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September 13, 2022

Pearl Ren
C/o Courtney Kaylor
McCullough Hill Leary, PS
701 5th Avenue, Suite 6600
Seattle, WA 98104
courtney@mhseattle.com
SERVICE BY E-MAIL (First class mail service if requested)

City of Mercer Island
C/o Bio F. Park, City Attorney
9611 SE 36th Street
Mercer Island, WA 98040
bio.park@mercergov.org
SERVICE BY E-MAIL (First class mail service if requested)

Subject: Scheduling Guidance for Stop Work Order Appeal: APL22-003

Dear Principal Parties:

I write in my capacity as the City of Mercer Island Hearing Examiner (“Examiner”).

On September 9, 2022, I received the appeal which Courtney Kaylor filed on behalf of Pearl Ren (“Ren”) on September 8, 2022, with the City of Mercer Island *in re* the Stop Work Order issued by the Department of Community Planning & Development on August 26, 2022. Mercer Island City Code (“MICC”) provides for a 14 calendar day appeal period from date of service. [MICC 6.10.070(C); 6.10.090(A)] “The notice of appeal shall be made in writing using the appropriate city form, clearly explaining the basis for the appeal, and shall include the applicable appeal fee as established in a fee schedule adopted by the Mercer Island city council.” [MICC 6.10.090(A)] The City has advised me that the appeal fee was paid on September 9, 2022. It would appear that Ren’s appeal was timely and complete when filed.

All proceedings in the foreseeable future in this appeal will be conducted remotely. Mercer Island uses the “Zoom” platform for its remote proceedings.

“Upon receipt of the appeal, the city shall schedule an appeal hearing before the hearing examiner. The hearing shall be conducted in accordance with the procedures set forth in Chapter 3.40 MICC and the rules of procedure of the hearing examiner.” [MICC 6.10.090(B)(1)] I promulgated Rules of Procedure (“RoP”) on December 2, 2019, pursuant to MICC 3.40.080(B). Please note that the current RoP are different from

those of my predecessor. (I have attached a copy of the new RoP to the e-mail version of this letter. The City also maintains copies of the RoP which it can provide to appellants.) RoP 224 requires a pre-hearing document pre-filing process. The pre-filing process starts not less than 14 days before the hearing date. I urge both parties to familiarize themselves with the RoP, especially those specifically pertaining to appeals and hearings.

To ensure fairness to all principal parties, I set the hearing date in consultation with the principal parties; the City issues the required hearing notices. Public notice requirements for !Notice of Violation !Stop Work Order appeals are set forth at MICC 3.40.080(D) (cross-referenced from MICC 6.10.090(B)(1)). The notice must be published and mailed to parties of record not less than 15 calendar days prior to the scheduled hearing date.

The RoP provide for prehearing conferences. [RoP 208] The Examiner has sole discretion to convene prehearing conferences. [RoP 208(a)] Any principal party may request that the Examiner convene a prehearing conference; the Examiner may call for a prehearing conference on his own initiative. [RoP 208(c)] **At this time I do not believe that a prehearing conference is necessary in this appeal;** However, I will fairly consider any request for a prehearing conference. Unless waived by the principal parties, I am required to give not less than seven days notice of a prehearing conference. [RoP 208(c)]

Allowing five work days for the parties to advise me of their date preferences, five work days after that for the City to prepare its initial documents for filing under RoP 224 and prepare the required hearing notice, and the 15-day notice period before the hearing, the earliest that we could possibly convene the hearing would be Tuesday, October 11, 2022. (The 25th day after today is Saturday, October 8th and the following Monday is a legal holiday.) However, I will be on a short vacation trip from October 5 – 12. Therefore, the earliest practical date (that would allow me at least one day after returning from vacation to review your pre-filed documents) would be October 14th. **For starters, I am presently available on October 14, 17, 19, 20, 21, 25, and 28.** (I schedule hearings on a first-come-first-served basis, so the longer it takes us to choose a date, the greater the likelihood that another jurisdiction may have reserved my services. Time is of the essence.)

Please communicate your availability and date preference(s) directly to me by E-mail by noon on Monday, September 19th, at the latest. My E-mail address is “jegalt755@gmail.com”. The City’s response must consider the availability of needed staff. I will select a date and time based upon timely received responses.

Please be aware that *ex parte* communication with me is strictly limited. (See RoP 120.) You may communicate with me only on scheduling or other procedural matters. Whenever you communicate with me on such matters, you must cross-copy your communication to all other parties.

Last but by no means least, two procedural items:

Pearl Ren v. City of Mercer Island
APL22-003
September 13, 2022
Page 3 of 3

- 1) If you are willing to continue to accept e-mail service from me in this case, please so advise when you communicate your date preferences; and
- 2) If you have key associates or assistants that I should include in e-mail service to you, please provide their names and e-mail addresses in your e-mail.

Sincerely,

\s\ *John E. Galt*

John E. Galt,
City of Mercer Island Hearing Examiner