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HEARING EXAMINER
BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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In the Matter of the Appeal of:

MICHAEL SCHMAUTZ

No. S-16-005

From an Interpretation by the Director, Seattle
Department of Construction and Inspections

**APPELLANT'S MOTION FOR
SUMMARY JUDGMENT**

I. RELIEF REQUESTED

Comes now appellant, Michael Schmautz, through the undersigned attorney or record and seeks summary judgment confirming that the PROSPERITY, Washington Registration number WN6465JR (hereinafter, the "PROSPERITY") should be verified by the City of Seattle as a floating on-water residence pursuant to SMC §§ 23.60A.912 and 23.60A.203.

II. STATEMENT OF FACTS

This is an appeal of the decision by the Department of Construction and Inspections to deny verification of the PROSPERITY as a floating on-water residence pursuant to SMC § 23.60A.203. The PROSPERITY was acquired by the appellant, Michael Schmautz, in November of 2014. *Schmautz. Decl.* ¶10. Mr. Schmautz acquired the PROSPERITY for use as his residence in the City of Seattle. *Schmautz. Decl.* ¶12. The PROSPERITY had been previously used as a residence by its former owners and continuously moored within the City of Seattle since at least 2013. *Schmautz. Decl.*

APPELLANT'S MOTION FOR
SUMMARY JUDGMENT - 1
Case No. S-16-005

R. SHAWN GRIGGS
ATTORNEY AT LAW
1818 WESTLAKE AVENUE NORTH, SUITE 404
SEATTLE, WASHINGTON 98109
TELEPHONE (206) 745-3805
FACSIMILE (206) 745-3806

1. ¶¶5—6, 8, 10—11. At the time Mr. Schmautz acquired the PROSPERITY, its engine
2. was inoperable and beyond repair. *Schmautz Decl.* ¶9. Based on all available
3. information, it appears that this has been the case since at least 2013. *Schmautz Decl.*
4. ¶9—11. Mr. Schmautz applied for floating on-water residence status on behalf of the
5. PROSPERITY on or about November 30, 2015. *Schmautz Decl.* ¶13; Ex G to
6. *Schmautz Decl.* That application was denied on August 5, 2016, and this appeal was
7. filed with the Office of the Hearing Examiner on September 2, 2016. *See Land*
8. *Use/SEPA Appeal Form* submitted September 2, 2016.

9. III. STATEMENT OF ISSUES

10. 1. Should the PROSPERITY be verified as a floating on-water residence per SMC §
11. 23.60A.203 because the uncontroverted evidence confirms that it (a) was designed or
12. used primarily as a residence; (b) has detachable utilities; (c) was the subject of a lease,
13. sublease, or ownership interest in a marina within the City of Seattle as of July 1, 2014;
14. and (d) was used as a dwelling unit within the City of Seattle prior to July 1, 2014?

15. 2. Is the PROSPERITY considered a “vessel” and therefore ineligible for
16. verification as a floating on-water residence even though it is incapable of navigation
17. and has not been used for navigation for at least three years, all in contravention of the
18. definition of “vessel” provided at SMC § 23.60A.942?

19. IV. EVIDENCE RELIED UPON

20. Pleadings and files of record herein and the declaration of Michael Schmautz
21. (“*Schmautz Decl.*”) filed herewith.

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V. AUTHORITY AND ARGUMENT

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” CR 56(c). A fact is “material” only if it is one upon which the outcome of the litigation depends in whole or in part. Boguch v. Landover Corp., 153 Wn. App. 595, 608, 224 P.3d 795 (2009). A genuine issue of material fact exists only where reasonable minds could reach different conclusions. Michael v. Mosquera-Lacy, 16 Wn.2d 595, 601, 200 P.3d 695 (2009).

Once the party seeking summary judgment demonstrates there are no genuine issues of material fact, the burden shifts to the non-moving party to demonstrate that material issues of fact remain. Bonneville v. Pierce County, 148 Wn. App. 500, 509-10, 202 P.3d 309 (2008). To do so, the non-moving party “may not rely on speculation or on argumentative assertions that unresolved factual issues remain.” White v. State, 131 Wn.2d 1, 929 P.2d 396 (1937). Rather, the non-moving party must “set forth specific facts sufficient to rebut the moving party’s contention and disclose that there is a genuine issue for trial.” Michael, 165 Wn.2d at 601-02.

Summary judgment is appropriate this case because the Seattle Municipal Code designates a basic four-part test to determine whether something qualifies as a floating on-water residence, and each of those elements is plainly met by the PROSPERITY. A floating on-water residence is “any floating structure, other than a floating home, that is designed or used primarily as a residence, has detachable utilities, and is the

1. subject of a lease or sublease at a marina, or whose owner or predecessor in interest
2. had an ownership interest in a marina, as of July 1, 2014.” SMC § 23.60A.912. The
3. Code further clarifies that “[f]or the purpose of this definition, a structure will be
4. considered ‘designed primarily as a residence’ if it contains a dwelling unit.” *Id.*
5. SMC § 23.60A.203(B) further specifies that “[f]or purposes of this Chapter 23.60A,
6. a floating on-water residence is allowed only if it: 1. Was legally established as a
7. floating on-water residence prior to July 1, 2014; to be legally established it must
8. have been used as a dwelling unit within the City prior to July 1, 2014. [and] 2. Was
9. moored pursuant to a lease or ownership interest at a marina, as defined by Section
10. 23.60A.926, within the City prior to July 1, 2014.” Accordingly, a floating on-water
11. residence should be verified if it (a) was designed or used primarily as a residence;
12. (b) has detachable utilities; (c) was the subject of a lease, sublease, or ownership
13. interest in a marina within the City of Seattle as of July 1, 2014; and (d) was used as
14. a dwelling unit within the City of Seattle prior to July 1, 2014. Each of these criteria
15. is plainly met in the case of the PROSPERITY and is addressed below.

