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8 BEFORE THE HEARING EXAMINER  
9 FOR THE CITY OF SEATTLE

10 In the Matter of the Appeal of:

11 EPIC, et al.,

12 From a Department of Construction and  
13 Inspections decision.

No. MUP-17-001

DCI Reference:  
3020845

14 APPLICANT’S AND KING COUNTY’S  
15 PRELIMINARY RESPONSE TO  
MOTION FOR RECONSIDERATION

16 On March 3, 2017, Appellant EPIC filed a motion for reconsideration of the Hearing  
17 Examiner’s Order on Respondents’ Joint Motion to Dismiss (“Order”), dated March 1, 2017.  
18 EPIC stated that it would file a legal memorandum and other evidence within the 10-day  
19 deadline for filing a motion for reconsideration provided in Hearing Examiner Rule of Practice  
20 and Procedure (“HER”) 3.20. *See* EPIC’S Motion for Reconsideration and Request for Briefing  
21 Schedule and Oral Argument (“Motion”) at 3:2. Under HER 2.16(b), within seven days after  
22 service of a motion a party may file a written response, if a party fails to timely respond the  
23 Examiner may consider the failure to be “evidence of that party’s consent to the motion.” HER  
24 2.16(b). Applicant and County are jointly filing this preliminary response in compliance to  
25 advise the Examiner of their general objection to EPIC’s Motion, and to provide notice of their  
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1 intent to file an additional response when and if EPIC provides a timely memorandum.

2 The Examiner should conclude that the Order was correctly decided. The Examiner lacks  
3 jurisdiction under the plain language of the Seattle Municipal Code. EPIC, represented by able  
4 legal counsel, is responsible for knowledge of the law applicable to its appeal. Furthermore,  
5 EPIC has provided neither facts nor even a preliminary analysis that would satisfy the  
6 requirements for reconsideration set forth in HER 3.20. EPIC cannot satisfy that burden.  
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8 The Applicant Patrick Donnelly and King County (collectively, "Respondents") will file  
9 a response to the legal memorandum and any additional evidence submitted by EPIC within  
10 seven days of service of the legal memorandum and evidence, or such other time as may be  
11 designated by the Hearing Examiner, consistent with Hearing Examiner Rule 2.16.  
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13 DATED this 10<sup>th</sup> day of March, 2017.

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