



City of Seattle

Office of Hearing Examiner

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October 8, 2019

Seattle City Council
600 Fourth Ave.
Seattle, WA, 98104

RE: CB 119600

Dear Council Members:

On October 7, 2019 Council unanimously passed Council Bill 119600, which includes time limits for hearing examiner review of SEPA appeals.

During the process of Council consideration of this legislation, the Office of Hearing Examiner ("OHE") was asked to describe how the proposed changes may impact the OHE in terms of workload and needed resources. In discussions in response to those questions with Central Staff, Council, and others, the OHE has identified impacts and additional opportunities for improving the efficiency of the OHE appeal hearing process.

The OHE will continue with its current efforts to create efficiencies in the appeal process, and will incorporate into those efforts the directive from Council to convene a stakeholder group and to report on opportunities for improving efficiency in the OHE 2019 annual report. However, if Council wishes to take additional steps that will assist with OHE appeal efficiency now, there are two items that Council may wish to consider at this time while it is in budget deliberations.

A. Mediation – Planner Participation in Mediation Fund - \$15,000.

As indicated in my letter to you concerning Council Bill 119600 dated September 11, 2019, it is my goal to increase opportunities for resolution of SEPA appeals and other cases by implementing a more robust mediation program through the OHE. Mediation gives the parties an opportunity to resolve conflicts outside the appeal system. The King County Interlocal Conflict Resolution Group, has already indicated an increase in case referrals to their office since I have assumed leadership of the OHE. One impediment to mediation participation can be cost to the parties. Currently applicants are charged for time spent by planners in association with the appeal process, including participation by planners in mediation. In the recent past, the OHE conducted a mediation pilot program which was supported by \$15,000 in the OHE budget to cover costs of planner participation in mediations, and it was used at least once during that time.

These funds incentivize participation in mediation by applicants, and the department. These funds were removed from the OHE budget when the mediation pilot program was concluded. Having the fund for planner participation in mediation replaced in the OHE budget, would help to enhance the ability of parties to participate in mediation, which in turn improves the efficiency of the OHE appeal process.

B. Portable Hearing Room Equipment - \$8,000

A major factor in scheduling hearings, and a contributor to delay in our proceedings is availability of a hearing room. The OHE has one primary hearing room and one small hearing room. The small hearing room is useful for less complicated matters such as citation hearings, but is not adequate to serve multi-party hearings that often also require room to accommodate a public audience. For example, in 2018 the MHA EIS appeal consumed four weeks of the calendar for the primary hearing room, and no other major hearing could be accommodated during that period. The Fort Lawton DNS appeal hearing (which at the outset was determined to require four days of hearings with multiple parties and a public audience) could not be accommodated during the MHA hearing, and was delayed for that reason. If a second hearing room could have been established, then the Fort Lawton appeal hearing could have proceeded at an earlier date. The case volume of the OHE cannot justify permanently maintaining two primary hearing rooms, however if we had available hearing room equipment that mirrors the audio and recording capacity of the primary hearing room we could arrange use of a different location. The cost to replicate the audio and recording capacity of the primary hearing room is approximately \$8,000.¹

The OHE will continue to identify additional opportunities for improving the efficiency of our appeal processes, and looks forward to updating Council on that process. However, if Council wishes to see additional efficiency added to the appeal process now, then it may desire to proceed with budget allocations for the items identified above.

Thank you.

Ryan P. Vancil
Hearing Examiner

¹ Portable hearing equipment would also give the OHE the option to hold hearings at remote locations e.g. in neighborhoods impacted by a proposal.