

## Oberhansly, Angela

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**From:** Burke, Maxwell  
**Sent:** Wednesday, June 18, 2025 8:47 PM  
**To:** Oberhansly, Angela  
**Cc:** Shawn Griggs; Nygren, Eric; Examiner, Hearing  
**Subject:** FW: In re Appeal of Povlsen and Reed, No. FOW-25-001  
**Attachments:** Appellants Motion to Exclude and Strike.P4556\_1825.pdf

Ms. Oberhansly:

In the attached motion to strike, filed after 5 PM today, Appellants move to strike the declaration from me, Max Burke, which the City filed on Monday in support of its motion to dismiss. Appellants also move to strike a legal argument section of the City's reply in support of the motion to dismiss (Section III.A.3).

Tomorrow is a holiday, and I am out of the office on Friday. Given that, the City may not have time to respond to Appellants' motion to strike with a formal pleading before the Examiner issues its decision on the cross motions for summary judgment on Monday. Thus, the City provides the following brief response:

The City opposes Appellants' motion to strike. The Burke Declaration includes excerpts of legal briefs filed in three superior court cases. The City did not submit the excerpted briefs as *evidence*, as Appellants argue. Rather, they are legal briefs concerning legal argument. The City is not barred from citing caselaw, trial court rulings, and briefs from court cases to support the City's legal arguments. The City could have simply cited the briefs and corresponding court cases, letting the Examiner's office obtain them on its own. Instead, the City filed excerpts of the briefs for ease of reference. The briefs are not evidence, and the corresponding legal argument section (Section III.A.3) is permissible. The motion to strike should be denied.

Thank you.



**Maxwell Burke**  
(he/him)  
Assistant City Attorney  
Land Use Section

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**From:** Shawn Griggs <shawn@griggs-law.com>  
**Sent:** Wednesday, June 18, 2025 5:10 PM  
**To:** Nygren, Eric <Eric.Nygren@seattle.gov>  
**Cc:** Burke, Maxwell <Maxwell.Burke@seattle.gov>; Lathrop, Molly <Molly.Lathrop@seattle.gov>  
**Subject:** RE: In re Appeal of Povlsen and Reed, No. FOW-25-001

**CAUTION: External Email**

Good evening,

Attached please find a motion that we filed with the Hearing Examiner a few minutes ago. To avoid unnecessary dispute, I confirm that this was filed and served just after 5:00 p.m. on June 18, 2025, and is therefore not deemed filed and served until June 20, 2025, under HER 2.05. Please let me know if you have questions, etc.

Regards,

Shawn

R. SHAWN GRIGGS  
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**From:** Nygren, Eric <[Eric.Nygren@seattle.gov](mailto:Eric.Nygren@seattle.gov)>  
**Sent:** Monday, June 16, 2025 4:00 PM  
**To:** Shawn Griggs <[shawn@griggs-law.com](mailto:shawn@griggs-law.com)>; Examiner, Hearing <[Hearing.Examiner@seattle.gov](mailto:Hearing.Examiner@seattle.gov)>  
**Cc:** Burke, Maxwell <[Maxwell.Burke@seattle.gov](mailto:Maxwell.Burke@seattle.gov)>; Lathrop, Molly <[Molly.Lathrop@seattle.gov](mailto:Molly.Lathrop@seattle.gov)>  
**Subject:** In re Appeal of Povlsen and Reed, No. FOW-25-001

Good afternoon,

Attached are copies of the Department's Reply in Support of Its Motion for Summary Judgment and Declaration of Maxwell Burke in this matter, filed today with the hearing examiner.

Please contact me if you have any questions.

Regards,



**Eric Nygren**

he/him

Legal Assistant, Land Use Section

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