



**King County**

# SEMI-ANNUAL REPORT OF THE KING COUNTY HEARING EXAMINER

The report provides information concerning compliance with the objectives and duties of the Hearing Examiner stated in Chapter 20.22 of the King County Code

David Spohr, Hearing Examiner  
September 1, 2016

JANUARY – JUNE 2016

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# SEMI-ANNUAL REPORT OFFICE OF THE KING COUNTY HEARING EXAMINER

JANUARY – JUNE 2016

DAVID SPOHR  
KING COUNTY HEARING EXAMINER

## *OVERVIEW*

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### 20.22.020 Chapter purpose

The office of hearing examiner is created and shall act on behalf of the council in considering and applying adopted county policies and regulations as provided in this chapter. The hearing examiner shall separate the application of regulatory controls from the legislative planning process, protect and promote the public and private interests of the community and expand the principles of fairness and due process in public hearings.

### 20.22.310 Semiannual report

The office of the hearing examiner shall prepare a semiannual report to the council detailing the length of time required for hearings in the previous six months, categorized both on average and by type of proceeding. The report shall provide commentary on office operations and identify any need for clarification of county policy or development regulations. The office shall file the report by March 1 and September 1 of each year...

The King County Hearing Examiner is appointed by the [Metropolitan King County Council](#) to provide a fair, efficient, and citizen-accessible public hearing process. We hear land use applications and appeals of many county administrative determinations, issue formal decisions, and make recommendations to Council.

Twice a year we report to Council on Examiner operations; this report covers January 1 through June 30, 2016. We begin by explaining and reviewing specific Examiner jurisdictions. We then apply these groupings to the current period, analyzing Examiner workload and compliance with various deadlines.

Throughout, we compare the current reporting period to previous periods. We describe some of our more interesting cases, discuss the few Examiner matters on appeal to the courts, and close by describing our initiatives.

The major change this reporting period was the Council's passage (and Executive's signature) of a thorough revision of the Examiner code, along with the transfer of jurisdiction for animal control and business licensing appeals from the Board of Appeals to the Examiner. We began seeing significant numbers of animal control cases in May. It has been a steep learning curve, but a rewarding one.

In a nutshell, our new case filings were up from the three preceding January-through-June reporting periods. Our time spent in hearings was actually less than the same period last year, though with the assumption of our new jurisdictions, we are on track to climb significantly. And we were 100% compliant with all three of the deadlines that apply to each Examiner case, exceeding our goal of 95% compliance.

We appreciate the trust the Council puts in us, and we remain committed to courtesy, promptness, and helpfulness in assisting the public to make full and effective use of our services. In addition, we continue striving to timely issue well-written, clearly-reasoned, and legally-appropriate decisions and recommendations.

**20.20.020 Classifications of land use decision processes**

A. Land use permit decisions are classified into four types, based on who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided.

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***EXAMINER JURISDICTION***

There are two main avenues by which matters reach the Examiner. Sometimes, the Examiner acts in an appellate capacity, hearing an appeal by a party not satisfied with an agency determination. Other times, the Examiner has “original jurisdiction,” holding a public hearing on a matter regardless of whether anyone objects to the agency’s recommended course of action. Depending on the type of case, at the end of a hearing the Examiner may issue a recommendation to the Council, a decision appealable to the Council, or the County’s final decision. As to subject matter, the Examiner has jurisdiction over eighty distinct matters, in arenas ranging from electric vehicle recharging station penalties (K.C.C. 4A.700) to discrimination and equal employment (K.C.C. 12.16) to open housing (K.C.C. 12.20). But the Examiner’s caseload mainly consists of several common types. A non-exhaustive list, categorized by decision-making process, follows.

**EXAMINER RECOMMENDATIONS TO THE COUNCIL (K.C.C. 20.22.060)**

Applications for public benefit rating system-assessed valuation on open space land (K.C.C. 20.36.010)

Road vacation applications and appeals of denials (K.C.C. 14.40.015)

Type 4 land use decisions (K.C.C. 20.20.020(A)(4)):

- Zone reclassifications
- Plat vacations

**EXAMINER DECISIONS, APPEALABLE TO THE COUNCIL (K.C.C. 20.22.050)**

Type 3 land use decisions (K.C.C. 20.20.020(A)(3)):

- Preliminary plat
- Plat alterations

**EXAMINER FINAL DECISIONS (K.C.C. 20.22.040)**

Code compliance enforcement:

- Animal care and control (K.C.C. 11.04)
- Land use (K.C.C. Title 23)
- For-hire transportation (K.C.C. 6.64)
- Public health (Bd. Of Health Code 1.08)

Threshold SEPA Determinations (K.C.C. 20.44.120)

