney Kaylor <courtney@mhseattle.com>; Margaret Boyle <margaret@boylemartin.com>

Cc: David Carpman <dcarpman@mhseattle.com>

Subject: RE: Ex Parte Motion for Issuance of Subpoenas, MUP 21-016

Hi Courtney,

Thanks for the info. Given the witness and exhibit disclosure deadlines as well as the hearing date, I would prefer to do the depositions during the week of July 19 or July 26. Please check your and your clients calendars for those weeks.

Thanks,

Ted

From: Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>

Sent: Tuesday, June 22, 2021 11:21 AM

To: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>; Margaret Boyle <margaret@boylemartin.com<mailto:margaret@boylemartin.com>>

Cc: David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>

Subject: FW: Ex Parte Motion for Issuance of Subpoenas, MUP 21-016

Ted - Following up on our discussions about noting depositions, I neglected to look at my own calendar. I am out the week of July 12-16. We can look at July 19 and 20, but the second date range you suggested, July 30-August 9, might work better. (I am out August 9 but in the office the remaining dates in that range.) I'll check both with my clients.

Courtney Kaylor

Partner

McCullough Hill Leary, ps

701 Fifth Avenue, Suite 6600

Seattle, Washington 98104

Cell: 206.790.6164

Tel: 206.812.3388

Direct: 206.812.3379

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courtney@mhseattle.com<mailto:courtney@mhseattle.com>

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From: Courtney Kaylor

Sent: Tuesday, June 22, 2021 10:43 AM

To: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>; Margaret Boyle <margaret@boylemartin.com<mailto:margaret@boylemartin.com>>; Houston, Michael T

<MichaelT.Houston@seattle.gov<mailto:MichaelT.Houston@seattle.gov>>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov<mailto:Erika.Ikstrums@seattle.gov>>; Jack McCullough <jack@mhseattle.com<mailto:jack@mhseattle.com>>; David

Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>; Maddi Warnock

<mwarnock@mhseattle.com<mailto:mwarnock@mhseattle.com>>; tomb@ghdarch.com<mailto:tomb@ghdarch.com>

EXHIBIT 2

Subject: RE: Ex Parte Motion for Issuance of Subpoenas, MUP 21-016

Hello Ted - I do not see an attachment. Can you resend?

Courtney Kaylor

Partner

McCullough Hill Leary, ps

701 Fifth Avenue, Suite 6600

Seattle, Washington 98104

Cell: 206.790.6164

Tel: 206.812.3388

Direct: 206.812.3379

Fax: 206.812.3389

courtney@mhseattle.com<mailto:courtney@mhseattle.com>

www.mhseattle.com<http://www.mhseattle.com/>

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From: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>

Sent: Tuesday, June 22, 2021 9:42 AM

To: Margaret Boyle <margaret@boylemartin.com<mailto:margaret@boylemartin.com>>; Houston, MichaelT <MichaelT.Houston@seattle.gov<mailto:MichaelT.Houston@seattle.gov>>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov<mailto:Erika.Ikstrums@seattle.gov>>; Jack McCullough <jack@mhseattle.com<mailto:jack@mhseattle.com>>; Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>; David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>; Maddi Warnock <mwarnock@mhseattle.com<mailto:mwarnock@mhseattle.com>>; tomb@ghdarch.com<mailto:tomb@ghdarch.com>

Subject: Ex Parte Motion for Issuance of Subpoenas, MUP 21-016

Howdy:

Here is our Ex Parte Motion for Issuance of Subpoenas which we have filed with the Office of the Hearing Examiner. Just so you know, we seem to have problems with the e-file system on their website.

Thanks,

Edward R. (Ted) Coulson

206-953-2579

 **winmail.dat**
26K

FW: Call Thursday

1 message

Ted Coulson <coule@schweetlaw.com>

Tue, Jul 13, 2021 at 9:48 PM

To: Jeanne Coulson <mjeannecoulson@gmail.com>

From: Ted Coulson
Sent: Thursday, July 1, 2021 3:49 PM
To: Courtney Kaylor <courtney@mhseattle.com>
Cc: David Carpman <dcarpman@mhseattle.com>
Subject: RE: Call Thursday

Hi Courtney:

Thanks for the email. We have several areas of disagreement. I attach a modified motion for issuance of subpoenas for your review. I intend to use the same subpoenas duces tecum, with the dates modified (I was waiting to discuss production dates with you this afternoon). I suggest you take a look at the revised motion and give me a call to discuss the other issues you raise below, rather than delaying resolution even longer while I wait a couple days for a response. I am hopeful your email is just not a list of ultimatums, this is supposed to be a cooperative process.