16.
17. **I. THE PROSPERITY MEETS THE CRITERIA OF A FLOATING ON-
WATER RESIDENCE AND SHOULD BE VERIFIED AS SUCH.**

18. **A. *The PROSPERITY was designed or used primarily as a residence.***

19. To qualify as a residence, a floating structure must be designed or used
20. primarily as a residence. The PROSPERITY meets both criteria, as it was designed
21. as a place of residence and was used primarily as a residence. The PROSPERITY
22. was designed with separate rooms for food preparation, sleeping, and bathing.

23. *Schmautz Decl.* ¶4. These qualify it as a “dwelling unit” under SMC § 23.60A.908,

1. which defines that term as “a room or rooms, located within a structure or vessel,
2. designed, arranged, occupied, or intended to be occupied as living accommodations
3. independent from any other household.” That the PROSPERITY is configured for
4. use “as living accommodations independent from any other household” (SMC §
5. 23.60A.908) is confirmed by the fact that the Mr. Schmutz uses the PROSPERITY
6. as his primary residence. *Schmutz Decl.* ¶12. But the PROSPERITY’s kitchen area
7. is itself sufficient basis to classify it as a “dwelling unit” as SMC § 23.60A.908
8. expressly provides that “[t]he existence of a food preparation area within the room or
9. rooms shall be evidence of the existence of a dwelling unit.” And since SMC §
10. 23.60A.912 provides that – for the purposes of meeting the definition of floating on-
11. water residence – “a structure will be considered ‘designed primarily as a residence’
12. if it contains a dwelling unit”, the inclusion of a kitchen in the PROSPERITY’s
13. design or its configuration suitable for use as “living accommodations independent
14. from any other household” satisfy the first requirement and qualify it as a floating
15. on-water residence per SMC § 23.60A.912 and 23.60A.203.

16. ***B. The PROSPERITY has detachable utilities.***

17. The second criterion of floating on-water residence status is that the floating
18. structure have detachable utilities. This criterion is plainly met in this case, as the
19. PROSPERITY connects to shoreside utilities via quick-disconnect fittings for
20. electricity and water. *Schmutz Decl.* ¶7. The PROSPERITY accordingly meets the
21. second requirement and qualifies for verification as a floating on-water residence per
22. SMC § 23.60A.912 and 23.60A.203.

1. **C. The PROSPERITY was the subject of a lease at a marina within the**
2. **City of Seattle as of July 1, 2014.**

3. The third criterion of a floating on-water residence is that it was the subject of
4. either a lease or ownership interest in a marina slip within the City of Seattle as of
5. July 1, 2014. On July 1, 2014, the PROSPERITY was the subject of a leased slip at
6. the Waterworks Marina at 1800 Westlake Avenue North, Seattle, Washington.
7. *Schmautz Decl.* ¶6. The Waterworks Marina facility is located on Lake Union and is
8. plainly within the jurisdictional boundaries of the City of Seattle. Accordingly, the
9. PROSPERITY meets the third requirement and qualifies as a floating on-water
10. residence per SMC § 23.60A.912 and 23.60A.203.

11. **D. The PROSPERITY was used as a dwelling unit within the City of**
12. **Seattle prior to July 1, 2014.**

13. The final criterion of a floating on-water residence is that it was used as a
14. “dwelling unit” within the City of Seattle prior to July 1, 2014. Presumably, then, to
15. meet this requirement the structure must have been used as “living accommodations
16. independent from any other household.” SMC § 23.60A.908. And in the case of the
17. PROSPERITY, this element is plainly satisfied, since it was used as a liveaboard at
18. Shilshole Marina prior to July 1, 2014. *Schmautz Decl.* ¶5. Shilshole Marina is
19. located at 7001 Seaview Avenue Northwest, Seattle, Washington 98117, and falls
20. within the boundaries of the City of Seattle. Accordingly, the PROSPERITY meets
21. the fourth and final requirement and qualifies as a floating on-water residence per
22. SMC § 23.60A.912 and 23.60A.203.

23. By applying the four straightforward criteria of floating on-water residence
24. status – as articulated in SMC §§ 23.60A.912 and 23.60A.203 – to the uncontested

1. facts of this case, it is readily apparent that the PROSPERITY qualifies as a floating
2. on-water residence. Indeed, based on the letter that DCI sent to Mr. Schmautz
3. denying his application, there appears to be no question as to whether or not the
4. PROSPERITY meets the four prerequisites for floating on-water residence status.
5. *See e.g., Ex G to Schmautz Decl., pp. 5, 10.* Instead, it appears that DCI has denied
6. the application submitted on behalf of the PROSPERITY due to their perception that
7. it is either a “vessel” or “conventional recreational vessel” and therefore is ineligible
8. for floating on-water residence status. *Id.* -

9. **II. THE PROSPERITY IS ELIGIBLE FOR VERIFICATION AS A**
10. **FLOATING ON-WATER RESIDENCE BECAUSE IT IS NOT A**
11. **“VESSEL” AS CONTEMPLATED BY SMC § 23.60A.942.**

12. The Department’s denial of the PROSPERITY application for floating on-
13. water residence status appears to be based solely on the perception that it should be
14. classified as a “vessel” or “conventional recreational vessel” under the Code. Ex G
15. to *Schmautz Decl., pp. 5, 10.* This controversy stems from SMC § 23.60A.942,
16. which defines a floating on-water residence as “any floating structure, other than a
17. floating home ...” Use of the term “structure” presumably derives from the 2014
18. amendment to the Shoreline Management Act of 1971 (codified as RCW §
19. 90.58.270(6)(b)), which similarly defines a floating on-water residence as “any
20. floating structure other than a floating home ...” But while the Shoreline
21. Management Act neither defines the term “structure” nor otherwise indicates that a

1. vessel cannot be considered a structure¹, the Seattle Municipal Code does make a
2. distinction between structures and vessels:

3. “Structure” means a permanent or temporary edifice or building, or any piece of
4. work artificially built or composed of parts artificially joined together in some
5. definite manner, whether installed on, above, or below the surface of the ground
6. or water, including fences, walls, signs, piers, floats and drydocks, but not
including poles, flower-bed frames and other minor incidental improvements, or
vessels.