Type 2 land use decisions (K.C.C. 20.20.020(A)(2)):

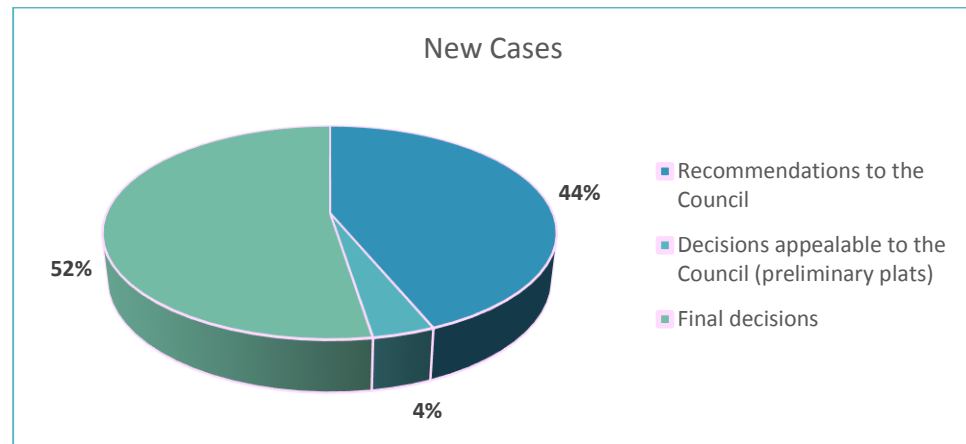
- Conditional use permits
- Short plats, short plat revisions/alterations
- Reasonable use exceptions
- Temporary use permits
- Shoreline substantial development permits
- Zoning variances

NEW CASES

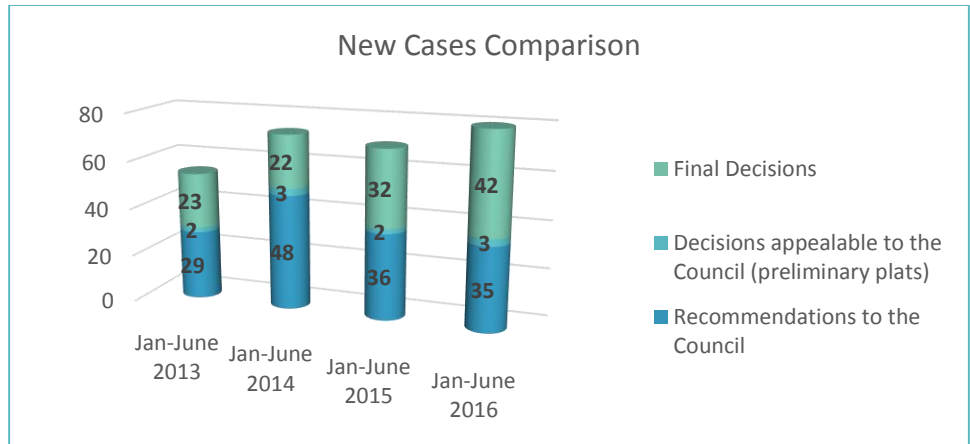
During the first half of 2016, we received 80 new cases, consisting of:

NEW CASES JANUARY—JUNE 2016		Number of Cases
<b>RECOMMENDATIONS TO THE COUNCIL</b>		
Open space		34
Rezone		1
<b>DECISIONS APPEALABLE TO THE COUNCIL</b>		
Preliminary plats		3
<b>FINAL DECISIONS</b>		
Animal Services enforcement		32
For-hire license enforcement		3
Land use enforcement		6
SEPA		1
<b>TOTAL</b>		<b>80</b>

More generally, our new case filings, broken down into class, were:

