

**BEFORE THE HEARING EXAMINER  
City of Seattle**

In the Matter of the Appeal of	)	Hearing Examiner File:
	)	
<b>DENNIS SAXMAN, et al.,</b>	)	<b>W-13-008</b>
	)	
from a SEPA Determination by the Director, Department of Planning and Development	)	<b>CITY'S OBJECTIONS TO SPECIFIC EXHIBITS LISTED BY APPELLANTS AND PROPOSED ADDITION OF TWO FURTHER EXHIBITS</b>
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In the hearing on this matter that began on January 7, 2014, the Hearing Examiner asked that the Department of Planning and Development (DPD) submit its objections to certain exhibits offered by the appellants at hearing and listed by them in their prehearing submittal of December 16, 2013. DPD has reviewed the appellants' exhibit list and copies of the specific exhibits that they have provided. Each exhibit that DPD objects to is listed below using the appellants' exhibit number and the page number or numbers that they have further used to identify that exhibit in their exhibit book, followed by a brief statement of the objection. In its objections, DPD relies on Hearing Examiner Rule (HER) 2.17 (a) and (b). These rules require that evidence must be relevant to the issue on appeal and have probative value. Evidence that is irrelevant, immaterial, or unduly repetitive may be excluded. DPD also objects to appellants' proposal to add two more exhibits in a statement filed with the Examiner on January 8, 2014. The following exhibits should therefore be excluded under HER 2.17 (a) and (b):

1. Exhibit 4, pages 150-156, King County Buildable Lands Report: This is irrelevant and lacks probative value, since Seattle has its own development capacity model and, in any case, the proposed legislation has no effect on development capacity.
2. Exhibit 7, pages 159-161, Article about Bellevue Boarding Houses: Irrelevant and lacking probative value, as it concerns another jurisdiction with different existing Code requirements. Further, the concepts and policies concerning micro-housing, congregate residencies, and boarding houses are beyond the scope of the current SEPA hearing.
3. Exhibit 11, pages 172-175, Article about Seattle's apartment boom: Irrelevant and lacking in probative value, and immaterial in that the economics of multifamily development are not at issue.
4. Exhibits 20-24, pages 191-215, documents and Code interpretation relating to 741 Harvard Avenue East: Irrelevant and lacking probative value, as these documents relate to interpretation of current Code as applied to a specific property and specific facts. How DPD interprets current Code for a specific site has nothing to do with potential environmental impacts of proposed legislation.

5. Exhibit 25, pages 216-342, miscellaneous DPD correction notices: The substantial collection of DPD correction notices is irrelevant and unduly repetitive, and has no probative value in this appeal of SEPA analysis. These corrections all relate to analysis of the Seattle Building Code as applied to many different projects. Whether DPD is consistent in its interpretations of the Building Code is not an issue before the Examiner, nor is this information relevant to Land Use Code amendments to micro-housing regulation, nor is the current SEPA hearing about interpretation or application of the Building Code. Any connection to the current SEPA review is remote and speculative at best.
6. Exhibit 31, page 362, newspaper interview with Jim Potter: Irrelevant. This is outside the scope of review.
7. Exhibit 33, pages 365-366, Printout from San Diego Development Services Department: Irrelevant and lacking probative value, as it concerns another city's Codes and factual matters that are likely not the same as Seattle.
8. Exhibit 34, pages 367-369, article concerning San Diego restriction on mini dorms: As with item 7 above, this is irrelevant and lacks probative value, concerning another city's regulations that are likely different than Seattle and may concern different issues.
9. Exhibit 35, pages 371-376, Supplement DPD interpretation re. 741 Harvard Avenue East: See item 4 above.
10. Exhibit 38, page 382, e-mail from Rick Lupton to Randall Spaan: Irrelevant for the same reasons as item 5.
11. Exhibit 43, pages 393-395, FlameGuard instructions: This is irrelevant and lacks probative value. DPD's administration and application of its Building Codes is not on trial. Further, proper evaluation by the Examiner of such issues, even if relevant, would require much more documentation than a few anecdotes chosen by appellants, without any responsive evidence that DPD should not be required to provide in a SEPA hearing on land use legislation.
12. Exhibit 45, pages 397-408, San Diego Ordinance: Irrelevant per items 7 and 8 above.
13. In addition, DPD object to the submittal by appellants of additional exhibits on January 8, 2014, on the same basis as it objected to additional exhibits propounded by these appellants on December 23, 2013. Please see DPD's argument on page 3 of its response document filed December 30, 2013. There is no reasonable excuse for continuing to file proposed exhibits in the midst of the hearing, when those exhibits could have been filed on December 16.

Entered this 8<sup>th</sup> day of January, 2014.

  
William K. Mills, Senior Land Use Planner  
Department of Planning and Development

cc. Chris Leman, appellants' representative