

CITY OF SEATTLE

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**BEFORE THE CITY COUNCIL
CITY OF SEATTLE**

In the matter of the Application of

SWEDISH MEDICAL CENTER

For approval of a Major Institution Master Plan

C F 311936

**RESPONSE OF THE SQUIRE
PARK COMMUNITY COUNCIL
TO APPLICANT'S REQUEST TO
SUPPLEMENT RECORD**

The Squire Park Community Council asks that the City Council deny the Applicant's Request to Supplement the Record, filed February 16, 2016, for the following reasons:

1. The Request was not timely, pursuant to Council Rules for Quasi-Judicial Hearings V.B.1.a. The Rule states that a Request to Supplement the Record "must be filed ... no later than: a. If an appeal has been filed, the deadline for filing a reply;... ."

In the Rules, the term "reply" is inconsistently used, but the reasonable and fair interpretation of V.B.1.a. is to interpret the entire sentence as a whole. The term "reply" relates to the reply to an appeal. If the Applicant wished to request that the

record be supplemented it could have, and must have, filed such a request no later than ten days from January 29 --- in other words, no later than February 8. (It is interesting to note that the e-mails to which the applicant refers are apparently dated January 25 and February 1.) To interpret the Rule otherwise, as the Applicant would have it, would be to allow the Applicant to introduce new evidence at a time when no other party would have an opportunity to request permission to present additional evidence.

2. The Request to Supplement the Record does not comply with Rule V.B.2.b. "Testimony proposed to be added to the record must be presented by affidavit, by declaration conforming to the standards of RCW 9A.72.085, or in a transcript."

While the Applicant provides an affidavit affirming the existence of certain e-mails which are attached, the argument of the Applicant seems to be that the facts or opinions asserted in the e-mails should be considered to be evidence. The statements in the e-mails are not made by affidavit, declaration, or transcript.

None of the parties had a chance to question those alleged to have made the statements. Furthermore, since the Applicant chose to file this Request to Supplement several hours before the deadline for the Appellants to Reply to its Response to the Appeals, Appellants would have had no opportunity to investigate the alleged opinions and facts or to request permission to submit additional evidence within the deadline provided by the Rules.

3. The proposed evidence is immaterial and irrelevant to the case. This is admitted by the Applicant's own brief. The Applicant's argument in support of its Request to Supplement the Record argues that "no party will be prejudiced" by the new evidence because no other appellant "raises the same central question" related to charity case that was raised by Washington CAN and Washington CAN's appeal has been withdrawn.

While in fact other appellants may be "prejudiced" if incomplete and questionably reliable evidence is introduced at this late date, it is true that Washington CAN's withdrawal of its appeal makes the proposed supplementation of the record immaterial.

RELIEF REQUESTED: Squire Park Community Council asks that the Applicant's Request to Supplement the Record be denied.

Submitted this 26th day of February, 2016



For the Squire Park Community Council, by Bill Zosel

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