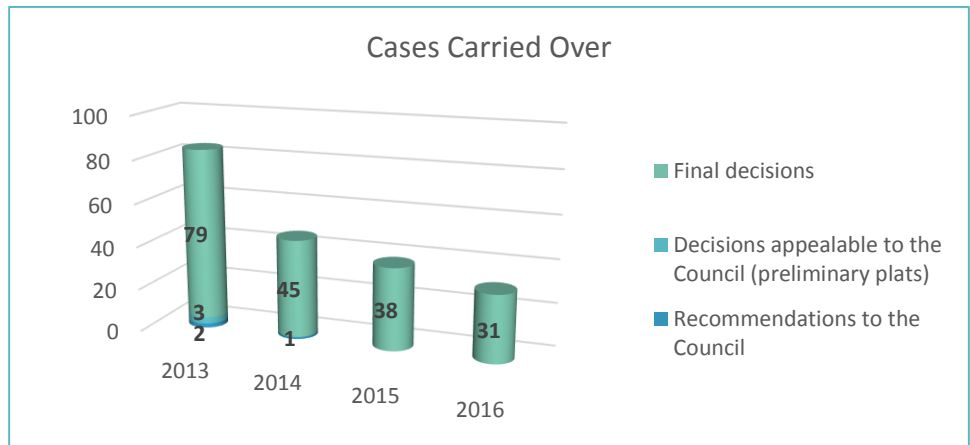


The 80 new case filings for the first half of 2016 were up from the 70 we received in the first half of 2015. The biggest factors were the new animal enforcement cases we began receiving in the last half of the reporting period, counterbalanced somewhat by a precipitous drop in land use enforcement appeals (itself driven by three of the five land use code enforcement officers either retiring or accepting alternative employment in late 2015 or early 2016).



### CASES CARRIED OVER FROM PREVIOUS YEARS

At the end of each year we carry a certain number of cases into the next year. A few are matters currently on appeal; our case is stayed while a court decides. Most are cases continued at the joint request of the parties, while the parties attempt to reach an amicable resolution. After making a concentrated push in 2013 to use more active case management techniques to winnow down what we carried into 2014, we have continued slightly culling the list the last two years.



For the 31 cases carried into 2016, almost half came to us last year, a quarter between 2013 and 2014, and a quarter before that.

CASES CARRIED OVER	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>RECOMMENDATIONS TO THE COUNCIL</b>										
Active processing*										1
<b>FINAL DECISIONS</b>										
Appealed to Superior Court						1				1
Active processing					1			1		3
Continued on-call	1		1	2		1	1	2	5	10
<b>TOTAL=31</b>										

**20.22.030.C.**

For the purposes of proceedings identified in K.C.C. 20.22.050 and 20.24.060, the public hearing by the examiner shall constitute the hearing required by the King County Charter by the council.

**20.22.120.A. Prehearing conference**

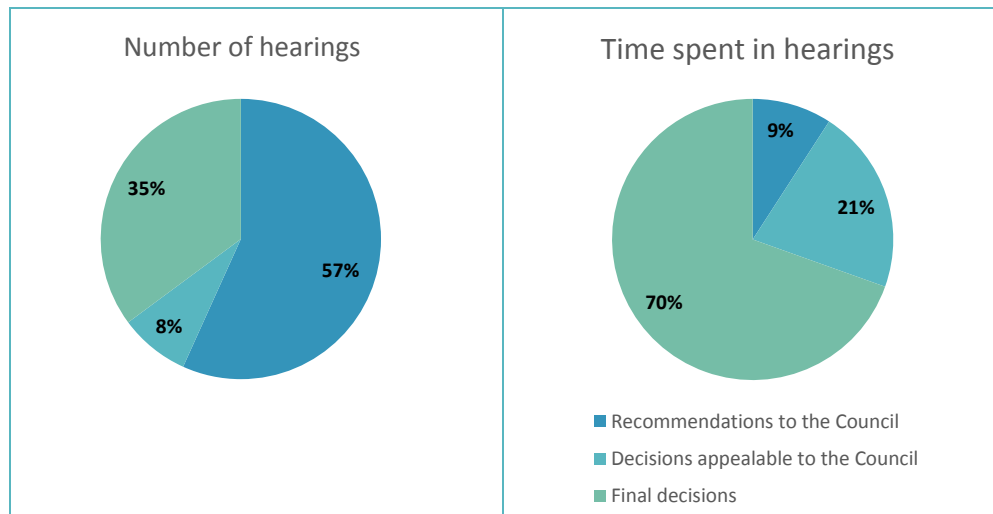
On the examiner's own initiative, or at the request of a party, the examiner may set a prehearing conference.

\* Proceeding scheduled/ briefing in process/ report issued

**PROCEEDINGS**

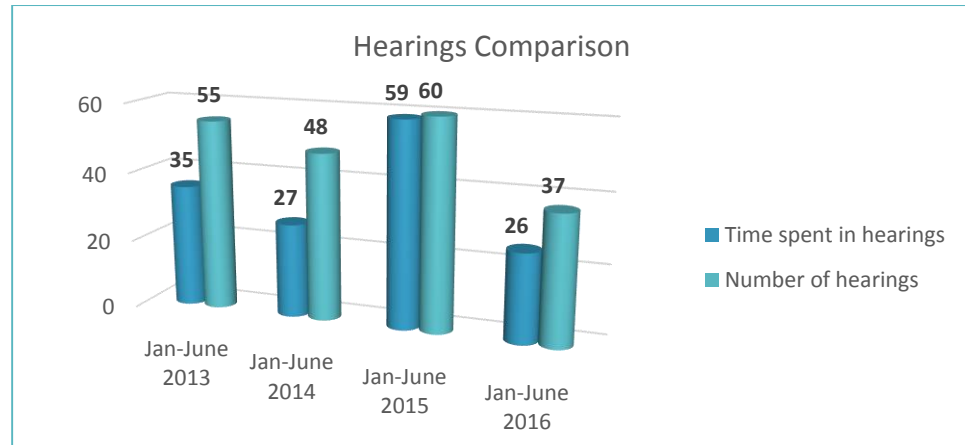
We attempt to extend a high level of service to all our participants. After all, even matters raising no novel legal issues or creating little impact beyond the parties are still crucially important to those parties. But not all types of cases require the same level of Examiner involvement. For example, the average land use enforcement hearing took about 17 times longer than the average current use taxation hearing.

