

**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 File R-24-001

**RESPONSE TO MOTION TO AMEND
AND
REPLY REGARDING MOTION TO DISMISS**

I. Introduction

Seattle Parks and Recreation’s (“SPR’s”) Motion to Amend should be denied. It is inexcusably late, and is intended to create a basis for appeal where no basis existed in the appeal that was timely filed, in violation of Hearing Examiner rules 5.01(d) and 5.07.

Even if the Motion to Amend were granted, Friends of the Market’s (Friends) Motion to Dismiss should be granted. At most the amended appeal states a basis under which the Market Historical Commission may have had discretion to ignore the unequivocal language of Pike Place Market Historical Commission Revised Guidelines, Section 2.12, which provides that “the Park’s character-defining features [which include the totem poles here in question] should be retained and should not be altered, disguised or concealed.” The Hearing Examiner does not have jurisdiction to reverse an exercise of the Commission’s discretion.

At most, the requirement of SMC 25.24.030D that the Commission apply a “racial equity lens” to its decisions requires that racial equity be a factor the Commission considers. As the Commission’s decision reflects, the Commission received written comments from 26 members of the public – with 25 supporting retention and reinstallation of the poles, and 1 opposed. Attached are 10 of the supporting letters that explicitly address racial equity, and the one opposing letter.¹ It is clear that in the face of that record, the Commission did consider the issue of racial equity and it was fully within its discretion to deny SPR’s request that the poles be removed. The important point for purposes of this motion is that the Examiner has no jurisdiction to reverse a Commission’s decision that is within the Commission’s discretion. The Examiner is only entitled to reverse a Commission decision if it is in violation of SMC Ch. 25.24, the rules, regulations or guidelines adopted pursuant to the authority of Chap 25.24, or is procedurally flawed. SMC 25.24.080(D). The amended appeal asks the Examiner to substitute her judgment for that of the Commission as to what is required by racial equity. The Examiner

¹ There were also 19 public comments at the hearing, all but one of which opposed the SPR proposal, however there is no transcript of the hearing, so those comments cannot be presented to the Examiner. Emily Pike, a non-Native person, submitted both the only written comment supporting SPR and the only oral comment supporting SPR.

cannot do that. The appeal as amended still fails to state a claim upon which relief can be granted and should be dismissed.

II. The Motion To Amend Should Be Denied.

If SPR's motion to amend were to be granted, then the ten-day period for filing a proper appeal would become meaningless, and any lay applicant or appellant will have to be granted as much time as they say they need to amend a defective appeal.

The argument in the motion to amend is that the original appeal was filed without benefit of counsel; when SPR's desire for counsel was made known to its current counsel three days after the appeal deadline, it took a few days for the City Attorney's office to establish an ethics screen; and then the City Attorney's office assigned a new lawyer who was about to go on an extended leave, and who did not return until the day before the prehearing conference. Declaration of Maxwell Burke ("Burke"), ¶¶ 3, 4, 7.

The City Attorney's job is to represent all City Departments. Seattle Municipal Charter, Article XII. The City Attorney's office has approximately 130 attorneys on staff.² David Graves, who filed the appeal for SPR, has been a party to at least 18 appeals before the Hearing Examiner since 2015.³ It is inconceivable that SPR did not know it could get a lawyer if it wanted one. Mr. Burke does not say when SPR asked for counsel – he only says he did not learn of the appeal until January 26, which was three days after the appeal deadline. But whether SPR only decided it should ask for a lawyer after it had already filed the appeal, or the City Attorney's office didn't get around to naming him as the lawyer until after the appeal deadline, or there was no one in the City Attorney's office who could handle the matter while Mr. Burke was on leave, if this motion is granted, "I didn't have a lawyer when I drafted the appeal" must hereafter be a viable basis for delay by any appellant. Citizens filing an appeal to the Hearing Examiner cannot be held to a higher standard than City agencies. If this appeal is granted, Hearing Examiner rule 5.01(d) specifying the requirements for an appeal can no longer be applied to judge the adequacy of an appeal because it can always be amended after the appellant gets counsel and that counsel has had an opportunity to review the matter.

Until December 16, 2022 the Hearing Examiner Rules of Practice and Procedure provided:

For good cause shown, the Hearing Examiner may allow an appeal to be amended no later than 10 days after the date on which it was filed. In deciding whether to allow such an amendment, the Hearing Examiner shall consider whether the fair hearing opportunity of other parties would be prejudiced by the amendment.

Former Hearing Examiner rule 3.05.⁴ Rule 5.07 now has no fixed deadline for a motion to

² <https://www.seattle.gov/cityattorney/about-us#:~:text=The%20Seattle%20City%20Attorney's%20Office,law%20office%20in%20the%20state.>

³ See Hearing Examiner files R-24-001, W-23-002, S-21-002, MUP-21-010, MUP-20-018, S-19-001, W-19-004, W-18-011, W-18-010, W-18-004, S-17-002, MUP-17-018, MUP-16-019, S-16-004, S-16-002, S-16-001, W-15-009, and W-15-008

amend, but provides in part:

[F]or good cause shown, the Examiner may allow an appeal to be amended. In deciding whether to allow amendment, the Examiner may consider whether the amendment has been timely filed, ..., or raises jurisdictional issues (e.g., if a party is seeking to add appeal issues not identified in the notice of appeal after the appeal period has expired),...