Thanks, I look forward to hearing from you. I am agreeable to working this out, but do not want to delay getting the subpoenas issued.

Ted Coulson
206-953-2579

From: Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>
Sent: Thursday, July 1, 2021 3:08 PM
To: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>
Cc: David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>
Subject: RE: Call Thursday

Hello Ted - Here's a follow up from our last call. At this point, I do not see a need to talk this afternoon. Let me know if you think there's anything we should discuss today.

I've reviewed your document production request. As written several of the requests are burdensome and overbroad as they are outside the scope of the appeal:

- * All of the requests should be limited to seek documents only within the time range relevant to the application before the Examiner, submitted in May 2019.
- * Requests #1, 3 and 4 seek documents relating to "the design, use, or potential disposition of the Buildings." The use and disposition of the buildings is not an issue in the appeal. The request should be limited to the design.
- * Item #2 seeks documents relating to the Admiral's House. This is outside the scope of the appeal.

Let me know if you will agree to modify these requests.

On the depositions, Eric Drivdahl is available and holding July 22. Tom Brown is available and holding July 19 and 20. Please confirm that July 22 works for you, and let me know whether you'd prefer July 19 or 20. The witnesses and I are available for Zoom depositions but not in-person depositions. I would like to agree to the scope of these depositions but, barring that, will need to get a determination from the Examiner on their scope. Please let me know what subjects you plan to cover with them so we can proceed. At this point, as I mentioned on the telephone, I do not see why you would need to depose the owners in addition to the architects based on the issues remaining in the case. If you can send me an explanation, we can discuss and attempt to resolve this without the help of the Examiner.

I have not been able to meet with my clients yet regarding mediation but hope to do that shortly and will get back to you.

Courtney Kaylor
Partner

McCullough Hill Leary, ps
701 Fifth Avenue, Suite 6600
Seattle, Washington 98104
Cell: 206.790.6164
Tel: 206.812.3388
Direct: 206.812.3379
Fax: 206.812.3389
courtney@mhseattle.com<mailto:courtney@mhseattle.com>
www.mhseattle.com<http://www.mhseattle.com/>

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From: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>
Sent: Tuesday, June 29, 2021 6:14 PM
To: Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>
Cc: David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>
Subject: RE: Call Thursday

OK with me.

From: Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>
Sent: Tuesday, June 29, 2021 5:20 PM
To: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>
Cc: David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>
Subject: Call Thursday

Ted - Would Zoom work for you for our call Thursday? It might be helpful to be able to share images.

Courtney

Courtney Kaylor
Partner

McCullough Hill Leary, ps
701 Fifth Avenue, Suite 6600
Seattle, Washington 98104
Cell: 206.790.6164
Tel: 206.812.3388
Direct: 206.812.3379
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Motion for Issuance of SDT v.2.docx

22K

RE: Ex Parte Motion for Issuance of Subpoenas (REVISED)

1 message

Ted Coulson <coule@schweetlaw.com>

Thu, Jul 1, 2021 at 5:59 PM

To: Courtney Kaylor <courtney@mhseattle.com>, "Edlund-Cho, Galen" <Galen.Edlund-Cho@seattle.gov>

Cc: Jeanne Coulson <mjeannecoulson@gmail.com>, "tomb@ghdarch.com" <tomb@ghdarch.com>, Maddi Warnock <mwarnock@mhseattle.com>, David Carpman <dcarpman@mhseattle.com>, Jack McCullough <jack@mhseattle.com>, "Ikstrums, Erika" <Erika.Ikstrums@seattle.gov>, "Houston, MichaelT" <MichaelT.Houston@seattle.gov>, Margaret Boyle <margaret@boylemartin.com>

I believe the subpoenas requested are tailored to appropriate discovery on the precise issues in the appeal and to the proper entities that can produce the discovery. I am the authorized representative of MCC, myself, and several neighbors interested in an issue very important to the community, not the attorney of record for this group, which would allow issuance of subpoenas myself. The ex parte motion of HR 3.12 appears to be designed to expedite discovery and level the playing field, not to allow unnecessary delays and pleadings to impede discovery. In this case, HR 2.16, a general rule, would not seem to apply to the specific procedures of HR 3.12 and CR 26(i).

