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October 19, 2016

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Sue Tanner
Hearing Examiner
City of Seattle Office of Hearing Examiner
PO Box 94729
Seattle, WA 98124-4729

Re: Purported Appeal of DCI Decision from Master Use Permit No. 3024037

Dear Ms. Tanner:

We represent the property owner and applicant for the above-referenced permit. This letter will briefly address the limited question of whether the Seattle Hearing Examiner has jurisdiction, at this time, with respect to the legal building site determination dated January 5, 2016 that the property in question qualifies for the historic lot exception of SMC 23.44.010.B.1.d. This letter will not contain, and is not intended to be, a complete explanation of our client's rights with respect to this matter. Rather, it is to provide notice, including notice to the Appellant by copy of this letter, of the position of the applicant with respect to this matter.

We are taking the unusual step of sending this preliminary letter in light of what we believe is the somewhat confusing status of this matter at this time. We are aware that yesterday the appellant, Lisa Parriott, delivered two pleadings to the Hearing Examiner, the first a purported notice of appeal, and the second a document entitled Petitioner's Opening Brief¹. We are also aware of the original letter of the Hearing Examiner rejecting the appeal as well as the subsequent letter under which the Examiner accepts the appeal. If there are other relevant documents, we are not aware of those at this time².

¹ I note based on a cursory review of this document that it appears to ask for immediate, essentially ex parte relief regarding the legal lot status of the property in question. Other issues aside, any such relief would be contrary to applicable law and our client's rights and would obviously be inappropriate.

² As I was preparing to send this letter, I received additional documents from the Hearing Examiner's office. One appears to be a somewhat different purported appeal statement from the same appellant referenced above and the other appears to be a purported appeal by another party. While I have not reviewed these documents, to the extent that they appear to challenge the above-referenced legal building site letter and the applicability of the historical lot exception to the property in question, this

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Other issues aside, and without in any way, limiting the rights of our client, the legal lot determination referenced above and the determination by the Seattle Department of Construction and Inspections that the property in question qualified for the historic lot exception is not currently before the Hearing Examiner. The route for the Appellant, or any other interested party for that matter, to challenge the determination regarding the legal building site letter and the determination of the historic lot exception is to request a land use interpretation. That interpretation, once issued, would then be appealable to the Hearing Examiner.

To be clear, we acknowledge that the special exception under SMC 23.44.010.B.3 is a type II decision subject to review, at this time, by the Hearing Examiner. However, the question of the applicability of 23.44.010.B.1.d to the Lot requires an interpretation and is not, at this time, before the Examiner.

As stated above, this letter is not intended as, and does not contain, a full explanation and briefing with respect to our position related to the matter discussed in this letter, but is submitted only to provide notice only. We have reserved the right to submit additional briefing, arguments and other documentation if and to the extent that is appropriate in the future. Thank you very much for your attention to this matter.

Sincerely,

HELSELL FETTERMAN LLP



Samuel M. Jacobs

SMJ/hes

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letter is also relevant to those purported appeals and we have sent a copy of this letter to the additional appellant.