7. SMC § 23.60A.936 (emphasis supplied).² If this is indeed the case, a vessel cannot be a
8. structure, and *vice versa*. And by that logic, a vessel cannot be a floating on-water
9. residence.

10. ¹ Indeed, as discussed in detail in footnote 2 of this motion, all available evidence
11. indicates that the term “structure” – as used in RCW § 90.58.270(6)(b) – is intended to
constitute a broader category of floating things that includes vessels.

12. ² This provision notwithstanding, SMC § 23.60A is peppered with provisions that
13. indicate that the term “structure” may none-the-less include vessels. For example, SMC
14. § 23.60A.942 defines the term “vessel” to include house barges, even though house
15. barges are regulated as structures per SMC § 23.60A.204. Similarly, SMC §
16. 23.60A.204(A)(1) provides that “[f]loating structures, including vessels that do not have
17. a means of self-propulsion and steering equipment and that are designed or used as a
18. place of residence, with the exception of house barges authorized under subsection
19. 23.60A.204.B and floating on-water residences authorized under Section 23.60A.203,
20. shall be regulated as floating homes pursuant to this Chapter 23.60.A”, indicating that
21. vessels are a subset of a broader category of “structures” regulated by Seattle’s Shoreline
22. Master Plan. Similarly, SMC § 23.60A.203(A) provides that “[f]loating structures that
23. contain dwelling units and vessels that contain dwelling units shall be regulated as
floating homes pursuant to Section 23.60A.202, with the exception of floating on-water
residences that comply with this Section 23.60A.203, house barges that comply with
Section 23.60A.204, residences allowed under Section 23.60A.206, and vessels that
comply with Section 23.60A.214” further demonstrating vessels to be a subset of the
broader category of “floating structures.” This conclusion is confirmed by the
legislative history of Engrossed Substitute Senate Bill 6450 (2014), from which RCW §
90.58.270(6)(b) originated – as originally proposed (as Senate Bill 6450, read for the
first time on January 27, 2014), SB6450 defined a floating on-water residence as “a
vessel that is registered under chapter 88.02 RCW and: (A) Is used as a residence on the

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For the purposes of Seattle’s Shoreline Master Plan, the term “vessel” includes:

[S]hips, boats, barges, or any other floating craft that are designed and used for navigation and do not interfere with the normal public use of the water, including historic ships that do not have means of self-propulsion and steering equipment and house barges.

SMC § 23.60A.942. This definition contains two mandatory elements – the craft in question must be both designed and used for navigation. And while navigation is undefined, it is generally understood to entail “conducting a ship from one place to another.” Pollock v. Cleveland Ship Building Co., 56 Ohio St. 655, 668, 47 N.E. 582 (1897); *see also* The Silvia, 171 U.S. 462, 466, 19 S.Ct. 7, 43 L. Ed. 241 (1898); Laurie

water and has detachable utilities; (B) whose owner or primary occupant has held a lease or sublease to use space in a marina as their primary residence since a date prior to July 1, 2014; and (C) is either capable of propulsion and steering or is without a means of self-propulsion and steering equipment or capability, but is capable of being towed.” S-3907.1 (2014). After being referred to the Senate Natural Resources and Parks Committee, the legislation was modified to include a revised definition of floating on-water residences: “any floating structure other than a floating home, as defined under subsection (5) of this section, that: (i) [i]s designed or used primarily as a residence on the water and has detachable utilities; and (ii) whose owner or primary occupant has held a lease or sublease to use space in a marina as their primary residence since a date prior to July 1, 2014.” S-4210.2 (2014). As the Senate Bill Report for SB6450 reflects, the modification was intended to expand the scope of the original legislation from registered vessels to all structures, including vessels, that met the revised requirements. S. REP. SB6450 (Senate Committee on Natural Resources and Parks, February 4, 2014) (summarizing support for the legislation because it “would see that protection extended to those who live within structures classified as vessels”); *see also* H. REP. ESSB 6450 (March 5, 2014) (summarizing both support and opposition for the legislation’s inclusion of “liveaboard vessels” and “houseboats”). To the extent that SMC § 23.60A has defined floating on-water residences to exclude vessels, then, it would appear to be in direct conflict with and preempted by the provisions of RCW § 90.58.270(6)(b). This case need not tackle that issue, though, as the PROSPERITY’s lack of self-propulsion and removal from use in navigation takes it outside the scope of what is considered a “vessel” by SMC § 23.60A.942.

1. v. Douglass, 15 Mees. & W. 746. As previously acknowledged by the Seattle City
2. Attorney, and codified by case law “we can assume that at a minimum [the term ‘used
3. for navigation’] means that vessels must sometimes be used for travel over water.”
4. Brown v. City of Seattle, 117 Wn. App 781, 786 (2003).

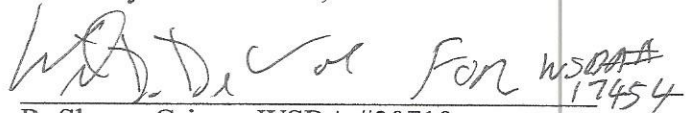
5. The PROSPERITY does not qualify as a “vessel” under SMC § 23.60A.942
6. because it has been neither capable of nor has engaged in navigation since at least 2013.
7. There is little question that the PROSPERITY was originally designed for navigation.
8. *Schmautz Decl.* ¶3. However, since at least 2013, it has been a dead ship due to
9. substantial damage that rendered its engine permanently inoperable. *Schmautz Decl.* ¶¶
10. 9—11; see also Ex D to *Schmautz Decl.* (confirming that the PROSPERITY was
11. continuously moored as a live aboard vessel at Shilshole Bay Marina between
12. September 1, 2010 and October 31, 2011). During this period, the PROSPERITY has
13. remained moored, moving only twice to relocate its moorage, and in each case under
14. tow. *Schmautz Decl.* ¶¶10—11. In this time, the PROSPERITY has not been used for
15. travel over water and therefore has not been used for navigation, causing it to fail the
16. definition of what qualifies as a vessel per the terms of SMC § 23.60A.942. This was
17. the case well before the July 1, 2014 floating on-water residence qualification date – for
18. at least a year prior to the floating on-water residence qualification deadline, and at all
19. times since, the PROSPERITY has not engaged in navigation and has been incapable of
20. doing so. *Id.* As classified by the Seattle Shoreline Master Plan, then, the
21. PROSPERITY is a non-self propelled vessel which – under applicable code provisions –

1. is regulated as either a house barge, floating on-water residence, or floating home. See
2. SMC § 23.60A.204(A)(1).