I do not believe Ms. Kaylor has consulted with me on her objections. I did not, nor do I, make any representations about her good faith or not.

Thank you,

Edward R. (Ted) Coulson

Authorized Representative of Appellant MCC and Others

206-053-2579

From: Courtney Kaylor <courtney@mhseattle.com>**Sent:** Thursday, July 1, 2021 5:33 PM**To:** Ted Coulson <coule@schweetlaw.com>; Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>**Cc:** Jeanne Coulson <mjeannecoulson@gmail.com>; tomb@ghdarch.com; Maddi Warnock <mwarnock@mhseattle.com>; David Carpman <dcarpman@mhseattle.com>; Jack McCullough <jack@mhseattle.com>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov>; Houston, MichaelT <MichaelT.Houston@seattle.gov>; Margaret Boyle <margaret@boylemartin.com>**Subject:** RE: Ex Parte Motion for Issuance of Subpoenas (REVISED)

All – To set the record straight, I provided Mr. Coulson with my written objections to the extremely broad scope of discovery today, at 3:08 pm. He provided no substantive response, but at 3:49 pm requested I call him. He then filed his motion at 4:54 pm. It is a misrepresentation to imply I have not consulted in good faith.

Mr. Coulson has chosen to file a motion, whether required or not. The Hearing Examiner rules provide for a response opportunity to all motions. HER 2.16.

Courtney Kaylor
Partner

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From: Ted Coulson <coule@schweetlaw.com>
Sent: Thursday, July 1, 2021 5:25 PM
To: Courtney Kaylor <courtney@mhseattle.com>; Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Cc: Jeanne Coulson <mjeannecoulson@gmail.com>; tomb@ghdarch.com; Maddi Warnock <mwarnock@mhseattle.com>; David Carpman <dcarpman@mhseattle.com>; Jack McCullough <jack@mhseattle.com>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov>; Houston, MichaelT <MichaelT.Houston@seattle.gov>; Margaret Boyle <margaret@boylemartin.com>
Subject: RE: Ex Parte Motion for Issuance of Subpoenas (REVISED)

Hi Galen:

MCC and the rest of my group of course disagree. Prior to filing the motion, I invited Ms. Kaylor to discuss any objections with me after she cancelled a scheduled conference call this afternoon less than an hour before the call. I invited Ms. Kaylor to give me a call to discuss her objections, but have not heard from her.

Ms. Kaylor is attorney of record solely for Oceanstar, LLC, the Applicant. I do not see that the rules provide for a responsive brief to an ex parte motion. HR 3.12(f) provides that unless otherwise allowed, any motion to limit or quash a subpoena shall be filed within 5 days after the date the subpoena was received. Prior to bringing such a motion, or trying to avoid the rule by asking for time to file a responsive brief, CR 26(i), applicable by HR 1.03(c), requires Ms. Kaylor to schedule a conference of counsel. I of course look forward to the conference and will participate in good faith, as I assume Ms. Kaylor will.

Unfortunately, given the fast approaching case deadlines and delays from the motion to dismiss, time is of the essence and threatens MCC's ability to proceed with its appeal, so MCC objects to briefing outside the rules.

Please let me know if you have any questions or need any additional information from me.

