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CITY OF SEATTLE
2014 FEB 10 PM 1:36
CITY CLERK

BEFORE THE CITY COUNCIL
FOR THE CITY OF SEATTLE

In the Matter of the Application of **BOB MCCULLOUGH** for a Multi-Family Tax Exemption	Clerk File No. 313457 THE OFFICE OF HOUSING'S REQUEST TO SUPPLEMENT THE RECORD

Pursuant to City Council's quasi-judicial rule VB, the Office of Housing (OH) requests to supplement the record with the declarations of Christopher Ndifon and Cheryl Mosteller. The two declarations are attached to this request.

1. Declaration of Christopher Ndifon

Christopher Ndifon is the land use planner for the Department of Planning and Development (DPD) who reviewed the applicant's (Juno) development permit application that was submitted to DPD for the Juno Studios project. Mr. Ndifon entered information on the development permit that approved Juno's application. Mr. Ndifon entered the number "20" in the box on the permit entitled "Residential Units this Permit." Mr. Ndifon's declaration explains that he entered that number because he understood it to represent the number of "dwelling units" that were identified for purposes of determining whether the proposed project was exempt from

ORIGINAL

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SEPA review. This fact is important because this matter concerns differences between the unit count numbers shown on Juno's DPD permit and the numbers shown on Juno's application to OH for a property tax exemption, and the meaning of those numbers.

Mr. Ndifon's understanding of the purpose of that number was not a fact that was known or considered by OH at the time it made its decision to deny the property tax exemption.

2. Declaration of Cheryl Mosteller

Cheryl Mosteller is a senior land use planner at DPD, and Mr. Ndifon's supervisor. Ms. Mosteller's declaration explains why the DPD permit approved for the Juno project, which initially showed the number "20" in the box on the permit entitled "Residential Units this Permit," was revised to show the number "1" rather than the number "0."

Because this matter involves the meaning of the numbers entered in that box and the reasons for their entry, and the differences between that number and the unit count numbers contained in Juno's application to OH for the tax exemption, Ms. Mosteller's declaration explains why the numbers on the DPD permit were changed as they were.

Although Ms. Mosteller's explanation of the change in the number from 20 to 1 was known to OH when OH denied the property tax exemption, as shown by Ms. Mosteller's email of November 25, 2013 attached to her declaration, the reason the revised number was shown as 1 rather than "0" was not a fact known to OH when OH made its decision denying the tax exemption requested by Juno.

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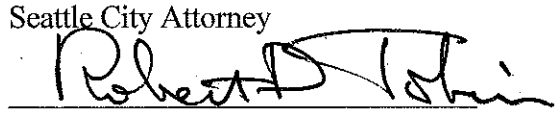
For the reasons described above, OH requests that the City Council allow the record to be supplemented with the declarations of Christopher Ndifon and Cheryl Mosteller.

DATED: February 10, 2013.

PETER S. HOLMES
Seattle City Attorney

By: 

ROBERT D. TOBIN, WSBA #7517
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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that, on this day, I caused to be served upon the following party, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document:

Jessica M. Clawson McCullough Hill Leary, PS 701 Fifth Ave., Suite 6600 Seattle, WA 98104-7006 *Attorneys for Appellant*	__X__ Via hand delivery (ABC-Legal Messengers, Inc.) _____ Via U.S. Mail, 1st Class, Postage Prepaid _____ Via Facsimile _____ Via Email

the foregoing being the last known address of the above-named party.

DATED: February 10, 2014, at Seattle, Washington.

Rosie Lee Hailey

ROSIE LEE HAILEY

Peter S. Holmes
Seattle City Attorney
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BEFORE THE CITY COUNCIL
FOR THE CITY OF SEATTLE

In the Matter of the Application of **BOB MCCULLOUGH** for a Multi-Family Tax Exemption	Clerk File No. 313457 DECLARATION OF CHRISTOPHER NDIFON

I, CHRISTOPHER NDIFON, declare as follows:

1. I am a land use planner for the Seattle Department of Planning and Development and have been employed at DPD since 1999. I am over the age of eighteen years and am competent to testify to the following matters.
2. I reviewed the application for the Juno Studios project, DPD permit No. 6356092. I also entered information on the electronic permit form, including the number that goes in the box on the form labeled "residential units this permit." I entered the number "20" because I understood that this was the number used to determine if the project would be exempt from SEPA review. That number is the same number that the applicant put in his permit application describing the number of units for purposes of the DPD's SEPA Director's rule, 12-2012.

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

Executed this 6 day of February, 2014, at Seattle, Washington.

CHRISTOPHER NDIFON

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BEFORE THE CITY COUNCIL
FOR THE CITY OF SEATTLE

In the Matter of the Application of **BOB MCCULLOUGH** for a Multi-Family Tax Exemption	Clerk File No. 313457 DECLARATION OF CHERYL MOSTELLER

I, CHERYL MOSTELLER, declare as follows:

1. I am a land use planner for the Seattle Department of Planning and Development and have been employed at DPD since 1989. I am over the age of eighteen years and am competent to testify to the following matters.
2. I was involved with processing and reviewing the application and permit for the Juno Studios project, DPD permit No. 6356092. In the course of that review, I became aware of the need to correct the unit count identified on the permit, for the reasons described in my November 25, 2013 email to Juno personnel. A copy of my email is attached to this declaration.
3. I directed that the unit count number on the permit be changed from 20 to 1. The reason the new number was changed to "1" was based upon my understanding that

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the computer software would not accept the number "0", which is the number that should have been entered based upon DPD's determination that this congregate facility contained no dwelling units as that term is defined in the Seattle Land Use Code. However as explained in my email of November 25, 2013, the change in the unit count number, from 20 to 1, did not in any way limit the applicant's right to build the structure as configured on the approved plans, or occupy it as a congregate residence, as proposed by the applicant.

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

Executed this 6th day of February, 2014, at Seattle, Washington.

Cheryl Mosteller
CHERYL MOSTELLER

Peter S. Holmes
Seattle City Attorney
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Tobin, Bob

From: Mosteller, Cheryl
Sent: Monday, November 25, 2013 9:52 AM
To: mperry@dimensions.com
Cc: Jessica Clawson; bob@meridianbi.com; McKim, Andy; Roskin, Miriam; Kent, Mike
Subject: Permit 6356092
Attachments: Permit.pdf

Good Afternoon Mike,

I wanted to let you know that DPD became aware of an issue with the unit count reflected on permit 6356092. As such we have reprinted the permit with a corrected unit count that is consistent with the approved plans. The 20 units originally shown reflects the unit count for purposes of the SEPA exemption determination only, as under Director's Rule 12-2012 for congregate residences each bedroom in a congregate residence is counted as one-half of a dwelling unit for purposes of determining whether a development is exempt from SEPA review. A unit count of 20 was not otherwise applied in our review, for example for purposes of density standards or determining whether Design Review is required. The reprinting of the permit is for the purpose of clarifying the unit count, which could otherwise create confusion when the building is inspected. This does not in any way limit the right to build the structure as configured on the approved plans, or occupy it as a congregate residence, as proposed.

Thank you.

Cheryl Mosteller
Land Use Planner Supervisor
Department of Planning and Development
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Seattle, WA 98104-5070
cheryl.mosteller@seattle.gov
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