Although the new hearing examiner's rules were presumably designed to provide somewhat greater flexibility in the timing of an amendment of an appeal, the 10 day limitation on the time for seeking to amend in the prior rules should still provide some measure of what is "timely." Here the motion to amend was filed 49 days after the appeal deadline, 14 days after the motion to dismiss was filed, and 7 days after the prehearing conference. When a motion to amend is filed after a motion to dismiss and after the prehearing conference, it means the motion may need to be recrafted and other parties do not have the ability to properly prepare for the prehearing conference. An amendment after a motion to dismiss is filed and after the prehearing conference should normally be considered untimely.

But the other change in the Hearing Examiner rules is particularly relevant here. It instructs that the Examiner may consider whether the amendment raises jurisdictional issues, such as if a party is "seeking to add appeal issues not identified in the notice of appeal after the appeal period has expired." Hearing Examiner Rule 5.01(d)(3) requires that the appeal contain "a brief statement of the appellant's issues on appeal, noting appellant's specific objections to the decision or action being appealed." (Emphasis added.) Here for the first time the amended notice of appeal states that the Commission did not comply with SMC 25.24.030(D), requiring the Commission to adopt rules and consider its decisions through a "racial equity lens." The appeal as filed did not purport to create jurisdiction, because it did not identify any part of SMC Ch. 25.24 that the decision allegedly violated. The original appeal merely alleged that the Commission would have had discretion to grant SPR's request.

SPR relies on *Boudreaux v. Weyerhaeuser Co.*, 10 Wn. App. 2d 289 (2019) for the proposition that failure to state a claim is not the same thing as lack of jurisdiction. But *Boudreaux* refers to the original jurisdiction of Washington superior courts. The Washington constitution provides that the original jurisdiction of the superior courts is very broad, unless it is restricted by statute. By contrast, the jurisdiction of the hearing examiner to reverse a Commission decision is narrow – limited to only those appeal bases spelled out in SMC 25.24.080(D). Here the amended appeal attempts to come within that narrow scope of jurisdiction – which the original appeal did not pretend to do. When Hearing Examiner Rule 5.07 speaks of "jurisdictional" issues, it explicitly refers to what we have here – an amendment

⁴ A Google search for the Seattle Hearing Examiner rules still yields the prior rules under "Hearing Examiner Rules of Practice and Procedure."
https://www.seattle.gov/Documents/Departments/HearingExaminer/HE%20Rules%20of%20Practice%20and%20Procedure_042414.pdf We would urge the Hearing Examiner to take those rules down from its web site, as they are misleading to the public trying to comply with the rules.

that tries to add issues to an appeal that as originally filed would not provide a basis under which the Hearing Examiner could grant relief and thus did not create appellate jurisdiction.

SPR also argues that its original appeal said it might raise other issues. But that attempted catch-all does not meet the requirements of Rule 5.01(d)(3) – that the appeal must state the specific objections to the decision or action being appealed. Again, while one could argue that citizen appellants should be granted more leeway than a city department filing an appeal, because they may lack the sophistication or resources needed to strictly follow the rules, the converse argument is untenable. If this motion to amend is granted, all future appellants must have the right to file a notice saying nothing within 10 days and then file an amendment to the appeal at some later date when their lawyer finds a basis for the appeal.

III. Even if the Examiner Allows SPR's Untimely Amendment, Friends' Motion to Dismiss Should Be Granted.

As stated above, Pike Place Market Historical Commission Revised Guidelines, Section 2.12 provides that the “character-defining features” of Victor Steinbrueck Park “should be retained and should not be altered, disguised or concealed.” It explicitly includes the totem poles as “character-defining features.” On the face of it, that guideline required the Commission to deny SPR’s request to permanently remove the totem poles. To prevail in its appeal, SPR would have to persuade the Examiner that SMC 25.24.030.D trumps the Commission’s adopted guidelines when it requires the Commission to “use and be accountable to a Racial Equity Lens, a set of questions that considers actual and perceived racial inequities and steps to achieve racial equity for all decisions involving Commission matters,” and that only removal of the totem poles complies with racial equity. Because, if the issue of what racial equity requires in the case is an issue for the discretion of the Commission, the Hearing Examiner has no authority to reverse the Commission’s exercise of that discretion.