Number of Hearings January – June 2016	Number of hearings	Cumulative length of time
<b>RECOMMENDATIONS TO THE COUNCIL</b>		
Open space	20	2:12
Lake management district	1	0:08
<b>DECISIONS APPEALABLE TO THE COUNCIL</b>		
Preliminary plats	3	5:26
<b>FINAL DECISIONS</b>		
Animal Services enforcement	6	4:37
Land use enforcement	7	13:07
<b>TOTAL</b>	<b>37</b>	<b>25:30</b>

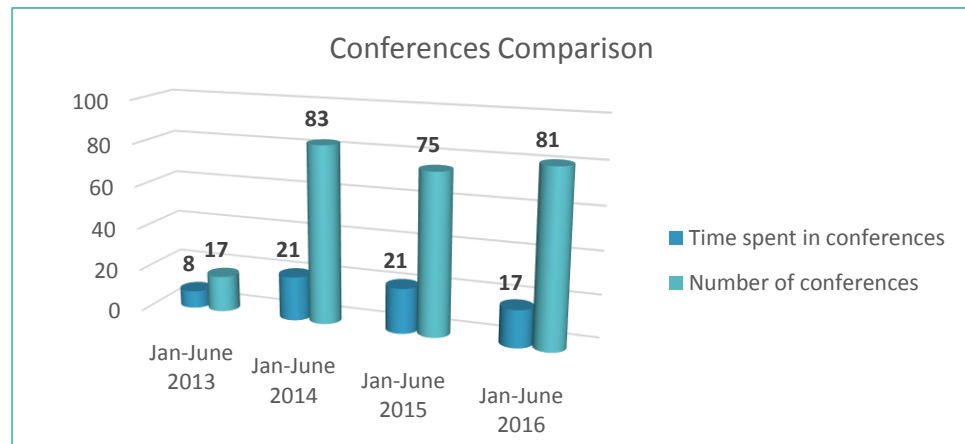


Compared to 2015, our number of hearings decreased from 60 to 37 and our cumulative hours spent in hearings dropped as well. The biggest drivers were a decline in current use taxation hearings (20 now versus 35 for the first half of 2015), a halving of the land use enforcement appeal hearings (as noted above, likely the result of three fifths of the land-use code enforcement officers who would have been issuing appealable decisions either retiring or accepting

alternative employment in late 2015 or early 2016). We only had two months of animal enforcement cases to counterbalance these drops. (Our hearing numbers for the second half of 2016 appear to be well-outpacing past years.)



As previously discussed, we made a significant policy shift in 2014 to hold periodic status conference calls in every case “continued on-call.” These conferences ensure we stay on top of cases and keep parties’ feet to the fire. Having periodic conferences helps us more speedily resolve cases, either through the parties’ amicable resolution or (where the parties appear at loggerheads) by ending the continuance, going to an adversarial hearing, and writing a decision. Our conference numbers have remained relatively steady ever since.



## REPORTS ISSUED

At the conclusion of a case, we issue a final report closing out the matter. These closings are sometimes summary dismissals (such as when the parties settle a dispute) but more often final determinations based on taking evidence and argument at a hearing and deciding the merits. Our 54 reports this period are fewer than we issued in past periods. This is a result of the previously discussed drop in land use enforcement and open use tax cases requiring a hearing (and

