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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

**WALLINGFORD COMMUNITY
COUNCIL, ET AL.,**

of the adequacy of the FEIS issued by the
Director, Office of Planning and
Community Development.

Hearing Examiner File

W-17-006 through W-17-014

DECLARATION OF JEFFREY S.
WEBER IN SUPPORT OF THE CITY OF
SEATTLE'S MOTION TO EXTEND
DISCOVERY DEADLINES

I, Jeffrey S. Weber, declare and state as follows:

1. I am over eighteen years of age, have personal knowledge of the matters herein, and am competent to testify regarding all matters set forth herein. I am an assistant city attorney and represent the City of Seattle ("City") in the above-captioned appeal.

2. On April 2, 2018, the Appellants served the City with their preliminary witness lists. On April 13, 2018, a number of Appellants provided updated preliminary witness lists. Based on the Appellants' preliminary witness lists, the City has determined that Appellants have collectively identified at least 30 discrete expert witnesses, and far more than that number of non-expert witnesses.

3. On April 10, 2018, I sent a letter on behalf of the City to all Appellants to discuss deposition scheduling and to request a stipulation to extend the deposition cut-off

1 to May 31, 2018. The letter asked that the Appellants respond by April 16, 2018, with a
2 list of dates on which each of their experts would be available for depositions. Finally, the
3 City's April 10 letter to Appellants asked them to supplement their responses to the City's
4 First Set of Interrogatories and Requests for Production of Documents served in January,
5 in which the City had requested information related to Appellants' experts, including any
6 documents provided to, reviewed, or relied upon by each expert and communications with
7 each expert. In their initial responses to the City's written discovery, many Appellants
8 stated that they were not yet able to respond because they had not yet identified witnesses.

9 4. Attached hereto as Exhibit A is a true and correct copy of the letter dated
10 April 10, 2018, sent to Appellants.

11 5. On April 17, 2018, Appellant, Friends of Ravenna-Cowen, responded with
12 available deposition dates for two of its experts. As of the date of this Declaration, no
13 other Appellant has provided the City with any of their experts' availability.

14 6. As of 3:00 PM on the date of this Declaration, only counsel for Appellant
15 SCALE has responded to the City's request for a stipulation and agreed to extend the
16 deposition and motion *in limine* deadlines for all parties.

17 7. Friends of Ravenna-Cowen provided a response to the City's written
18 discovery requests on April 13, 2018, which included some responses to the City's request
19 for information about its expert witnesses. No other Appellant has yet provided a
20 supplemental response as requested in the City's April 10, 2018 letter.

21 8. On April 17, 2018, the City requested a discovery conference among the
22 parties representatives on either Friday, April 20, 2018, or Monday, April 23, 2018, in an
23 attempt to resolve outstanding discovery related to issues affecting deposition preparation
24 and scheduling. In any event, in light of the number of Appellant witnesses identified, the
25 City will be unable to complete the necessary depositions of Appellant witnesses or fully

1 understand issues that may be subject to motions *in limine* by the current April 30, 2018,
2 deadlines.

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

5 EXECUTED in Seattle, Washington, this 18th day of April, 2018.

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8 _____
9 Jeffrey S. Weber, WSBA No. 24496

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EXHIBIT A



Seattle City Attorney

Peter S. Holmes

Jeff Weber
Assistant City Attorney
206.727.3999

April 10, 2018

VIA E-MAIL

Representatives of:

Morgan Community Association
Friends of Ravenna-Cowen
West Seattle Junction Neighborhood Organization
Seattle Coalition for Affordability, Livability and Equity
Beacon Hill Council of Seattle
Friends of North Rainier Neighborhood Plan
Fremont Neighborhood Council
Seniors United For Neighborhoods

Re: Appeals of Wallingford Community Council, et al, W-17-006 through W-17-014

Dear Appellant representatives:

The purpose of this letter is to address a number of issues now that the Appellants have filed their preliminary witness and exhibit lists.

A. Designation of Experts.

Based on Appellants' preliminary witness lists and discovery responses, the City's understanding is that the only witnesses designated by Appellants as experts are those set forth in the chart below. The City will object to any attempts to elicit expert testimony from any other Appellant witnesses not listed below. Additionally, the Examiner's Prehearing Order requires the parties to include a statement of qualifications for each listed expert witness. In several instances, the parties have listed an expert's curriculum vitae in the Appellants' exhibit list, but did not provide the City with a copy. The City requests that parties share the CVs or resumes of each of their listed experts.