Here the Commission clearly did consider the issue of racial equity in requiring that the totem poles be returned to the Park. Although the oral testimony before the Commission is not transcribed, and thus cannot be presented to the Examiner, the written comments submitted are part of the record and can be considered here. As the Commission noted, there were 26 written comments, all but one of which was opposed to SPR’s request. We have attached the 10 of those comments opposing SPR’s request which addressed racial equity issues, as well as the sole written comment supporting SPR’s request.⁵

The Examiner will see that the evidence before the Commission was that the poles were designed by noted Northwest Native artist Professor Marvin Oliver, although they were executed by others as well as him, one of whom was not Native. They honor the City’s long history with

⁵ The Commission also noted that there were 19 public comments made during the hearing, all but one of which opposed SPR’s request. If SPR had a point about racial equity to be made, it apparently did not bring witnesses to the hearing to support that point. It is a fundamental misuse of the Commission process to sandbag the Commission by not presenting the evidence that you want considered, and then present that evidence for the first time on appeal. The same non-Native person, Emily Pike, submitted both the only written comment in support of SPR and the only oral comment in support. The Hearing Examiner should assume that the case made by live witnesses was no stronger than the case made by the sole written comment in support of SPR’s position.

Northwest Native people, as well as the farmers who have supplied the Pike Place Market since its inception. Native people, including noted native artist Preston Singletary, a representative of the Duwamish people, and Professor Oliver's family, were among those who supported retention of the poles.

SPR's objection to the poles appears to be that 1) a non-native individual helped in the actual carving of the poles, 2) totem poles are an art form of native people from Alaska and British Columbia, not the local indigenous tribes, and 3) Victor Steinbrueck, who commissioned the creation of the poles by Professor Oliver, had some role in what they would depict, such as the pole depicting local farmers, not something that would be found in a historic totem pole. Although those are arguments the Commission could consider in exercising its discretion under a racial equity lens, it would potentially result in serious racial inequity if the work of Native American artists must be removed from public display on any of these bases.

- The use of assistants in the rendering the work of great artists dates from at least the Renaissance, with artists such as Verrocchio, and Donatello having large studios where apprentices executed the work they had designed. It continues today, with artists such as Dale Chihuly designing his pieces but employing others to execute the pieces. Under SPR's theory of racial equity, however, artists such as Professor Oliver would have to either execute his own designs or find a native wood carver to execute the design – regardless of whether a non-native wood carver were more available or talented – or the artist's work would not be able to be displayed. That puts a Native artist at a distinct disadvantage to non-Native artists, who can use others to execute their work and can choose the most qualified workers to do so.
- The fact that the indigenous people in the immediate Seattle area did not have totem poles is irrelevant. Seattle has a long, deep relationship to the entire Pacific Northwest, from here to Alaska, which the poles were meant to celebrate. The City of Seattle was the jumping off point to the Alaska and Yukon gold rushes. The Alaska-Yukon-Pacific Exposition of 1909 became a major driver of the development of Seattle. The majority of the salmon thrown in the Pike Place Market comes from Alaska. It would be absurd to hold that the Pike Place Market cannot celebrate that history, because its art must reflect only the artistic traditions of the native people who lived along the Duwamish River.
- Artists have a long history of collaborating with the person who commissions their work in making sure the work expresses the intention of the person doing the commissioning. Professor Oliver may have worked with Victor Steinbrueck to identify what the poles were intending to celebrate – including the local farmers who were the heart of the Market, although farmers would not typically have been figures on totem poles. But to require the poles to be removed in the name of racial equity because Professor Oliver's work reflected Victor Steinbrueck's desire to celebrate the Market's connection to not just the Pacific Northwest but also the farmers who are integral to the Market would deny Professor Oliver the right to work as artists normally do. Again, that would create racial inequity by denying Professor Oliver the right to work with a commissioner the way other artists work.

The term “racial equity lens” is nowhere defined by Seattle code. If it is now left to the Hearing Examiner to define it, the Hearing Examiner can only reverse the Commission’s decision if the Hearing Examiner concludes that a decision to follow the adopted guidelines and restore the poles to Victor Steinbrueck Park was outside the Commission’s discretion. That would mean that the work of one of the most noted Northwest Native artists of the last century can be permanently removed from public display in the name of racial equity, for reasons that would be completely normal for work by another artist who was not a person of color. That stands racial equity on its head, and cannot be the law.

The fundamental point of Friends’ motion to dismiss is that the Hearing Examiner has no jurisdiction to substitute the Examiner’s judgment for that of the Commission on matters within the Commission’s discretion. SPR is asking the Examiner to usurp the Commission’s role, because it doesn’t like how the Commission exercised its discretion. Friends’ motion to dismiss must be granted.

Respectfully submitted this March 22, 2024

Friends of the Market

Margaret Pihl, President

Le, Minh Chau

From: Emily Pike <elaurepike@gmail.com>
Sent: Wednesday, December 13, 2023 11:13 AM
To: Le, Minh Chau
Subject: Victor Steinbreuck Totem Poles

CAUTION: External Email

My name is Emily Pike. I've worked in the Market since 2013, and I'm writing to express my opinion on the proposal from the Parks Department to permanently remove the totem poles from Victor Steinbrueck Park and replace them with new pieces by local artists from Coast Salish tribes:

Remove them. We know that totem poles are not a feature of Coast Salish artwork. Indigenous artists have told us again and again how they are materially impacted by this kind of misrepresentation of their art and culture. It makes it harder for them to market their authentic artwork because customers see it as inauthentic. This diminishes their history and legacy. We are a market of makers—how does it serve the mission of Pike Place to deny local artists an opportunity to accurately present their heritage and ancestry?