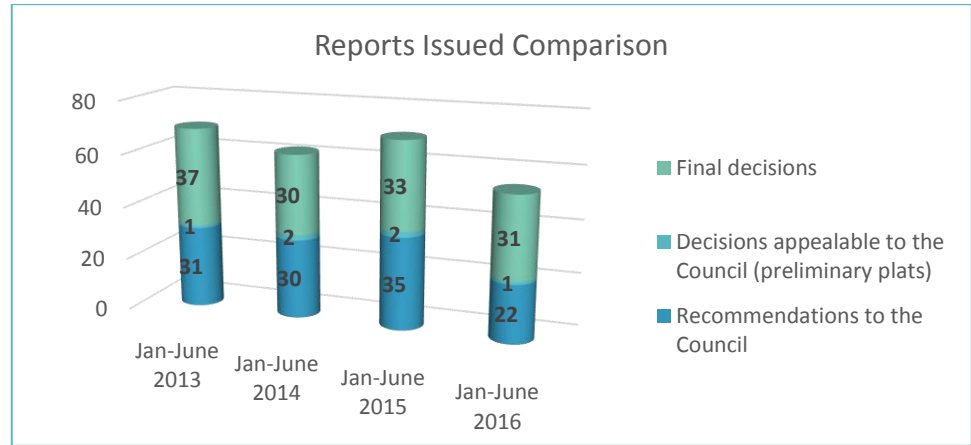
### 20.22.030.1

G. The examiner shall use case management techniques to the extent reasonable including:

1. Limiting testimony and argument to relevant issues and to matters identified in the prehearing order;
2. Prehearing identification and submission of exhibits, if applicable;
3. Stipulated testimony or facts;
4. Prehearing dispositive motions, if applicable;
5. Prehearing conferences;
6. Voluntary mediation; and
7. Other methods to promote efficiency and to avoid delay.



thus a determination), somewhat balanced out by our two months holding animal enforcement hearings and thereafter issuing decisions.



Beyond the numbers, our more interesting cases involved:

- They say, “You never forget your first [*insert item*],” and our first animal control case was all that and more. The facts were dramatic (a St. Bernard repeatedly biting the head of a grandmother shielding her infant grandson). The dog owner’s testimony was incredibly insensitive (blaming the victim), largely ineffective (belaboring irrelevant points), and often hyperbolic (at one point screaming to reenact the victim’s screams). And the procedure itself was suspenseful (the victim/complainant unexpectedly not appearing at the hearing). In the end, and based on the testimony and evidence we actually had in the record (and the absence of a crucial witness), we granted the appeal on the only issue in dispute (whether the owner’s two smaller dogs participated in the attack).
- As described in our last report, in 2015 we took spirited testimony at a well-attended public hearing on whether to form a lake management district. After allowing for post-hearing briefings, we found that creation of the district was in the public interest and that the financing plan was (over the objections of State Ecology) appropriate. We recommended that the Council send the formation question to would-be-district voters. Council did so, and the ballots cast were overwhelmingly in favor of district formation. This reporting period we turned to the next phase of the process laid out by state law, sitting as a board of equalization to entertain objections to the tax roll. This second round hearing was uneventful, but it did require us to prepare for and assume a different role (board of equalization versus classic examiner) than we have ever, or likely will ever, serve as again.

- Another animal enforcement appeal raised several new (to us) issues. There was no actual bite; instead the question was whether a trespassing dog’s actions before the property owner picked up a shovel and halted the dog’s advance qualified as “attacking a human being,” which can trigger a “vicious dog” designation. We analyzed the right of the property owner to protect himself, the weight to give testimonials and expert opinion that a dog is generally friendly and non-aggressive, and the distinction between the County’s animal control regime and the default state model. We concluded that a County “viciousness” designation does not necessitate as much as a state “dangerous dog” designation would, but it will sometimes require more than what would be sufficient for a state “potentially dangerous dog” designation. So while we found the dog here exhibited an “apparent attitude of attack” that would have warranted a “potentially dangerous dog” designation under the state’s system, it was not sufficient to sustain a “viciousness” charge under our County system.

#### APPELLATE ACTIVITY

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At the request of Council, we now regularly include information involving appeals of Examiner decisions.

There were two appeals of Examiner decisions in the first half of 2016. Both were somewhat surprising in that we largely ruled in the *appellant’s* favor.

*Theuringer* involved one novel issue—whether a part-time resident of a dwelling unit could operate a home occupation. We resolved this in Mr. Theuringer’s favor, opening the door for him to apply for building permit to legalize the relatively minor building alterations he had undertaken. Yet he appealed instead, although in doing so he failed to properly serve the required individuals, and the court summarily dismissed his appeal.

*McMilian* involves a two-parcel, legally nonconforming wrecking yard issue. As we have previously reported, in prior years a *pro tem* examiner found illegal expansion onto the southern parcel, a decision eventually upheld on appeal. This round involved allegedly illegal expansion of the legal nonconforming use on the northern parcel. The examiner denied some of McMilian’s appeal, but granted much of it. Nonetheless, McMilian again appealed. A superior court hearing is set for early December.

#### COMPLIANCE WITH CODE-MANDATED DEADLINES

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Statutory requirements impose deadlines for swift and efficient Examiner processing of certain case matters. The code-established deadlines covered below represent our three principal time requirements. We were 100 percent complaint with all deadlines, meaning we exceeded the 95 percent compliance

**20.22.100.B.1**

For appeals initiated by delivering the appeal statement to the responsible department or division...The examiner shall hold a prehearing conference or a hearing within forty-five days, and shall complete the appeal process, including issuing a determination, within ninety days of the date the office of the hearing examiner receives those materials.