April 10, 2018

Page 2

Witness Name	Party Listing
Janine Rees	JuNO
Timothy (Tim) Larson	BHCS
Troy D. Abel	BHCS
David P. Levitus	FNC
Peter Steinbrueck	FNC SCALE FNR
Kern Ewing, Ph. D.	FORC
Woodrow (Woody) Wheeler	FORC
Sharon E. Sutton	MoCA
Rick McLaughlin	FNR JuNO SCALE
Michael Ross	FNR
Maria Batayola	FNR SCALE
Eugenia Woo	FORC SCALE FNR
Larry E. Johnson, AIA, LEED AP	FORC
Lawrence Kreisman	FORC SCALE
Spencer Howard	SCALE FNR
Thomas Veith	SCALE
Jennifer Ott	FNR
Davidya Kasperzyk	FNR SCALE

April 10, 2018

Page 3

William Reid	SCALE
Gordon Lagerquist	FNC
Lorne McConachie, FAIA	FORC
Alon Bassok	MoCA
Gary Dawson	MoCA
Jeff Richardson	SCALE FNC
Michael Oxman	FNC SCALE
Unidentified Witness – JuNO List No. 36	JuNO
Unidentified Witness – JuNO List No. 38	JuNO
Unidentified Witness – JuNO List No. 39	JuNO
Unidentified Witness – JuNO List No. 40	JuNO
Unidentified Witness – MoCA List No. 7	MoCA
Unidentified Witness – SCALE List No. 35	SCALE
Unidentified Witness – SCALE List No. 36	SCALE

B. Scheduling Depositions.

The City would like to depose the expert witnesses identified by Appellants included in the list above. The City may also wish to depose certain lay witnesses, but will address those separately.

The City intends to cooperate with Appellants on the scheduling of depositions by finding mutually convenient times and without resorting to subpoenas, if possible. To facilitate that effort, we would like you to provide, by Monday, April 16, 2018, the following information: (1) the date by which each of the persons listed in the chart above will be ready for his/her deposition, and (2) a list of dates on which each of the persons listed in the chart above is available to have his/her deposition taken, between April 16, 2018 and May 31, 2018. Because of the large number of depositions that must be scheduled, we request that you provide at least five possible dates for each person. We will then attempt to identify dates for each of the depositions that will enable all of the depositions to be scheduled at a mutually convenient time.

We note that the number of witnesses, including expert witnesses, listed by the Appellants is very large and is inconsistent with completing the hearing in the time

April 10, 2018
Page 4

allotted by the Examiner. If an Appellant does not intend to call one or more of the above-listed persons, please notify us of that fact by April 16 as well.

C. Supplemental Responses to Written Discovery.

In January, the City served on you its First Set of Interrogatories and Requests for Production of Documents in which the City requested information related to Appellants' expert witnesses. Many of you stated in your responses that you were not yet able to respond to certain discovery requests because you had not yet identified witnesses. Now that Appellants have identified expert witnesses, the City requests that, where incomplete responses were previously provided, you now supplement your responses to make them complete. Because the requested information is necessary to plan for depositions, we ask that you do so by Monday, April 16, 2018.

D. Deadline for Depositions.

It is obvious that, given the number of witnesses Appellants have listed, it will not be possible to complete all depositions by the Examiner's cut-off date of April 30, 2018. The City intends to request an extension of the deadline to May 31, 2018. The City does not intend to request extensions of any other deadline because the change in schedule to accommodate depositions does not impact any other pre-hearing deadlines. Therefore, we request that each of you confirm by email whether you agree to re-set the deadline for completing depositions from April 30 to May 31, 2018. Please provide your response by April 16, 2018, whether you are willing to so stipulate, and we will prepare a stipulation to submit to the Examiner. If you are not willing to so stipulate, please let us know that too, so that we may seek relief from the Examiner.

Thank you for your assistance.

Very truly yours,

PETER S. HOLMES
Seattle City Attorney

By



Jeff Weber
Assistant City Attorney