3. **V. CONCLUSION**

4. Summary judgment in favor of appellant is appropriate because DCI is unable to
5. meet its burden of proof and establish that the PROSPERITY does not qualify for
6. verification as a floating on-water residence. The uncontroverted facts establish that the
7. PROSPERITY satisfies each of the four qualifying criteria for floating on-water
8. residence status. Moreover, these same facts confirm that the PROSPERITY is not a
9. vessel, as contemplated by SMC § 23.60A.942, and is therefore eligible for regulation as
10. a floating on-water residence. Accordingly, appellant requests that the Hearing Examiner
11. grand summary judgment in his favor and confirm the PROSPERITY's eligibility for
12. floating on-water status under SMC § 23.60A.

13.
14. RESPECTFULLY SUBMITTED this 21st day of November, 2016.

15.  For WSBA #
16. 17454

17. R. Shawn Griggs, WSBA #30710
18. Attorney for appellant Michael Schmautz
19. 1818 Westlake Avenue North, Suite 404
20. Seattle, Washington 98109
21. Telephone: (206) 745-3805
22. Facsimile: (206) 745-3806
23. E-mail: shawn@griggs-law.com

1. CERTIFICATE OF SERVICE

2. I hereby certify that on this 21st day
3. of November, 2016 a true and correct copy of
4. the foregoing along with the declaration of Michael Schmautz
5. filed herewith was sent via e-mail pursuant to the parties'
6. prior written agreement to:

7. Erin E. Ferguson, Assistant City Attorney
8. Seattle City Attorney's Office
9. 701 Fifth Avenue, Suite 2050
10. Seattle, WA 98124-4769
11. Phone: 206-684-8615
12. FAX: 206-684-8284
13. Erin.Ferguson@seattle.gov

14. *for*
15. *W. Shawn Griggs WSBA No. 17454*

16. R. Shawn Griggs, WSBA No. 30710
17. 1818 Westlake Avenue, Suite 404
18. Seattle, Washington 98109
19. P: (206) 745-3805
20. F: (206) 745-3806
21. e-mail: shawn@griggs-law.com

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24. APPELLANT'S MOTION FOR
25. SUMMARY JUDGMENT - 12
26. Case No. S-16-005

R. SHAWN GRIGGS
ATTORNEY AT LAW
1818 WESTLAKE AVENUE NORTH, SUITE 404
SEATTLE, WASHINGTON 98109
TELEPHONE (206) 745-3805
FACSIMILE (206) 745-3806

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

MICHAEL SCHMAUTZ

No. S-16-005

From an Interpretation by the Director, Seattle
Department of Construction and Inspections

DECLARATION OF MICHAEL
SCHMAUTZ

I, Michael Schmautz, declare as follows:

1. I am over the age of 18, am competent to be a witness, and make the following declaration based on my personal knowledge.

2. I am the owner of M/V PROSPERITY, a forty-seven foot wood-hulled vessel with Washington Registration number WN6465JR. A true and correct copy of the current vessel registration issued by the Washington Department of Licensing with respect to the PROSPERITY is attached hereto as Exhibit A.

3. The PROSPERITY was designed and built as a pleasure craft. True and correct photographs of the exterior of the PROSPERITY, taken in 2014 shortly after I purchased it, are attached hereto as Exhibit B. I concede that it is more probable that not that the PROSPERITY was originally designed for navigation, as contemplated by SMC § 23.60A.942.

4. The PROSPERITY is outfitted with two heads (bathroom), one shower, one double bedroom, and a full kitchen, which includes stove, refrigerator, and a sink. The PROSPERITY has a second v-berth bedroom which contains two twin-sized beds. True

1. and copies of interior photographs of the PROSPERITY, which were taken before I
2. acquired it in 2014, are attached here to as Exhibit C.

3. 5. Attached hereto as Exhibit D is a true and correct copy of a letter that I obtained
4. from Shilshole Marina that confirms the PROSPERITY was used as a liveaboard within
5. the boundaries of the City of Seattle prior to July 1, 2014.

6. 6. Attached hereto as Exhibit E is a true and correct copy of a letter that I obtained
7. from Waterworks Marina that confirms the PROSPERITY was the subject of a lawful
8. moorage agreement for space within the boundaries of the City of Seattle as of July 1,
9. 2014.

10. 7. When moored, the PROSPERITY connects to shoreside utilities (i.e., water and
11. power) via quick-disconnect connectors that tie into dock power and water. True and
12. correct photographs of these connections are attached hereto as Exhibit F.

13. 8. I acquired the PROSPERITY from its previous owner, Jim Lowry, in November
14. of 2014. When I acquired the PROSPERITY, it was moored at the Waterworks Marina
15. on Lake Union in Seattle, Washington, the address of which is 1800 Westlake Avenue
16. North, Seattle, Washington 98103.

17. 9. When I acquired the PROSPERITY, its engine – which appears to be original to
18. the vessel – was not functional, effectively making it a “dead” vessel. I consulted with
19. multiple mariners with working knowledge of marine engines to determine the condition
20. of the engine and likelihood of bringing it back to operational status. They informed me
21. that the cylinders appear to be seized and the pistons warped, indicating that the engine
22. suffered from head gasket failure at some point in the past. They also suggested that it is
23. likely the interior of the engine block has rusted at this point. They advised me that –
24.

1. given that this is likely the original engine from 1964 with lots of hours on it – the engine
2. is likely beyond repair and that the PROSPERITY would need to be repowered to make it
3. an operational vessel again.