**20.22.100.C.**

For applications for which the responsible department or division issues a recommendation and an examiner holds a public hearing and issues a decision or recommendation, the examiner shall complete the application review, including holding a public hearing and transmitting the report required by K.C.C. 20.22.220, within ninety days from the date the council refers the application to the office of the hearing examiner. Any time required by the applicant or the responsible department or division to obtain and provide additional information requested by the examiner and necessary for the determination on the application and consistent with applicable laws, regulations and adopted policies is excluded from the ninety-day calculation.

**20.22.100.F.**

The examiner may extend the deadlines in this section for up to thirty days. Extensions of over thirty days are permissible with the consent of all parties. When an extension is made, the examiner shall state in writing the reason for the extension.

goal we set each reporting period. (With a major influx of new cases, our 95 percent deadline-compliance goal may not be as realistic for future periods, but we will endeavor to keep deadline misses to a minimum.)

Two of the three deadlines K.C.C. 20.22.100 established as of March are new and/or revised. Thus, we are not including what would be a somewhat apples-to-oranges graph comparisons with earlier reporting periods. We create a new baseline with this report, to have a constant measuring stick against which to compare performance in later reporting periods.

**DEADLINE ONE—DAYS FROM APPEAL TRANSMITTAL TO FIRST PROCEEDING**

For appeals, the Examiner must hold a hearing a prehearing conference or hearing within 45 days of receiving the appeal packet. We were compliant in all of our cases.

DEADLINE—1			
45 DAYS FROM APPEAL TRANSMITTAL TO FIRST PROCEEDING	Average days	Percent Compliant	
AVERAGES AND COMPLIANCE			
<b>FINAL DECISIONS</b>			
Animal Services enforcement	35	100%	
For-hire license enforcement	41	100%	
Land use enforcement	33	100%	
SEPA	1	100%	
<b>TOTAL</b>	<b>35</b>	<b>100%</b>	

Where the parties jointly request a longer extension (such as when appellant is working to obtain a permit that would resolve a code enforcement case) the Examiner may grant a lengthy extension to Deadline One. In addition, the Examiner may (on his or her own motion, or at the contested request of one of the parties) extend the deadline, but only up to 30 days. We strive to keep Examiner-initiated extensions to a minimum (five percent of our cases or less), and we issued no such extensions this period.

**DEADLINE TWO—DAYS FROM APPLICATION REFERRAL/APPEAL TRANSMITTAL TO REPORT**

For appeals and for applications, the Examiner should wrap up review, including issuing a final determination, within 90 days of receiving the appeal packet, or (for applications) within 90 days of Council referring the application to the Examiner. We were compliant in all of our cases.

As with Deadline One, an Examiner may (on his or her own motion or at the contested request of one of the parties) extend Deadline Two for up to 30 days. Here too, we strive to keep Examiner-initiated extensions to a minimum. We issued no such extensions this period.

DEADLINE—2		
90 DAYS FROM APPLICATION REFERRAL/ APPEAL TRANSMITTAL TO REPORT AVERAGES AND COMPLIANCE	Average days	Percent Compliant
<b>RECOMMENDATIONS TO THE COUNCIL</b>		
Open space	32	100%
Lake management district	18	100%
<b>DECISIONS APPEALABLE TO THE COUNCIL</b>		
Preliminary plats	74	100%
<b>FINAL DECISIONS</b>		
Animal Services enforcement	31	100%
For-hire license enforcement	31	100%
Land use enforcement	69	100%
<b>TOTAL</b>	<b>36</b>	<b>100%</b>

**DEADLINE THREE—10 BUSINESS DAYS FROM HEARING CLOSE TO REPORT**

The last deadline relates to all types of hearings, requiring the Examiner to issue findings and conclusions no later than ten business days after completing a hearing. We were compliant on all of our reports.