By retaining the totem poles as a feature of the park, the Market will perpetuate this cultural misrepresentation and misunderstanding. When visitors come to our city and see those landmarks, they will inevitably come to incorrect conclusions about the native cultures of Puget Sound. It does not honor anyone—not the native people of the area, nor the current Seattle population, nor our thousands of annual visitors, nor Market workers like myself—to lie about the history of this place. As a historical commission, we should be concerned with presenting local history accurately. We should be so proud to welcome this beautiful, generous offer.

If this proposal is denied, it will signal that we are more territorial than we are welcoming; that we are more interested in preserving our own image than in accurately reflecting our community; that we care more about honoring Victor Steinbrueck—whose legacy is stamped all over this Market—than we care about honoring the people who lived here before us, whose land we occupy, whose culture we continue to suppress.

I realize this email is coming a little late. I will be attending in person to express these comments in case they are not received by the Commission in time for review.

Respectfully,
Emily Pike

From: John Turnbull <jhturnbull@gmail.com>
Sent: Monday, December 11, 2023 6:11 PM
To: Le, Minh Chau
Subject: Public comment on the totem poles at Steinbrueck Park

CAUTION: External Email

Minh Chau-

These are my comments. Please have them read to the record. I hope to attend virtually .

December 11, 2023

To: Pike Place Market Historical Commission

Opposition to request for the permanent removal of Steinbrueck Park totem poles

I am writing to communicate my disappointment and objection to the proposal for permanent removal of the two totem poles that were original features of Steinbrueck Park. To eliminate these key design elements with substitutes disregards their history and cultural significance. Frankly, it's an insult to these prominent symbols and the intent of the park designers, Rich Haag and Victor Steinbrueck. Their concept was to provide an interpretive vertical accent for the broad vista, essential to the park design. The totems as public art established a link in a public space between past present and future. They should be restored to sound condition and returned to this site.

The park's designers placed the two poles to vertically frame the view west of the park, over bay and sound to the Olympic Peninsula. One was of a traditional design, emblematic of the indigenous societies of the Pacific Northwest whose lives centered on the abundant resources of maritime Pacific Northwest. The second, less obvious, was for the farmers who provided the resources and sustenance, the human interaction, that made the Market deserving of preservation. When these were installed, both populations – indigenous and local farmers, were threatened and their continued existence was in peril. Victor and Rich wanted to make sure that they would not be forgotten.

I was a participant in the review of this park's initial design and recall well how eloquently Victor and Rich spoke of their desire to create public space used by people, with abundant seating and open space for gatherings. They wanted art that was figurative, not abstract; humble rather than pompous. They chose materials that were of the area – traditional wood and wrought iron. They chose local fabrication, not catalogue items. The images of the "traditional" totem crafted by native artists clearly conveyed stylistic homage to peoples of the maritime area. Less apparent, the Farmer Pole, was derived from the "Lincoln" poles from the previous century, erected as an elevated pedestal for a person of respect.

The meetings of the Historical Commission are now prefaced with an acknowledgement of the importance of the indigenous peoples of our area. The messages of these two totems likewise honor

our shared past and the importance that our forebears have on our life today. If this is an appropriation of a cultural tradition developed elsewhere, it is a good one.

Fortunately local farmers and native peoples are still part of our living culture. These monuments should be preserved as should the values they represent. If there is a desire to bring in commemorative arts more specific to the indigenous culture and heritage of Puget Sound, why not add them to what we have?

Respectfully,

John Turnbull

18153 Riviera Pl SW

Normandy Park WA 98166



Le, Minh Chau

From: Chris Wall <chriswall1@hotmail.com>
Sent: Tuesday, December 12, 2023 3:28 PM
To: Le, Minh Chau
Subject: Victor Steinbrueck Park Totem Poles -public comments

CAUTION: External Email

Dear Market Historic Commissioners,

Thanks for all your efforts to preserve our past for future generations.

Please uphold the terms of the original agreement to temporarily remove and carefully return the two Martin Oliver totem poles to V.S.P. These poles have both historical and cultural importance to our community.

Martin Oliver's Quinault and Isleta-Pueblo heritage and lifetime contribution preserving and educating generations of students and native artists at UW about Northwest Coastal Art and culture is immeasurable. Let's honor the first people of this land upholding our commitment to honor the art of Oliver and so many others who have dedicated themselves to restoration and redemption of the arts and the human spirit. Please don't sacrifice our past making room for the future.

Thank you for all your efforts.