4. 10. When I acquired the PROSPERITY from Jim Lowry in November of 2014, he
5. represented to me that the engine was not been operational during the period that he
6. owned the vessel, which was from 2013 until November 2014. Mr. Lowry further
7. informed me that when the PROSPERITY moved from Shilshole Marina to Waterworks
8. Marina in January of 2014, it did so under tow.

9. 11. Since I have acquired the PROSPERITY, it has never operated under its own
10. power. The only time that the PROSPERITY has left its moorage during my ownership
11. of it is when it was towed from the Waterworks Marina to Frank Marina on North
12. Northlake Way (where it is presently located) by Garrett Newman, who owns and
13. operates his own towing vessel.

14. 12. Since I have acquired it, the PROSPERITY has served as my primary residence,
15. and I currently reside on the PROSPERITY at its location at the Frank Marina on North
16. Northlake Way.

17. 13. I submitted an application for floating on-water residence (FOWR) status with
18. respect to the PROSPERITY to the City of Seattle on November 30, 2015. A true and
19. correct copy of this application is attached hereto as Exhibit G.

20. ///

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23. ///

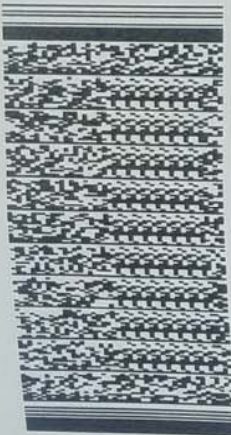
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I declare under penalty of perjury under the laws of the State of Washington that
the foregoing is true and correct.

DATED this 16 day of November, 2016.

DocuSigned by:
Michael Schmautz
45F20B77D57B4C2...

Michael Schmautz



Vessel Registration Certificate

10/25/2016

WN6465JR

Reg no WN6465JR	Decal no D104626	Document no	Reg expiration 06/2017	Purchase cost \$1,500.00	Year 2015	Mo reg 12	Model yr 1964	Make JENSEN	Length 47
Hull type WOOD	Prim propulsion INBD	Fuel type DIESEL	Primary use PLEAS	Vessel type CABIN	Hull identification number (HIN) WNZ2824DA464	Cnty of moor 17	Prev reg no		

Filing	\$3.00	Excise tax	\$6.00	This certificate is not proof of ownership.					
Service Fee	\$5.00	Historical							
License srvc	\$0.75	Other	\$31.25						

Comment:
- A CARBON MONOXIDE LABEL MUST BE VISIBLE INSIDE YOUR VESSEL

Remarks:

Registered owner

SCHMAUTZ, MICHAEL C
3518 FREMONT AVE N
SEATTLE WA 98103

Signature of registered owners

Legal owner/Lienholder

Signature of registered owners

Validation code 41174106162991025160014066261

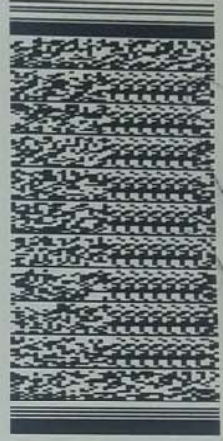
RENEWAL

Cut Here

Cut Here

Registered owner name and address:

SCHMAUTZ, MICHAEL C
3518 FREMONT AVE N
SEATTLE WA 98103



Fold

Reg no: WN6465JR Reg exp: 06/2017
Decal no: D104626 Doc no:
Model yr: 1964 Make: JENSEN

Signature of registered owner

RPT ID:
BREGPR-2

Doc: 8/11/15E













P.O. Box 1209
Seattle, WA 98111-1209
Tel: (206) 787-3000

www.portseattle.org

November 23, 2015

This letter serves to confirm that "Prosperity", a 47' Jensen Trawler, with HIN: WNZ2824DA464, was continuously moored as a live aboard vessel at Shilshole Bay Marina from 9/1/10 to 10/31/11. I declare and affirm that the information I have provided here is true and correct.

If you have any questions, please contact me at 206 787 3006.

A handwritten signature in blue ink that reads "Darrell Dare". The signature is fluid and cursive, with the first name being more prominent than the last.

Darrell Dare
Shilshole Bay Marina

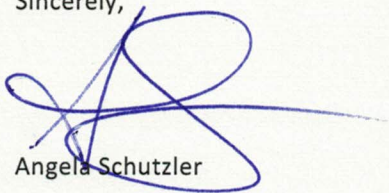


Temperate Paradise Properties, LLC
1818 Westlake Ave N #228
Seattle, WA 98109
November 23, 2015

This letter serves to confirm that "Prosperity", a 47' Jensen Trawler, with HIN: WNZ2824DA464, has been continuously moored at Waterworks Marina from January 2014 to December 2015. I declare and affirm that the information I have provided here is true and correct.

If you have any questions, please contact me at 206-930-1289.

Sincerely,



Angela Schutzler
Leasing Agent

Temperate Paradise Properties

1800 Westlake Avenue N. Suite #305 leasing@seattlewaterworks.com
Seattle, WA 98109 206-930-1289

seattlewaterworks.com







FLOATING ON-WATER RESIDENCE VERIFICATION FORM

CITY OF SEATTLE
 Department of Planning and Development
 700 Fifth Ave., Suite 2000 P.O. Box 34019
 Seattle, WA 98124-4019
 Phone: (206) 684-8850
www.seattle.gov/dpd

3023142

EXHIBIT C, Page 1 of 13
 Application Received in DPD
RECEIVED
 DEC 03 2015
DPD ACCOUNTING

The intake fee for a Floating On-water Residence form is \$95.00. This amount must be included when submitting your application. Submit this form to DPD after June 15, 2015 but before December 15, 2015.