Thanks,

Edward R. (Ted) Coulson
206-953-2579

From: Courtney Kaylor <courtney@mhtseattle.com>
Sent: Thursday, July 1, 2021 5:04 PM
To: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Cc: Jeanne Coulson <mjeannecoulson@gmail.com>; tomb@ghdarch.com; Maddi Warnock <mwarnock@mhseattle.com>; David Carpman <dcarpman@mhseattle.com>; Jack McCullough <jack@mhseattle.com>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov>; Houston, MichaelT <MichaelT.Houston@seattle.gov>; Margaret Boyle <margaret@boylemartin.com>; Ted Coulson <coule@schweetlaw.com>
Subject: RE: Ex Parte Motion for Issuance of Subpoenas (REVISED)

Mr. Edlund-Cho – The Applicant would appreciate the opportunity to file a responsive brief on the schedule provided in the Hearing Examiner rules before the Examiner rules, since the requested discovery is burdensome and requests information far outside the scope of this appeal.

Courtney Kaylor
Partner

McCULLOUGH HILL LEARY, PS
701 Fifth Avenue, Suite 6600
Seattle, Washington 98104

Cell: 206.790.6164
Tel: 206.812.3388

Direct: 206.812.3379
Fax: 206.812.3389
courtney@mhseattle.com

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From: Ted Coulson <coule@schweetlaw.com>

Sent: Thursday, July 1, 2021 4:54 PM

To: Margaret Boyle <margaret@boylemartin.com>; Houston, MichaelT <MichaelT.Houston@seattle.gov>; Ikstrums, Erika <Erika.Ikstrums@seattle.gov>; Jack McCullough <jack@mhseattle.com>; Courtney Kaylor <courtney@mhseattle.com>; David Carpman <dcarpman@mhseattle.com>; Maddi Warnock <mwarnock@mhseattle.com>; tomb@ghdarch.com

Cc: Jeanne Coulson <mjeannecoulson@gmail.com>

Subject: Ex Parte Motion for Issuance of Subpoenas (REVISED)

Howdy:

Here is an Ex Parte Motion for Issuance of Subpoenas (REVISED) which is being filed with the Hearing Examiner. Given the problems in the past, please let me know if you have any problems opening the document.

Thanks,

Edward R (Ted) Coulson

206-953-2579

FW: MCC appeal - discovery

1 message

Ted Coulson <coule@schweetlaw.com>

Tue, Jul 13, 2021 at 9:44 PM

To: Jeanne Coulson <mjeannecoulson@gmail.com>

From: Ted Coulson
Sent: Thursday, July 8, 2021 5:32 PM
To: Courtney Kaylor <courtney@mhseattle.com>
Cc: David Carpman <dcarpman@mhseattle.com>
Subject: RE: MCC appeal - discovery

Hi Courtney:

Thank you for your email. My comments are in CAPITAL letters below.

Thanks,

Ted Coulson

From: Courtney Kaylor <courtney@mhseattle.com<mailto:courtney@mhseattle.com>>
Sent: Wednesday, July 7, 2021 2:40 PM
To: Ted Coulson <coule@schweetlaw.com<mailto:coule@schweetlaw.com>>
Cc: David Carpman <dcarpman@mhseattle.com<mailto:dcarpman@mhseattle.com>>
Subject: MCC appeal - discovery

Hello Ted - I'm following up on discovery in this matter. As you are aware, we have a disagreement about the appropriate scope of subpoenas for documents, which you have tendered to the Examiner. The Examiner will rule on that, but meanwhile, if we can come to an agreement about a request for documents that are related to the remaining issues in the case and not unduly burdensome for my client to produce, I would be happy to work with you to do that. To that end, more specific information about what you are looking for and how it relates to the remaining live issues would be helpful. GIVEN THE WAY YOU HAVE CHOSEN TO PROCEED, CANCELLING OUR SCHEDULED DISCOVERY CONFERENCE AND REQUESTING A BRIEFING SCHEDULE INSTEAD, GIVES ME LITTLE REASON TO BELIEVE YOU ARE WILLING TO CHANGE YOUR POSITION. I BELIEVE THE SUBPOENAS ARE DIRECTED TO THE PRECISE ISSUES IN THE APPEAL AND REASONABLE IN SCOPE. SO, UNFORTUNATELY, WE WILL WAIT FOR THE HEARING EXAMINER TO GUIDE US ON THAT. IF YOU ARE WILLING TO CHANGE YOUR POSITION, THEN PLEASE LET ME KNOW.

