

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the matter of the Appeal of:

WASHINGTON COMMUNITY ACTION
NETWORK, et al.

Of a decision by the Director of the Department
of Planning and Development

File No. MUP 15-010-MUP 15-015

DPD # 3012953

**SWEDISH MEDICAL CENTER'S
RESPONSE TO 19TH AVENUE
BLOCK WATCH MOTION TO
EXCLUDE**

19th Avenue Block Watch apparently filed a motion on July 2, 2015, but did not serve Applicant Swedish Medical Center ("Swedish"). Swedish has reviewed and joined the response filed by Applicant Sabey Corporation ("Sabey"), but submits this separate brief to request that the Examiner strike the motion for failure to comply with Hearing Examiner Rule ("HER") 2.16(a), which requires service of process on Swedish.

I. EVIDENCE RELIED UPON

Declaration of Steven J. Gillespie in Opposition to the 19th Avenue Block Watch Motion to Exclude ("Gillespie Decl."), and attachments thereto.

II. LEGAL AUTHORITY AND ARGUMENT

19th Avenue Block Watch apparently served its motion on the City and on Sabey on July 2, 2015 via e-mail. *See* Gillespie Decl. ¶¶ 7-8 & Ex. A. The e-mail, however, did not copy any of the Foster Pepper attorneys representing Swedish, and 19th Avenue Block Watch did not effect service of the motion through any other means. *Id.* ¶ 8 & Ex. A. Foster Pepper did not

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 learn of the existence of the original Motion to Exclude until Tuesday, July 7, 2015 when the
2 Examiner referred to it in her order on Respondents' Joint Motion to Exclude. *Id.* ¶ 5.

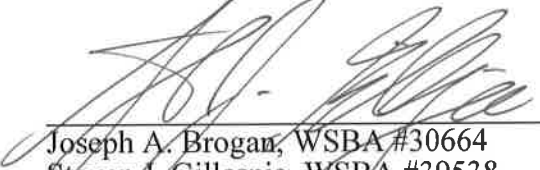
3 The failure of service does not comply with Hearing Examiner Rule 2.16, which reads:
4 "Every motion, response, and accompanying paper, shall be served on each party representative
5 on the day it is filed with the Hearing Examiner." Given the short time allowed under the
6 HER—seven days, HER 2.16(b)—learning of the existence of a motion four days after it is filed,
7 and three days before responses are due, prejudices Swedish's ability to meaningfully respond.

8 In addition, the Hearing Examiner's 7/7/15 Order rules that the Amended Motion to
9 Exclude, filed and served on July 6, 2015, was untimely because it requires a response on the
10 first day of the hearing. Accordingly, there is no way for 19th Avenue Block Watch to cure the
11 service defect.

12 Swedish respectfully requests that the Examiner strike the Motion to Exclude.

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14 DATED this 10th day of July, 2015.

15 FOSTER PEPPER PLLC

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18 Joseph A. Brogan, WSBA #30664
19 Steven J. Gillespie, WSBA #39538
20 Attorneys for Swedish Medical Center Cherry
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