DEADLINE—3		
10 BUSINESS DAYS FROM HEARING CLOSE TO REPORT AVERAGES AND COMPLIANCE	Average days	Percent compliant
<b>RECOMMENDATIONS TO THE COUNCIL</b>		
Open space	5	100%
Lake management district	2	100%
<b>DECISIONS APPEALABLE TO THE COUNCIL</b>		
Preliminary plats	8	100%
<b>FINAL DECISIONS</b>		
Animal Services enforcement	4	100%
For-hire license enforcement	2	100%
Land use enforcement	4	100%
<b>TOTAL</b>	<b>4</b>	<b>100%</b>

**OFFICE INITIATIVES**

**NEW JURISDICTIONS**

Typically we report on several new initiatives or points of emphasis each reporting period. That would be a little, “Other than that Mrs. Lincoln, how was the play?” here. Because easily our most difficult, time-consuming, and

<sup>1</sup> As noted above, the Examiner has jurisdictions over dozens of discrete items. But many of those we never see, or see once every several years, meaning our involvement is more transactional, and more of a “one-off.”

important task this round was getting up to speed with the brand-new (to us) worlds of animal control enforcement and for-hire driver licensing appeals the Council assigned us to begin hearing. It was the first time in several decades the office has had to tackle new procedural and substantive hurdles on a significant body of new casework and to create new, lasting relationships within a new (to us) County entity and with the small cadre of private attorneys who operate in these specialized arenas.<sup>1</sup>

We worked extensively with the two relevant divisions within Executive Services—Animal Services and For-Hire Licensing—to coordinate the transition. This involved us riding along with Animal Services to get a sense of how they operate, department staff observing multiple land use enforcement appeal hearings to get a sense of how we operate, us reviewing the appeal language in the department’s decisional documents, and department staff reviewing our notices and hearings guide, along with other back-and-forth all geared to ensure as seamless a transition as possible, once the appeals actually started arriving.

We worked closely with both teams and developed numerous administrative procedures that took into consideration the workloads and existing practices, the heightened emotions of the participants in animal cases, a desire to simplify processes for appellants, and our capacity as a small office. A few examples include suggesting removal of the notary requirement on Animal Services’ appeal forms, collecting emails on appeal forms so that appellants can receive information quickly, requiring a minimal amount of paperwork from the department in the initial appeal transmittals, a reliable scheduling process that works with department staff schedules, coordinating (thanks to the Superior Court’s facilities management and IT services, and Council’s own IT shop) use of a large courtroom to allow participants (especially those who are victims of physical attacks) the space they need to feel safe and comfortable, allowing testimony by telephone, and making changes to our mailing procedures to be more sensitive with personal information.

Another major, related transition turns on the greatly expanded numbers of would-be hearing participants who are non-native English speakers. Such issues had rarely (and never in my tenure) arisen in past Examiner cases, but Licensing advised us (correctly) that the need for interpreters was common in the for-hire license arena. Our office manager shrewdly navigated what turned out to be a more complex-than-anticipated endeavor.

Our first step was arranging to have our hearings’ guide translated into several languages most common among the for-hire driving community. Our next step—hiring interpreters to work hearings and prehearing conferences—initially

appeared as simple as utilizing one of the many interpreter services on contract with the County. However, after factoring in that legal proceedings require a high-level of competency (due to the specialized nature of the language and the emotional content, as well as adherence to strict ethical standards because people’s livelihoods and public safety are at stake), we realized we needed a more robust process. Based on Licensing’s input, and with the help of the interpreter coordinators for King County Office of Interpreter Services, King County Prosecuting Attorney’s Office, and Seattle Municipal Court, we established a comprehensive program. Of course, our office manager’s final related task was to get *me* up to speed on how to actually run an interpreted proceeding—what questions to pose to what type of interpreters (certified, registered, and others), how to instruct interpreters, whether to use concurrent or consecutive interpretation, and even things like the need to take more frequent breaks to keep an interpreter fresh.

Additionally, starting with zero knowledge of either for-hire licensing or animal control law, I needed to ingest significant quantities of case law, treatises, and code to get up to speed substantively. And once the cases started arriving, I began preparing written explanations (in advance of hearings) to the parties about the legal issues that would be at play on any particular case. In the actual hearings, I needed not only to raise my awareness of the needs of non-native English speakers, but also to employ the facilitation skills needed to address the frequent adversarial back and forth that occurs between the private participants in Animal Services cases.<sup>2</sup> Finally, I endeavored to issued reports that were timely, clearly reasoned, articulate on policy and legal interpretation, and acknowledged the human factor so clearly present for all involved.

While we still have some ways to go on the learning curve, and while the sheer volume of added caseload will continue to present challenges, we have been pleased thus far with the initial results, the cases seem to be running smoothly, the feedback from both the department and from private attorneys who handled appeals under the previous system has been positive, and we have reduced the gap from the conclusion of the hearing to issuance of a final decision from the six to eight weeks under the previous system to now an average of about three days.

An unanticipated and welcome benefit to our office, which includes a brand new member since just last winter who replaced an employee with ten-plus years of tenure, is that working together closely to solve the many challenges presented by the undertaking (and under serious time pressures to boot) has resulted in greater office cohesion and exceedingly high morale.

