

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

DAVID MOEHRING

from a decision issued by the Director,
Department of Construction and Inspections

Hearing Examiner Files:
MUP-17-023 (P)

Department Reference:
3026908

**ORDER ON APPLICANT'S
MOTION TO DISMISS**

The Department of Construction and Inspections (“Department”) issued a decision approving the subdivision of a parcel into two lots. The parcel is located at 1532 NW 60th Street, in the Ballard neighborhood, and is zoned Lowrise 1. The Appellant, David Moehring, appealed the decision. The Appellant lives in the Magnolia neighborhood in an area that is separated from the subject property by approximately two miles and Salmon Bay. The Applicant, Blueprint Capital, filed a motion to dismiss the appeal. The Department filed a separate motion to dismiss in which it also concurred with the Applicant’s motion. The Appellant filed a response to the Applicant’s motion, and the Applicant filed a reply to the response. The Hearing Examiner has reviewed the file in this matter including the motion documents.

The Applicant contends that the Appellant lacks standing to bring the appeal because he is not significantly affected by or interested in the decision that authorized the short subdivision. In this context, standing refers to a person’s right to challenge a Department decision on a land use application. An appellant must allege facts that demonstrate that he or she is “significantly affected by or interested in” the decision being appealed. SMC 23.76.022.C.2; HER 3.01(d)(2). The Oxford English Dictionary defines “significantly” as “in a sufficiently great or important way as to be worthy of attention”. At a prehearing conference held in this case, the Appellant confirmed that he was the only appellant and was not acting as the representative of any of the neighbors to the subject site.

The appeal states that it is brought by the Appellant “in the interest of the neighbors to” the subject property. In the response to the motion to dismiss, the Appellant acknowledges that although he “may not be directly or immediately affected, the decision being appealed adversely affects others”. Response to Applicant’s Motion to Dismiss the Appeal at 6. Under appeal section A, the Appellant states his interests in the decision as follows: 1) “Assuring the neighborhood density is regulated and limited to the intent of the Code in terms of the number of dwellings and separate living units;” and 2) “Assuring the privacy of the neighboring properties will not be encroached by the overdevelopment of an individual property”. These are general interests that are no doubt shared by numerous other members of the public. They do not demonstrate an interest or effect more significant to the Appellant than to any other member of the public interested in such matters. The essence of the standing doctrine is that one who is not adversely affected by an action may not question its validity. See *Walker v. Munro*, 124 Wn.2d 402, 419, 879 P.2d 920 (1994). The

result is the same to the extent that the Appellant seeks to assert the legal rights of neighbors to the subject property. The standing doctrine prohibits a party from raising another's legal rights. *Id.*

In his response to the Appellant's motion to dismiss, the Appellant asserts several new facts that he contends establish his standing to bring this appeal. Although HER 3.04 provides the potential for clarifying the issues raised in an appeal, there is no similar allowance for clarifying standing. HER 3.01(d)(2) requires that it be established in the original appeal statement.

The Appellant lacks standing to bring this appeal and, therefore, the Hearing Examiner lacks jurisdiction to hear it. The appeal is **DISMISSED**, and the hearing scheduled for August 15, 2017, is **CANCELLED**. The Department's motion to dismiss is moot.

Entered this 7th day of July, 2017.



Sue A. Tanner, Hearing Examiner
Office of Hearing Examiner
P.O. Box 94729
Seattle, Washington 98124-4729
Phone: (206) 684-0521
FAX: (206) 684-0536

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Order on Motion to Dismiss** to each person listed below, or on the attached mailing list, in the matter of **David Moehring**. Hearing Examiner File: **MUP-17-023 (P)** in the manner indicated.

Party	Method of Service
David Moehring dmoehring@consultant.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Dave Biddle c/o Sam Jacobs and Brandon Gribben Helsell Fetterman sjacobs@helsell.com bgribben@helsell.com Kyna Gonzalez kgonzalez@helsell.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Allison Whitworth SDCI Allison.Whitworth@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
SCI Routing Coordinator SCI_Routing_Coordinator@seattle.gov PRC PRC@seattle.gov Sue Putnam Sue.Putnam@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

SCI_LUIB SCI_LUIB@seattle.gov	
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Dated: July 7, 2017

TK

Tiffany Ku
Legal Assistant