OWNER #1 INFORMATION

Last Name: SCHMAUTZ		First: MICHAEL	Middle: C	Email Address: MICHAEL.SCHMAUTZ@GMAIL.COM	
Mailing Address: 3518 Fremont Ave N. Ste 250			Home Phone No. (REQUIRED): (509) 863 3146	Alternate Phone No.: ()	
City: SEATTLE			State: WA	ZIP Code: 98103	

OWNER #2 INFORMATION (OPTIONAL)

NOT THE OWNER? RELATIONSHIP TO PROPERTY:

Last Name:		First:	Middle:	Email Address:	
Mailing Address:			Home Phone No. (REQUIRED):	Alternate Phone No.:	
City:			State:	ZIP Code:	

RELOCATION: Floating on-water residences may be moved between marinas or to a new slip within the same marina. Please notify DPD within 60 days of relocating (SMC 23.60A.203.C) so that we can update your verification records. Failure to update relocation is a violation of Chapter 23.60A.

FLOATING ON-WATER RESIDENCE LOCATION INFORMATION

Name of marina where moored: Water Works Marina	
Address of marina where moored: 1818 Westlake Ave. N Seattle, WA 98103	Slip number if applicable: E3

ADDITIONAL REQUIRED INFORMATION

1. Attach information that documents the proposed floating on-water residence was moored pursuant to a lease or ownership interest at a marina within the City of Seattle and used as a dwelling unit prior to July 1, 2014. Accepted verification includes but is not limited to a copy of a dated and signed lease (this is the preferred verification method) and confirmation of use as set forth in box 5 below. Other information such as a written statement from the marina owner, dated historical photographs, licenses, or other material clearly demonstrating that the proposed floating on-water residence was lawfully in place and in use will be considered.

2. Attach at least three photographs showing the front (bow), rear (stern), and full side views of both sides of the floating on-water residence.

3. Physical description/dimensions:

- Height of the structure (measured from the top of the roof down to either the main deck or 3 feet above the surface of the water, whichever is lower): **16'3"** ft.
- Length (excluding any propulsion systems): **47** ft. Width (beam): **13** ft.
- Interior space dimensions: Lowest deck or floor **350** sq. ft. / Second deck or floor **350** sq. ft. / Third deck or floor _____ sq. ft. / Other interior area (specify): _____ sq. ft.

4. This proposed floating on-water residence has detachable utilities: Yes No

5. This proposed floating on-water residence was used as a dwelling unit within the City of Seattle, prior to July 1, 2014. Yes No

6. Attach a sketch or plan showing a side view (elevation or profile) and a view from above (exterior dimensions plan view).

I DECLARE AND AFFIRM THAT THE INFORMATION I HAVE PROVIDED HERE IS TRUE AND CORRECT

Applicant Printed Name: MICHAEL SCHMAUTZ	Applicant Signature: <i>[Signature]</i>	Date: 11/30/15
---	---	-----------------------

Mail check for \$95.00 (made out to City of Seattle) with this form to: City of Seattle DPD, Attn. Cashiers, P.O. Box 34234, Seattle, WA 98124. You can also submit your application in person at the Public Resource Center counter on the 20th floor of the Seattle Municipal Tower at 700 5th Avenue and pay with check, cash, or credit card at that time.

FLOATING ON-WATER RESIDENCE VERIFICATION CERTIFICATE

(This part to be completed by Department of Planning and Development staff)

The floating on-water residence at (location /address) _____

meets the requirements of 23.60A.203.B and 23.60A.203.D.1 and DPD has issued the following Floating On-Water Verification Number. This does not certify compliance with any other section of the Seattle Municipal Code.

Number:

Not valid unless stamped by DPD with a verification number.

DPD AUTHORIZATION

Verification Issued
(Date Stamp)

- In Person Applicant
- Mailed Application
- Fee Paid

DPD Reviewer

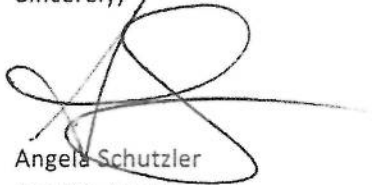
DPD A/P Number:

Temperate Paradise Properties, LLC
1818 Westlake Ave N #228
Seattle, WA 98109
November 23, 2015

This letter serves to confirm that "Prosperity", a 47' Jensen Trawler, with HIN: WNZ2824DA464, has been continuously moored at Waterworks Marina from January 2014 to December 2015. I declare and affirm that the information I have provided here is true and correct.

If you have any questions, please contact me at 206-930-1289.

Sincerely,



Angela Schutzler
Leasing Agent

Temperate Paradise Properties

1800 Westlake Avenue N. Suite #305 leasing@seattlewaterworks.com
Seattle, WA 98109 206-930-1289

seattlewaterworks.com



P.O. Box 1209
Seattle, WA 98111-1209
Tel: (206) 787-3000

www.portseattle.org

November 23, 2015

This letter serves to confirm that "Prosperity", a 47' Jensen Trawler, with HIN: WNZ2824DA464, was continuously moored as a live aboard vessel at Shilshole Bay Marina from 9/1/10 to 10/31/11. I declare and affirm that the information I have provided here is true and correct.

If you have any questions, please contact me at 206 787 3006.

A handwritten signature in black ink that reads "Darrell Dare". The signature is written in a cursive style with a large, prominent initial "D".

Darrell Dare
Shilshole Bay Marina

Bruno, Christine

From: Bruno, Christine
Sent: Tuesday, January 12, 2016 11:04 AM
To: Michael Schmutz (michael.schmutz@gmail.com)
Subject: FOWR application #3023142
Attachments: cancellation or refund request _dpdd017355_latestreleased.pdf

Dear Michael:

Thank you for your floating on-water residence application. We are unable to process your request because the materials you submitted in your application show a conventional recreational vessel (CRV) under **23.60A.214B.1.a** which does not need to verify with the City of Seattle in order to be compliant with the Shoreline Master Program.

Please fill out and mail in the attached document for a refund. Please write in **3023142** for the application number.

If you still wish to verify, you would need to do so as a vessel with a dwelling unit (VDU).