Best regards,
Chris and Sarah Wall

RE: Marvin Oliver Totem Poles
Steinbrueck Park
December 11, 2023
To: The City of Seattle

I am writing to advocate to have the Totem Poles of Marvin Oliver be reinstalled to their original location. The Native carved artifacts should remain where they were installed by Quinault Tribal Artist. The two poles were carved by Quinault Tribal elder, Marvin Oliver, in the 1970's. Marvin was a renowned Coast Salish artist who had a pivotal role of reviving the Native art that was prohibited for centuries through the process of genocide. It would be a travesty not only to his family and his Tribal Nation but to everyone who were blessed to visit the work that only Marvin was capable of. His work is still valued throughout the world, and we should not suffer because someone made a decision for all of our people that live in the Pacific Northwest and those who draw inspiration from his art and his legacy.

These Totem Poles though antiquated are more important than the Native art that is carved today. The legacy he left behind should be honored, respected and restored immediately. The harsh weather of the Pacific Northwest ages our work but we need to restore and preserve them always to ensure that the legacy of Marvin Oliver is honored.

Marvin Oliver was a respected Professor at the University of Washington and taught Native art to people of all backgrounds. I could go on and on about Marvin's accomplishments of his legacy but its not necessary, what is necessary is to restore and reinstall his Totem Poles immediately to ensure that people can visit his work for generations to come.

Please restore and stand Marvin's poles up with pride, so he can continue to be an inspiration to all, and so we can continue learning from his hard work and dedication to our Native culture.

Thank you,

Andy and Ruth Wilbur-Peterson

Le, Minh Chau

From: Ruth Danner <ruthdannerofjuneau@gmail.com>
Sent: Tuesday, December 12, 2023 1:08 PM
To: Le, Minh Chau
Cc: George Danner; Concerned Residents; board@newmarktower Distribution Group
Subject: VSP Totem Poles public comment

CAUTION: External Email

Dear MHC,

SaveTheMarketEntrance.org respectfully requests that MHC uphold the terms of the original agreement to temporarily remove and carefully return the two Martin Oliver totem poles and make a strong statement reaffirming their historical and cultural importance to our community.

Martin Oliver's heritage and contribution to preserving and educating the next generations of native artists is unquestionable. Let us honor the first people of this land by upholding our commitment to honor the work of Oliver and so many others who have dedicated themselves to restoration and redemption of the arts and the human spirit.

Preserve the past and make room for the future. One does not need to be sacrificed for the other.

Thank you for your efforts to act with wisdom in response to the strange, vague, and unsubstantiated request from the Parks Department to replace the poles with some future, unknown TBD.

Below are three sources to support the legitimacy of Martin's right to represent his work as authentic from the University of Washington President, from his daughter, and from his own mouth.



**In memoriam: Marvin Oliver, '73, artist and
professor emeritus**
washington.edu



Intangible Artist Feature: Marvin Oliver
youtube.com

Respectfully,
Ruth Danner, President,

Save the market entrance.org

91,000 strong, and growing in concern for Seattle's future; dedicated to preserving affordability, sustainability, quality of life, and sense of place for all who live, work, and play near the entrance to Pike Place Public Market now, and for generations to come.

Begin forwarded message:

From: Heather Pihl <sunflowerandblueskies@gmail.com>

Date: December 12, 2023 at 11:16:57 AM AKST

To: consultbateman <consultbateman@aol.com>, Ruth Danner <ruthdannerofjuneau@gmail.com>

Cc: Bob Braun <mr@robert-braun.us>

Subject: Fwd: Fw: VSP Totem Poles -

Letter from Marvin's daughter Lisa.

----- Forwarded message -----

----- Forwarded Message -----

From: Lisa Marie Iscan <akeaglearts@gmail.com>
To: "minhchau.le@seattle.gov" <minhchau.le@seattle.gov>
Cc: Marilyn Bard <cranebard@aol.com>
Sent: Tuesday, December 12, 2023 at 06:54:09 AM PST
Subject: VSP Totem Poles -

To Pike Place Market Historical Commission:

I'm writing to you today to urge you to reconsider your position on the Totem poles that were de-installed at Victor Steinbrueck Park. I know the contentious nature of the poles, regarding them as non-native, however you are incorrect. The poles were designed by my father, Marvin Oliver, a Quinault/Isleta Pueblo artist who has made great contributions to the art scene of the city as well as all over the world. His large installations or artwork can be seen daily whether at the Seattle airport, on the State ferry, public parks, city buildings, and even at Children's Hospital. He was a great Seattle Native Artist who was greatly respected in not only the Native Art community but in the art community as a whole. His artwork is part of the fabric of the city. He taught Northwest Coast Native Art at the University of Washington for over 40 years ensuring students understood the importance of the formline and how the positions of the U shapes create the image. He always took care to create work that was following the "rules" of the past of Northwest Coast art while infusing contemporary design. To consider these poles non-native is to discredit not only Marvin's native heritage but his whole portfolio of art throughout the city. These poles are memories that have been forged over many years. They were admired every time someone came to the Seattle waterfront. We do not want to become a city that regurgitates Ferris Wheels and trendy pop up tourist experiences that will no doubt begin to look like every other city in the US. Seattle is unique and should continue to embrace its uniqueness. Seattle's Native Culture has been embraced by the city and we must continue to preserve the history of the waterfront and these totem poles. There is room to include both the past and the future of Native art. You can't move into the future without acknowledging the past. This history is important; these totem poles are important. In a country with such a young age, our oldest monuments are old colonial buildings built on the back of slave labor. You have the opportunity to provide a history to those who may not know what totem poles are and to educate people that Native people are still here and the city should acknowledge this. People who will view them knowing they are almost half a century old will recognize the immense significance they have just by their presence. History must be preserved for future generations. Reinstalling these totem poles are not only a family request but they are a necessary obligation to the city. I hope you will consider re-installing these great poles that were carefully and purposefully designed by one of Seattle's premiere Native Artists, Marvin Oliver.

