

**BEFORE THE HEARING EXAMINER
City of Seattle**

In the Matter of the Appeal of)	Hearing Examiner File:
DENNIS SAXMAN, et al.,)	W-13-008
from a SEPA Determination by the Director, Department of Planning and Development)	CITY’S OBJECTIONS TO APPELLANTS SUBMISSION OF EXHIBIT AND REQUEST FOR DPD RESPONSE

The Department of Planning and Development (DPD) files this response to appellants’ submittal of an additional exhibit on January 22, 2014, nearly two weeks after the close of the hearing. It is not clear that the Hearing Examiner left the record open for any purpose other than to receive argument (see Hearing Examiner Rule (HER) 2.21(a)), but if the exhibit is possibly subject to review for admissibility then DPD offers this response as rebuttal argument under HER 2.21(b).

The appellant submitted two documents on January 22. The first document is in the form of a motion and seeks to have the Examiner admit an additional exhibit and to elicit a response from DPD on what the appellants characterize as an “apparent contradiction” in “DPD policy”. The second document is represented as a new “exhibit” that is purportedly a document entitled “Cycle 2 Corrections for Zoning” and is supposed to relate to property at 2820 Eastlake Avenue East. What was actually submitted to the Examiner seems to be a repeat copy of a document filed during the hearing and entitled “Appellants’ response to City’s objections to specific exhibits”.

Regardless of what the appellants believed they were submitting, their motion and any further exhibits are not timely and the submittal should be denied by the Examiner, either because the record is closed or because the document could have been submitted at hearing. The appellants assert that they were “surprised” by DPD testimony at the hearing concerning design and arrangement of congregate residences, including placement of kitchens and sinks. However, the DPD witness Mr. Wentlandt was subject to cross examination on this issue and many other issues by appellants’ representative, so it is not as if the appellants were denied their right to hear the DPD testimony and ask whatever questions they wished.

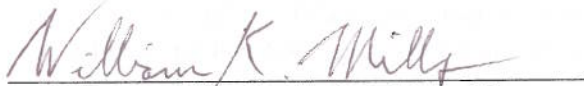
Further, assuming the correction notice is what the appellants indicate in their motion document, even though their exhibit is something else, it does not contradict the DPD testimony at hearing about congregate residences. In fact, such a correction notice is an indicator of the thorough work that DPD employees carry out to ensure that existing Codes are properly interpreted and implemented. The subject of design and arrangement

of congregate residences is discussed in detail in DPD's closing statement in this hearing at pages 5 and 6 and will not be repeated here in detail.

However, it is standard practice in reviewing any residential development project to determine how that project is designed and arranged, and what category of use it fits into. There was testimony at hearing about how residential uses are defined, including individual apartments, congregate residences, single family residences, and arrangements of rooms around common kitchens and common living space that are described as micros or micro-housing but are presently undefined in the Code. In reviewing proposals for congregate residences, DPD reviewers must determine that they are distinguishable from apartment development comprised of individual complete dwelling units. Correction notices involving placement of kitchens, sinks, and other features including common areas, total numbers of sleeping rooms, and locations of entrances are common. Such inquiries are part of plan review, but the proposed legislation will establish more specific standards than under current regulations.

There is nothing in the subject DPD correction notice that suggests any inconsistency between DPD testimony at the hearing and DPD's application of existing regulations or that offers any relevant information about environmental impacts that may be attributable to the proposed legislation under review in the current hearing. The admission of any additional exhibit into the extensive record developed at the hearing should be denied.

Entered this 23rd day of January, 2014.



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

cc. Chris Leman, appellants' representative