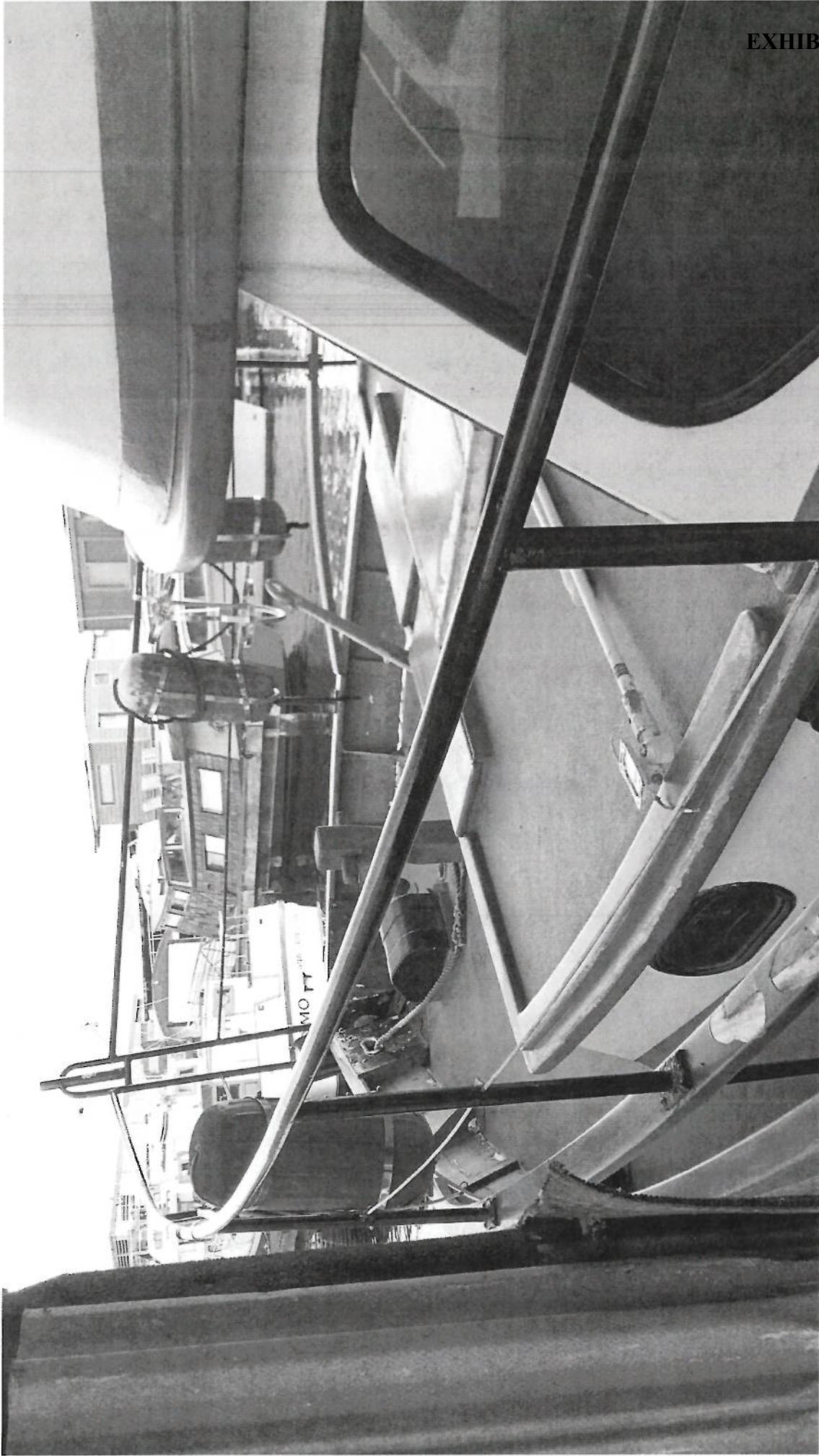
Please contact me at the number below if you have any questions.