With regard to depositions, at this time I do not believe that the depositions of Bob Desautel or Walter Kuhr are necessary. The individual owners' use of the homes is not relevant to this permit appeal. With regard to views and any other potential impact to adjacent properties, Bob and Walter are commercial fishermen, not architects or lawyers, and they rely on their professional consultants (and attorneys) to address these issues. I DISAGREE. AT THE VERY LEAST, MR. DESAUTEL AND MR. KUHR HAVE KNOWLEDGE CONCERNING THE VERACITY OF REPRESENTATIONS MADE BY OCEANSTAR'S REPRESENTATIVES AT THE PUBLIC MEETINGS FOR THE PROJECT, KNOWLEDGE RELATING TO THE ALLEGATIONS IN MCC'S APPEAL, KNOWLEDGE AND ACTIONS RELATED TO THE VARIOUS RESTRICTIONS ON THE PROPERTY, AND THE DESIGN, USE AND POSSIBLE DISPOSITION OF THE BUILDINGS.

Two of those consultants - Eric Drivdahl and Tom Brown - are holding dates for depositions. I WAS ACTUALLY SURPRISED BY YOUR CONTACT WITH MR. DRIVDAHL AND MR. BROWN. I HAVE A CALL INTO BOTH OF THEM TO HANDLE THE SCHEDULING OF THEIR DEPOSITIONS, PLEASE DO NOT INTERFERE. However, before we agree to these, we need to reach agreement on the scope of the questions. Under the Examiner rules these need to be relevant to pending appeal issues and reasonable in scope. Can you please identify the topics you expect to cover with them? THE TOPICS OF THE QUESTIONS WILL RELATE TO THEIR BACKGROUND, THEIR WORK ON THE PROJECT, AND THE BASES AND DECISIONS MADE WITH RESPECT TO ISSUES IN THE APPEAL, AMONG OTHERS. Assuming we can reach agreement on scope, at this time, Eric Drivdahl is holding July 22. Tom Brown is holding the July 20 and 22. Please confirm that these dates work for you. AS I HAVE TOLD YOU SINCE OUR FIRST DISCOVERY CONFERENCE, I WANT TO HAVE RESPONSIVE DOCUMENTS PRIOR TO TAKING THESE

EXHIBIT 5

DEPOSITIONS, SO IT SEEMS A WASTE OF TIME AT THIS PIONT TO HOLD DATES. As we discussed, they (and I) are available for Zoom depositions only at this time. I WILL NOTE THESE DEPOSITIONS FOR IN PERSON, WHICH WILL BE MUCH MORE EFFICIENT AND COST EFFECTIVE THAN ZOOM DEPOS. ACCORDING TO LAWYERS AND COURT REPORTERS I HAVE SPOKEN WITH, MORE AND MORE DEPOSITIONS ARE BEING CONDUCTED IN PERSON, JUST AS YOUR CLIENT AND ARCHITECTS ARE BACK TO IN PERSON EVENTS AND MEETINGS, RESPECTIVELY. WHAT ARE YOUR OBJECTIONS? These expert witnesses will need to be compensated by your client for their time. I DISAGREE. SEE, PAIYA V. DURHAM CONSTRUCTION COMPANY, INC., 69 WN APP 578 , 579-580 (1993) ("PROFESSIONALS WHO ACQUIRE OR DEVELOP FACTS NOT IN ANTICIPATION OF LITIGATION ARE NOT ENTITLED TO EXPERT WITNESS FEES.") WHAT AUTHORITY DO YOU CLAIM SUPPORTS YOUR POSITION? Since they are both with the same architecture firm and working on the same project, their knowledge substantially overlaps. This is your choice, of course, but if your clients would like to save money by deposing only one of them, please let me know so I can tell the other to release his hold on the deposition date.

Courtney

Courtney Kaylor

Partner

McCullough Hill Leary, ps

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FW: Admiral's House Project MUP 20-016 Public Records Request

1 message

Ted Coulson <coule@schweetlaw.com>

Tue, Jul 13, 2021 at 10:07 AM

To: Jeanne Coulson <mjeannecoulson@gmail.com>

From: Doherty, Erin <Erin.Doherty@seattle.gov>

Sent: Friday, July 9, 2021 4:58 PM

To: Ted Coulson <coule@schweetlaw.com>

Cc: Jeanne Coulson <mjeannecoulson@gmail.com>

Subject: RE: Admiral's House Project MUP 20-016 Public Records Request

Mr. Coulson:

Would you please confirm receipt due to the size of the attachment?

