

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

SEATTLE PARKS AND RECREATION,

from a denial of a Certificate of Approval by
the Pike Place Market Historical Commission

Hearing Examiner Files:
R-24-001

**ORDER ON MOTION TO
INTERVENE**

Seattle Parks and Recreation appealed a Pike Place Market Historical Commission decision. Friends of the Market requested intervention. Seattle Parks and Recreation opposed the request. The Historical Commission took no position.

The Hearing Examiner Rules of Practice and Procedure allow for timely intervention by parties with a “substantial interest” in a matter if the existing parties do not adequately represent them.¹ No hearing has been set, so the motion is timely.²

Friends demonstrated it has a substantial interest in the appeal. It has a long-standing interest in the Pike Place Market Historical District and in this appeal addressing treatment of the Victor Steinbrueck Park totem poles. In 1971, Friends led the initiative to save the Market and establish the District and Pike Place Market Historical Commission. Friends has been involved in this project’s review and is concerned with the appeal’s subject matter and in how Commission processes are addressed on appeal.

The Commission does not represent Friends’ interests. While two of the Commission’s members are from Friends (SMC 25.24.030.A), and Friends’ Board of Directors includes former Commission members, their respective interests are distinct. The Commission is a 12-member body, with individuals appointed from various interest groups, including merchants, architects, residents, and others.

The Commission shall be composed of two representatives from the Friends of the Market, Inc. (positions 1 and 2), two architects (positions 3 and 4), two merchants of the Market (positions 5 and 6), two residents of the Historical District (positions 7 and 8), one owner of property within the Historical District (position 9), two representatives of Allied Arts of Seattle, Inc. (positions 10 and 11), and one representative that shall be appointed without regard to occupation or affiliation (position 12).³

¹HER 5.09(b).

² HER 5.09(b).

³ SMC 25.24.030.A.

Due to its varied composition, Commission positions will not necessarily align with Friends. If that were so, its commissioners would not be appointed from such a wide range of entities. Also, the Commission functions as an adjudicative body while Friends is an advocacy group. A hearing body takes a neutral decision-making stance in considering a project against adopted regulations, while an advocacy group takes positions based on its view of how best to achieve its policy aims. These functions are different. Due to these structural differences, the Commission does not adequately represent Friends.

Friends detailed how, generally, and with respect to this project specifically, the two bodies' interests diverge. By code, the Commission is supported by the Department of Neighborhoods. Friends explained that through policy and legislative positions taken before the Council, the Department of Neighborhoods has identified resource constraints. Friends stated that partly due to these constraints, it, rather than the Department of Neighborhoods, presented key facts on the proposal to the Commission.


In addition to interest alignment, the Examiner considers "whether intervention will promote resolution of the appeal on its merits, unduly delay the hearing process, expand the issues beyond those stated in the appeal, or prejudice a party."⁴ Friends is not seeking to add to the issues or delay the hearing process, Friends seeks resolution on the merits, and no prejudice has been shown.

The rules provide discretion to the Examiner to limit intervenor participation.⁵ However, given how early in the proceedings the motion was filed, which was well before the prehearing conference, intervention is not likely to delay the proceedings. Applicable deadlines and hearing procedures will be addressed at the prehearing conference.

ORDER

The intervention motion is **GRANTED**.

Entered February 13, 2024.



Susan Drummond, Deputy Hearing Examiner

⁴ HER 5.09(c).

⁵ HER 5.09(c).

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on the date below I sent true and correct copies of the attached **ORDER ON MOTION TO INTERVENE** to each person below in **Seattle Parks and Recreation**, Hearing Examiner File **R-24-001** in the manner indicated.

| Party | Method of Service |
|---|--|
| <p>Respondent Legal Counsel Pike Place Market Historical Commission City Attorney’s Office</p> <p>Daniel Mitchell daniel.mitchell@seattle.gov</p> <p>Commission Liaison, Department of Neighborhoods:</p> <ul style="list-style-type: none"> • Minh Chau Le, minhchau.le@seattle.gov • Department: Sarah Sodt sarah.sodt@seattle.gov | <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger |
| <p>Appellant Legal Counsel Seattle Parks and Recreation City Attorney’s Office</p> <p>Maxwell Burke maxwell.burke@seattle.gov</p> <p>Parks Department:</p> <ul style="list-style-type: none"> • David Graves david.graves@seattle.gov | <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger |
| <p>Friends of the Market, Intervenor</p> <p>Margaret Pihl margaretpihl1@gmail.com</p> | <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger |

Dated: February 13, 2024

/s/ Angela Oberhansly
Angela Oberhansly
Legal Assistant