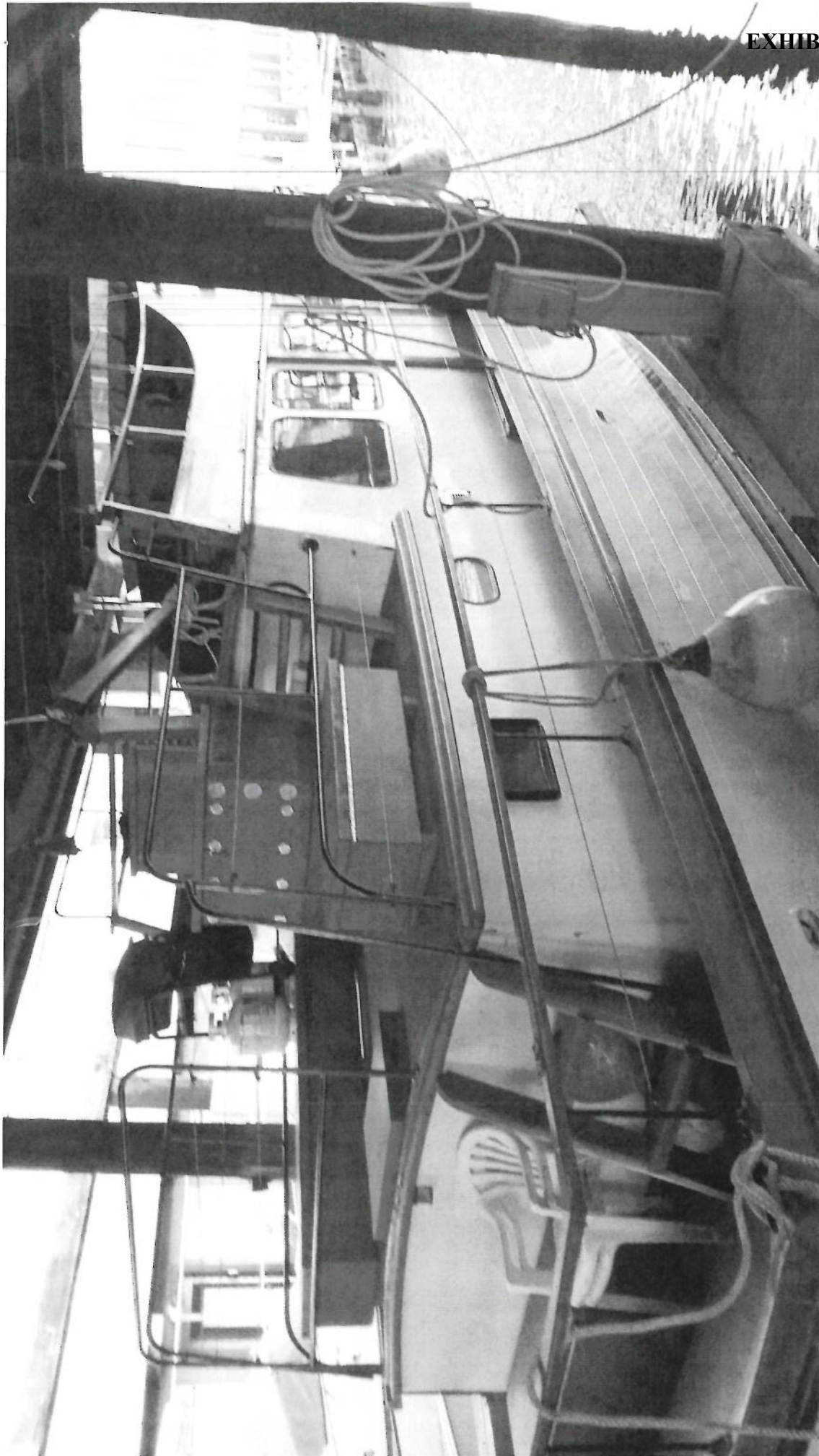
Kind regards,



Christine Bruno
Shoreline Code Compliance Analyst
City of Seattle Department of Construction and Inspections
P.O. Box 34019, Seattle, WA 98124-4019
P: 206.684.5040 | F: 206.615.1812 | christine.bruno@seattle.gov









Bruno, Christine

From: Bruno, Christine
Sent: Thursday, January 14, 2016 1:46 PM
To: 'Michael Schmutz'
Subject: RE: FOWR application #3023142

Thank you for providing that information. We will re-examine your application in consideration of that detail and contact you again once a determination has been made.



Christine Bruno
Shoreline Code Compliance Analyst
City of Seattle Department of Construction and Inspections
P.O. Box 34019, Seattle, WA 98124-4019
P: 206.684.5040 | F: 206.615.1812 | christine.bruno@seattle.gov



From: Michael Schmutz [<mailto:michael.schmutz@gmail.com>]
Sent: Thursday, January 14, 2016 11:08 AM
To: Bruno, Christine
Subject: Re: FOWR application #3023142

My understanding is that if does not have a working engine, which this boat does not, then it should qualify as it is not operating as a recreational vessel any longer. Please clarify.

Thanks,
Mike

On Tue, Jan 12, 2016 at 9:03 AM, Bruno, Christine <Christine.Bruno@seattle.gov> wrote:

Dear Michael:

Thank you for your floating on-water residence application. We are unable to process your request because the materials you submitted in your application show a conventional recreational vessel (CRV) under **23.60A.214B.1.a** which does not need to verify with the City of Seattle in order to be compliant with the Shoreline Master Program.

Please fill out and mail in the attached document for a refund. Please write in **3023142** for the application number.

If you still wish to verify, you would need to do so as a vessel with a dwelling unit (VDU).



IMPORTANT: Information displayed on this screen may have been last updated three days ago.
 To request copies of records, reports of sale, or a fee history, please email recordsdesk@dol.wa.gov.
 For titling questions, please call Customer Service at 360-902-3770, option 5.

OWNER INFORMATION	
Registered owner	
Schmautz, Michael C 3518 Fremont Ave N Seattle, WA 98103	
USPS Code: Owner change	
Legal owner	

REMARKS	
VESSEL INFORMATION	
Model year	1964
Boat length	47 ft.
Make	JENSEN
HIN	WNZ2824DA464
Series body	WIDPC47
Hull type	Wood
Propulsion type	Inboard
Fuel type	Diesel
Primary use	Pleasure
Boat type	Cabin
Purchase cost	\$1,500.00
Purchase year	2015
Document #	
Comments	DOC

REGISTRATION INFORMATION	
Reg #	WN-6465JR
Expires	6/30/2016
Current decal	16-D760200
Previous decal	15-D661818
Previous reg #	
Replacement reg #	

BATCH HEADER DATA	
Remit date	2015-352
County/agent	17-27
Workstation	04
Item #	0000
Batch #	0000
To item	0001
Total batch fees	\$0.00

TITLE / RENEWAL INFORMATION	
Last transaction	Title verify
Last tran date	12/30/2015
Last tran operator	004
Total fees paid	\$0.00
Prior transaction	Registered address change
Prior tran date	12/18/2015
Prior tran operator	
Months of registration	12
Title #	1535204101
Title transferred	12/18/2015
Previous title #	1432202701
Dealer number	
Legal resident county	17

Privacy Act Disclaimer

Access to IVIPS is restricted to authorized persons or organizations.
 Unauthorized use or disclosure of vehicle and vessel information is a crime punishable by fine or imprisonment and may result in civil damages.

DPD

700 5th Ave Ste 2000, PO Box 34019
Seattle, WA 98124-4019
(206) 684 -8600

Receipt

EXHIBIT G, Page 12 of 13

Report Date 12/08/2015 03:13 PM Submitted By Page 1

Trn #	757535	Trn Date	12/08/2015 15:13	Template Type	PRJ	A/P #	3023142
Customer	MICHAEL SCHMAUTZ	Cash Payment					
Address	3518 FREMONT AVE N STE 250	Check #	1425			95.00	
	SEATTLE WA 98103						

Fees Item	Dest Budget #	Amount	Fee Amount Due
REGISTER/VERIFY FLOATING RESIDENCE	501	95.00	95.00
		Total Amount	95.00
		Amount Paid	95.00
		Total Amount Due	0.00