Thank you,

Lisa Oliver Iscan

From: Ernie Dornfeld <ernie.dornfeld@gmail.com>
Sent: Monday, December 11, 2023 7:51 AM
To: Le, Minh Chau
Cc: Grace Leong [she/her]
Subject: Victor Steinbrueck Park totem poles

CAUTION: External Email

To the Market Historical Commission,

I'm writing to address the proposal by the Department of Parks and Recreation to permanently remove the Victor Steinbrueck Park totem poles.

The Parks proposal for repair of the underlying roof and renovation of the park approved in 2018 ignored the totem poles; they were simply not part of the project. At the time, the Parks Department said that temporary removal of the poles was necessary to avoid damage during construction. As you know, the MHC passed a resolution requiring that the totem poles be re-installed before the park is re-opened.

The poles are listed in the MHC guidelines as among the character-defining features of the park. This is for good reason. They were designed to celebrate the site, and the Market. The Market Pole, Victor Steinbrueck wrote, represents "the farmer and her husband." The unnamed pole was designed by Marvin Oliver, a renowned Native carver and teacher; much of the carving was done by others as is common in the case of large artworks. Steinbrueck and Oliver worked together on the plan for the poles. The poles are major, distinctive features of the park's design, and should be returned to the park.

I urge you to reject the Parks Department's request to make the temporary removal of the poles permanent. They must be returned and re-installed as called for in the MHC's 2018 resolution.

Sincerely,
Ernie Dornfeld

December 11, 2023

Dear Commissioners

I am writing to strongly recommend that the poles at VictorSteinbrueckPark be returned to their positions and that the Parks Department request be denied.

I have read all the information on the latest request by the Parks Department. After originally promising that the two totems would be returned to their rightful place at VSP (as the Market Historical Commission requested), the Parks Department has now apparently changed its mind and requests the permanent removal.

For years I have been a member of Friends of GasWorks Park. I wrote the Landmark nomination for Richard Haag's masterpiece, GasWorks Park. Now a Seattle, Washington State, and National landmark, the Park still suffers full frontal assaults by the Parks Department. Having dealt with David Graves and the Parks Department for decades I can unequivocally state that they have absolutely no interest in protecting Seattle landmarks.

The present situation at VSP is a classic example of their two-faced dealings with the public. They obviously have decided to be 'politically correct', having no idea what that really means and taking the easy path by placing a totem that has nothing to do with the Market or the Park. If Parks wants to "recognize and showcase the local indigenous culture that continues to thrive", there are many locations to do that. Not in a landmark with protected elements that speak of a time and place that can be inspiring to all.

The uniqueness of what Victor Steinbrueck created is lost on the Park's department. Respecting the concept of the Market, and the location of the Park, two poles were created by Quinault artist Marvin Oliver that reflected the unique environment of Pike Place Market.

I hope the MHC will stand with its original requirements and ensure that the totems are returned to the park. They are a very visible element of the original park and display the market's history, vitality, and its multi-level complexity. Pike Place Market is not and never was a sanitary mall developed by a developer nor a pet project of a city department. It is the living embodiment of a rather messy confluence of users, vendors, stakeholders, visitors and passerbys. The Market, and the park have always reflected a hodge-podge of use in the most positive way. Steinbrueck and Haag understood this very well. They wanted the park to reflect where it is, not a politically correct rendition of a past that didn't happen there. It is very important to remember that the Market stands today because the people of Seattle wrested its demise from the hands of the City of Seattle. It would be very wrong to let the Seattle Parks Department once again take down what the park is and long has been.

Sincerely,
Patricia Fels
PTF Architects

Le, Minh Chau

From: MARGARET HAINES <fahaines@aol.com>
Sent: Sunday, December 10, 2023 7:35 PM
To: Le, Minh Chau
Cc: Grace Leong [she/her]
Subject: Victor Steinbrueck Park and Pole Reinstallation

CAUTION: External Email

I'm sorry, I hit send too soon. Below are the balance of my. Comments to the MHC:

Dear Minh Chau Le,

Could staff please distribute these comments to the Commissioners prior to Wednesday's meeting?

I have reviewed the film presentation to the MHC from years ago in which Marvin Oliver, at about minute 6, states he designed and did some of the carvings on the poles for Victor Steinbrueck Park (VSP).

