

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

In the Matter of the Appeal of

Hearing Examiner File:  
**MUP-22-010 (SE, SU)**

**HARIS HODZIC**

Departure Reference  
3038863-LU

from a decision by the Director,  
Seattle Department of Construction  
and Inspections

**ORDER ON MOTION TO  
DISMISS**

The Seattle Department of Construction and Inspections (“Department”) moved to dismiss MUP 22-010. Appellant Haris Hodzic responded to the motion to dismiss.<sup>1</sup>

The Hearing Examiner’s jurisdiction is established by ordinance and further refined by the Hearing Examiner Rules of Practice and Procedure (“HERs”). The duties of the Hearing Examiner are identified in SMC 3.02.115.B, which provides (emphasis added):

It shall be the duty of such Hearing Examiner to conduct hearings on appeals concerning the granting, denial, revocation, suspension or amendment of licenses, and to make investigations and hear **appeals**, protests and other matters relating to licenses, **all as prescribed by and in accordance with ordinances providing for such appeals**, protests, or other matters and this Administrative Code of the City. Written decisions of the Hearing Examiner made pursuant to such hearings shall be final, and the affected departments shall implement such decisions in accordance with the provisions of the Administrative Code and other applicable ordinances of the City.<sup>2</sup>

Under SMC 3.02.115.B, the Hearing Examiner can only hear appeals that comply with prescribed appeal ordinances. In addition, HER 3.02.a controls dismissal and provides: “An appeal may be dismissed without a hearing if the Hearing Examiner determines that it fails to state a claim for which the Hearing Examiner has jurisdiction to grant relief or is without merit on its face, frivolous, or brought merely to secure delay.”

---

<sup>1</sup> The Applicant Jim Rockwell filed materials characterized as a motion to dismiss, but the document attempts to introduce unsupported evidence in advance of a hearing and opinion statements that do not meet the standard to be considered for a motion to dismiss. Therefore, the Applicant’s submission was not considered by the Hearing Examiner, and has no bearing on this decision.

<sup>2</sup> “‘License’ includes the whole or part of any **agency permit**, certificate, **approval**, registration, or any form of permission required by law, including agency rules, to engage in any activity, but does not include a license required solely for revenue purposes.” SMC 3.02.020.D (emphasis added).

**MUP 22-010**  
**ORDER ON MOTION TO DISMISS**

The Department moved for dismissal on the basis that the appeal “presents issues beyond the jurisdiction of the Examiner in this matter and makes a claim without merit and irrelevant to the Special Exception decision.” The Department argued that the appeal is outside the scope of the Special Exception Type II review, as its issues concern whether the subject property meets minimum lot area requirements for consideration as a legal lot.

The appeal requests review of the subject property’s legal description based on the contention that a portion of the lot should have been previously dedicated to the City for right of way purposes. This issue is outside the scope of a Type II Special Exception, and is therefore not within the jurisdiction of the Hearing Examiner to hear. The Appellant does not address this issue in his response to the motion, and the appeal should be dismissed on this basis.

The Appellant requests that his appeal be considered a Code Interpretation Request pursuant to SMC 23.88.020.C.3.c filed at the time of the appeal of the underlying Type II land use decision. However, the appeal in and of itself does not meet the requirements of SMC 23.88.020.C.3.c – in the absence of the proper filing of an interpretation the Examiner may not consider the appeal a Code Interpretation Request.

**ORDER**

The appeal of MUP-22-010 is **DISMISSED**.

Entered December 8, 2022.

          /s/Ryan Vancil            
Ryan Vancil, Hearing Examiner

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

**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 **ORDER ON MOTION TO DISMISS** to each person listed below, or on the attached mailing list, in the matter of **HARIS HODZIC** Hearing Examiner File: **MUP-22-010 (SE, SU)** in the manner indicated.

<b>Party</b>	<b>Method of Service</b>
<b>Appellant</b> Haris Hodzic <a href="mailto:Haris.Hodzic@gmail.com">Haris.Hodzic@gmail.com</a>	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>Applicant</b> Mike Rayburn <a href="mailto:mbrarch@comcast.net">mbrarch@comcast.net</a>  Jim Rockwell <a href="mailto:jimrockwell@yahoo.com">jimrockwell@yahoo.com</a>	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>Department</b> Michael Houston SDCI <a href="mailto:MichaelT.Houston@seattle.gov">MichaelT.Houston@seattle.gov</a>	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

Dated: December 8, 2022

/s/ Angela Oberhansly

Angela Oberhansly, Legal Assistant