I have reviewed my hardcopy files and electronic files; the attachments include:

- * Emails I have related to this project.
- * Documents I printed and made notations on back in September 2019.
- * A plan set I downloaded from the Seattle Services Portal in September 2019; dated 05/10/2019.
- * A meeting from my calendar for 10/22/2019.

These are drawings I reviewed informally in September 2019 of my own initiative, to see if any portion of the project area of work overlapped the landmark boundary, and I did not see any.

My recollection is that the 10/22/2019 meeting was with Jack McCullough (McCullough Hill Leary PS) to follow up to my email inquiry of 9/30/2019. I do not have notes from this meeting, but my recollection was that Mr. McCullough confirmed verbally that if the project team were to propose any alterations or changes to the landmarked site they would communicate with me to acquire any necessary approvals. To date they have not submitted any scope of work for me to review related to 3028072-LU.

Erin

Erin Doherty

Coordinator, Historic Preservation

Landmarks Preservation Board

Sand Point Naval Air Station Landmark District

Office: 206.684.0380

Street Address: Seattle City Hall, 600 4th Avenue - 4th Floor, Seattle WA 98104

Mailing Address: PO Box 94649, Seattle WA 98124-4649

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From: Ted Coulson <coule@schweetlaw.com>

Sent: Tuesday, July 06, 2021 5:11 PM

To: Doherty, Erin <Erin.Doherty@seattle.gov>
Cc: Jeanne Coulson <mjeannecoulson@gmail.com>
Subject: Admiral's House Project MUP 20-016 Public Records Request

CAUTION: External Email
Hi Erin:

Thank you for speaking with me today. As you know, my wife and I, several other Magnolia residents, and the Magnolia Community Council are appealing the conditional use permit granted by SDCI to Oceanstar, LLC for the proposed construction of two buildings on the Admiral's House property (the "Project"). The Project is SDCI file number 3028072-LU, and the Hearing Examiner file number is 20-016.

I request that you send me copies of any written materials submitted to or issued by the Seattle Department of Neighborhoods ("Department") and all written communications regarding the Project in the Department's files. This request includes any notes you may have taken during a meeting with Oceanstar's attorney, Jack McCullough, several years ago, or notes you made of any other meetings regarding the Project) or any other written materials in the Department's files.

There are some rapidly approaching exhibit disclosure deadlines in the appeal, so I appreciate any efforts you can make to expedite your response to this request. Please call or write if you have any questions, concerns, or need any additional information.

Thank you,

Edward R. (Ted) Coulson
206-953-2579

2 attachments



**Seattle
Neighborhoods**
HISTORIC PRESERVATION

image001.png
29K



AdmiralsHouse_3028072-LU.zip
18030K

Ted Coulson

From: Doherty, Erin
Sent: Monday, September 30, 2019 1:21 PM
To: McCullough, Jack
Subject: Admiral's House

Jack:

I was contacted last week by a member of the public regarding a design meeting for development at or behind the Admiral's House landmark property.

I recall that I met with you and a representative for the ownership a year or two ago to review a site plan. I had thought we would be meeting again to review this before the project was moving forward. But as it is now clearly proceeding, I recommend that we sit down to discuss what is proposed in more detail.

It appears that the two houses are intended to be built outside of the designated property boundary, but there may be some site alterations and/or construction means that directly impact the landmark.

I look forward to an opportunity to discuss the project. I may have some time later this week, or we can look at later in October, from the 17th onward.

Thank you.

Erin

Erin Doherty
Coordinator, Historic Preservation
Landmarks Preservation Board
Sand Point Naval Air Station Landmark District
Office: 206.684.0380
Street Address: Seattle City Hall, 600 4th Avenue - 4th Floor, Seattle WA 98104
Mailing Address: PO Box 94649, Seattle WA 98124-4649
seattle.gov/neighborhoods



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