I have reviewed the application from Parks which states the poles will not be reinstalled. I was at the meeting pre-covid where the MHC clearly approved the VSP park renovation with the clear statement that the park could not be reopened until the poles are reinstalled.

One of the sections of the analysis by Parks shows that VSP has been a gathering place for local tribal members. It goes on to state that the park includes two poles inspired by the native traditions of the Pacific Northwest, and it talks about the native carver, Marvin Oliver, a member of the Quinault tribe. The poles were completed by James Bender and were a gift to the park from Victor Steinbrueck. They are signature aspects of the park. The Parks Department has given no clear reason these poles will not be reinstalled.

Marvin Oliver is an internationally recognized native artist and also was a professor at the University of Washington. His work has been installed internationally. There's no question about his credentials as a native carver. The new application mentions artwork by two Northwest tribes, but there are no renderings. The Commissioners would need to approve the new artwork which isn't presented.

The Commissioners have options here, one of which is to delay their decision. Another is to stand firmly behind the already in place approval for the VSP renovation requiring reinstallation of the poles prior to reopening of the park. They could also consider the application incomplete, as new artwork is referenced but not attached for approval. Many options.

The Parks Department is challenging the legitimacy of the decision making authority of the MHC.

Please excuse the informality of my missive. I know there is a lot of passion behind this issue. I wholehearted respect the decision to be made by the Commissioners, whatever that may be.

Sincerely,

Maggie Haines
(VP, Friends of the Market, but speaking for myself)

11 December 2023

TO: Pike Place Market Historical Commission (PPMHC)

FR: Kate Krafft, former PPMHC Coordinator and local Historic Resources Specialist

RE: Current Application for Certificate of Approval – Design [Victor Steinbrueck Park]

I am writing to you to express my opposition to the approval of item 121323.22 - an application regarding modification to COA MHC 93/19 involving the current renovation of Victor Steinbrueck Park. Victor Steinbrueck Park (originally known as Market Park) was added to the Pike Place Market Historical District per Ord. 113199 (Oct. 18, 1986) and is clearly subject to the jurisdiction of the PPMHC and the protections provided by the enabling preservation ordinance and MHC adopted guidelines and procedures. My opposition is based on the following factors:

The application before you is incomplete – the Department of Parks and Recreation (DPR) has finally put their cards on the table after years of evasive and disingenuous behavior regarding the anticipated treatment and disposition of the iconic totem poles. Now, DPR admits they have no intention of reinstalling the totem poles after removing them (and damaging them) in April 2023 and failing to meet the spirit and intent of COA MHC 93/19. Beginning in August 2022, I repeatedly asked for clarification as to plans for the totem poles – how they would be removed, where and how they would be stored and what specific treatment they would receive while in storage? DPR never responded with a plan and there is still *no plan*. DPR is responsible for the stewardship of *this* park – they are responsible for insuring that all of the “character defining” features are properly cared for and preserved including the totem poles – just as the PDA cares for other iconic Market features. MHC cannot approve this application without full clarification as to the preservation and treatment of these poles, which ought to be restored and returned to the park. If that does not happen --- what will happen to these features which have already been improperly stored and further damaged by DPR?

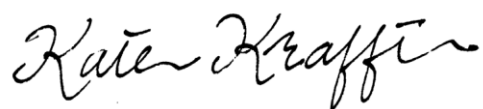
Furthermore, the application does not provide sufficient clarity as to what will actually replace the poles - if in fact they are not reinstalled, which would be a travesty. The introduction of a newly designed modern tribal artwork would be appropriate in conjunction with the restoration/preservation of the original totem poles. The addition of proper interpretation in order to help the public understand the original poles, their context and the history of the park would also be appropriate. [This is the practice of the National Park Service as they regularly address the preservation/treatment of controversial monuments.] DPR has ignored such suggestions/recommendations and has instead presented you with an entirely incomplete and inappropriate application given the crucial MHC role of insuring the preservation of the character and history of the entire historic district.

The application does not acknowledge established MHC Guidelines – the MHC guidelines clearly identify the original totem poles - as envisioned and created by Victor Steinbrueck, Rich Haag, and Marvin Oliver - as “character-defining features” – such features must be preserved and treated with care and respect. The original totem poles have become an iconic feature in the historic district – much as the historic neon signage. The MHC has the authority to adopt appropriate design guidelines and it

determined that the totem poles should be preserved. Furthermore, the MHC specified that the poles must be reinstalled prior to the reopening of Victor Steinbrueck Park, as part of the renovation project. DPR does not have the authority to decide how the Pike Place Market is preserved, the MHC does. DPR has had many years to develop an appropriate plan for the treatment of these character-defining features and they have failed to do so. DPR appears to believe this park is part of the Central Waterfront project. It is not. It is an essential part of the Pike Place Market Historic District.

The application does not acknowledge the history and significance of Victor Steinbrueck Park – which is actually my greatest concern. I trust that all MHC members have had an opportunity to read the two (2) documents that were sent to you on Monday Dec. 11th [Ord. 113199 including a letter from Marjorie Nelson Steinbrueck and a memorandum from Victor Steinbrueck dated 3-11-84, written not long before his death.]