<sup>2</sup> In most land-use enforcement appeals, only the appellant and the code enforcement officer are present. The neighbor who filed the complaint that started the action would typically not be present, as his or her testimony would typically be superfluous. In an animal enforcement appeal, by contrast, the department's case may rest on the testimony neighbor who observed the dog doing X, Y, Z.

## *REGULATORY CHANGE RECOMMENDATION*

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The code requires our semi-annual reports to identify any needed regulatory clarification. We typically stick to fairly neutral suggested clarifications, like minor tweaking of code language. But one issue we uncovered this reporting period—our first time dealing with for-hire (taxi) drivers’ licenses—seems to call out for a more comprehensive solution.

In July 1995 the County Executive entered into a cooperative agreement with the Mayor of Seattle. The gist of the arrangement has been that Seattle performs licensing functions related to for-hire *vehicles*, while the County performs licensing functions related to for-hire *drivers*. Thus the County’s Records and Licensing Services (RALS) reviews (and decides on) for-hire applications for both the County and Seattle drivers’ licenses.

The County and Seattle have a similar legal framework for when licenses must or can be denied. The pertinent section in each jurisdiction’s code requires mandatory denial for a material misstatement or omission on a license application, sex crimes, and conviction of certain driving-related offenses. Each section then allows discretionary denial for other criminal convictions and for past driver conduct.

There are minor variations. For example, the pertinent timeframe for the driving convictions that result in mandatory dismissal is five years for the County versus three years for Seattle. *Compare* KCC 6.64.600(3) *with* SMC 6.310.430(3). But in all the cases we have reviewed, the same operative facts—a conviction(s) or failure to disclose something material on an application, etc.—has led to RALS issuing a single letter denying both the Seattle license and the County license.

The process the cooperative agreement established seems to work well, but only until RALS issues a denial of the dual Seattle/County license, and the licensee (or would-be licensee) wishes to appeal. Because as it stands now, the portion of RALS’s decision related to the Seattle’s license must be appealed through Seattle’s system, while the portion of RALS’s decision related to the County’s license must be appealed to us. Thus RALS conducts a single investigation and issues a single denial letter, but it leads to two parallel appeal processes. This creates at least three levels of major concern.

From the perspective of a licensee—many of whom have limited English proficiency—having to file two separate appeals regarding the same underlying facts raises equity and social justice concerns. The appeals are due to two different offices at two different times (Seattle’s at the 10-day mark, the

County's at the 24-day mark). Once properly filed, the licensee must attempt to navigate two administrative ladders, including dealing with two sets of rules of procedure. And the licensee must take time out of multiple workdays (foregoing income) to attend multiple hearings.

From an administrative perspective, the parallel appeal processes increase (if not doubles) the staff time and cost, as RALS now must potentially prepare for and participate in at least two different administrative proceedings. Multiple offices have to process appeals. And at least two different officials need to consider and rule on the same set of underlying facts.

Finally, from a jurisprudential perspective, the current system where two different hearing officials issue two different rulings on the same underlying facts risks conflicting rulings and inconsistent legal interpretations. Seattle and the County may apply differing evidentiary or procedural standards. And we may come to different substantive conclusions about, for example, what constitutes a qualifying "misstatement or omission" on an application that requires license denial. That could sow confusion.

The rationale the Executive's August 1, 1995, memorandum advanced for supporting a cooperative agreement was that:

The public should benefit from more consistent and uniform conditions and operations and less confusion about where to file complaints. The industry should benefit by not having to go to different offices to file forms and by more consistent and uniform regulations. Additionally combining enforcement staffs maximizes resources to affect specific enforcement in problem areas.

The Executive then returned to the theme that the arrangement would "create efficiencies in enforcement actions."

All that is true under the current system, as it relates to license applications that are eventually granted. But those referenced benefits (consistency, uniformity, less confusion, maximized resources and efficiencies) disappear once a license is denied.

The jurisdictional hurdles may simply be too difficult to overcome. But if they could, there would be an increase in consistency, uniformity, and equity (especially for non-native English speakers), a reduction in confusion and government resources. and cost-savings. We thus recommend that the Council consider whether the appeal process could



be aligned and streamlined into a single mechanism. If there is an interest, we can provide further thoughts and assistance.

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*CONCLUSION*

The beginning of 2016 marked a big change, with the Examiner taking on the first major body of non-land related casework; heretofore the Examiner had jurisdiction over a variety of non-land-related matters, but such cases were relatively few and far between. The animal control and business licensing caseload was, and continues to be, an exciting challenge. We look forward to developing a subject-matter expertise and smooth-running process, while maintaining our standards for our pre-existing casework. Our semi-annual report for the last half of 2016 will be presented on or before March 1, 2017.

Submitted September 1, 2016,



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David Spohr, Hearing Examiner