Market Park was designed by Victor Steinbrueck and renowned landscape architect Rich Haag with the direct participation of Marvin Olivier, the most highly respected native artist and a UW professor at that time. Victor was a visionary who knew the full meaning of “culture” and he created the park with deep respect and understanding of local tribes and cultures. However, Victor did much more than respectfully design this park – he left a mark on our entire city, one that is greater than any architect who ever practiced in Seattle. Please remember that in addition to successfully leading the seven-year long battle to “Keep the Market” – he saved Pioneer Square, worked to create the Seattle Landmarks ordinance – now preserving over 500 buildings, he undertook the inventory of thousands of historic buildings for Historic Seattle, he wrote our earliest guides to Seattle architecture and documented many of Seattle’s historic architects. Lest we forget -- he also fought to make Westlake Park a public gathering place and created the basic design concept for the Space Needle. I could go on – but I won’t. Thus, after his death in 1985, Market Park was renamed Victor Steinbrueck Park in his honor and as a monument in his memory. This is the only place in Seattle specifically dedicated to his memory, dedicated to honoring a man who truly shaped our city like no other. As such, I believe it is the responsibility of the DPR and now the MHC to respect this legacy by preserving the park he created for us and its character-defining features – the iconic totem poles created by Victor and Marvin.

A handwritten signature in black ink that reads "Kate Kraffert". The signature is written in a cursive, flowing style with a prominent flourish at the end.

From: crowhouse36@aol.com
Sent: Tuesday, December 12, 2023 9:38 AM
To: Le, Minh Chau
Subject: Victor Steinbrueck Park totem poles

CAUTION: External Email

Dear Ms Minh Chau Le,

Could you please forward this email to all MHC members prior to their December 13 meeting?

Thank you so much.

*Sincerely,
Haley Land*

Dear MHC members,

My name is Haley Land. My wife and I have worked as Market craftspeople for the last 39 years. I am writing in support of restoring the original, beautiful and purposed-designed totem poles to Victor Steinbrueck Park (VSP).

The long history of the poles, and why they were designed specifically for VSP (by Quinault Native and UW Professor, Marvin Oliver) and the way they were designed has much to say about the Market's place in Seattle history.

The MHC has a responsibility, clearly expressed in MHC guidelines, to protect and preserve these totem poles. The very intentional collaboration between the original VSP designers/artists--Victor Steinbrueck, Richard Haag and Marvin Oliver--all deceased--needs to be respected.

With the refurbishing of VSP, an opportunity exists for additional art, including native art, but please respect your guidelines and preserve the original totem poles and an important piece of a historic legacy.

Thank you for your attention.

Haley Land

From: Lisa Marie Iscan <akeaglearts@gmail.com>
Sent: Tuesday, December 12, 2023 6:54 AM
To: Le, Minh Chau
Cc: Marilyn Bard
Subject: VSP Totem Poles -

CAUTION: External Email

To Pike Place Market Historical Commission:

I'm writing to you today to urge you to reconsider your position on the Totem poles that were de-installed at Victor Steinbrueck Park. I know the contentious nature of the poles, regarding them as non-native, however you are incorrect. The poles were designed by my father, Marvin Oliver, a Quinault/Isleta Pueblo artist who has made great contributions to the art scene of the city as well as all over the world. His large installations or artwork can be seen daily whether at the Seattle airport, on the State ferry, public parks, city buildings, and even at Children's Hospital. He was a great Seattle Native Artist who was greatly respected in not only the Native Art community but in the art community as a whole. His artwork is part of the fabric of the city. He taught Northwest Coast Native Art at the University of Washington for over 40 years ensuring students understood the importance of the formline and how the positions of the U shapes create the image. He always took care to create work that was following the "rules" of the past of Northwest Coast art while infusing contemporary design. To consider these poles non-native is to discredit not only Marvin's native heritage but his whole portfolio of art throughout the city. These poles are memories that have been forged over many years. They were admired every time someone came to the Seattle waterfront. We do not want to become a city that regurgitates Ferris Wheels and trendy pop up tourist experiences that will no doubt begin to look like every other city in the US. Seattle is unique and should continue to embrace its uniqueness. Seattle's Native Culture has been embraced by the city and we must continue to preserve the history of the waterfront and these totem poles. There is room to include both the past and the future of Native art. You can't move into the future without acknowledging the past. This history is important; these totem poles are important. In a country with such a young age, our oldest monuments are old colonial buildings built on the back of slave labor. You have the opportunity to provide a history to those who may not know what totem poles are and to educate people that Native people are still here and the city should acknowledge this. People who will view them knowing they are almost half a century old will recognize the immense significance they have just by their presence. History must be preserved for future generations. Reinstalling these totem poles are not only a family request but they are a necessary obligation to the city. I hope you will consider re-installing these great poles that were carefully and purposefully designed by one of Seattle's premiere Native Artists, Marvin Oliver.

Thank you,

Lisa Oliver Iscan