



City of Seattle

Office of Hearing Examiner

Sue A. Tanner, Hearing Examiner
Anne Watanabe, Deputy Hearing Examiner

March 5, 2012

Honorable Sally Clark, President
Seattle City Council
CH 02-10

RE: Proposed Council Bill Allowing Option for Electronic Transmittal of Hearing Examiner Notices and Decisions

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would allow the Office of Hearing Examiner (OHE) to provide hearing notices and copies of Hearing Examiner decisions electronically to those who wish to receive them in an electronic format.

Background

OHE and DoIT have recently completed a project that allows appeals to the Hearing Examiner and most other case documents to be filed electronically, thereby reducing the amount of paper required to pursue an appeal. Many of those involved in our cases also ask to receive hearing notices and decisions electronically. We presently scan and send them, but existing Code sections require that hard copies also be sent through the mail. If the requirement for sending hard copies to those who have requested electronic copies were removed, OHE could provide notices and decisions in the parties' desired format while also reducing OHE paper usage and mailing costs.

About two-thirds of the Code sections that provide for an appeal to the Hearing Examiner either say nothing about when and how OHE is to provide notice of hearing and copies of decisions, or they simply cross-reference the procedures found in SMC 3.02.090 and .100 for contested cases before the Hearing Examiner. Code sections that provide for an appeal and do include specific requirements for notice of hearing and distribution of decisions handle it in several different ways. A few, including certain tax cases and some proceedings involving abatement, require

notice by certified mail. Another includes very specific requirements for all notices and other documents served on owners of landmarks. No changes are proposed for those Code sections. The rest include a requirement for "mailing" notice of hearing, or "mailing" the decision, or both, and a few specify use of the "U.S. mail". These are the Code sections we ask the Council to amend.

Proposed Amendments

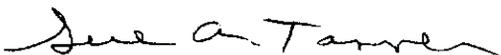
The proposed revisions to SMC 3.02.090 and .100 form the foundation for the remaining amendments. These Code sections provide the default procedures for hearings and decisions in contested cases. OHE interprets longstanding case law as requiring notices "reasonably calculated under all circumstances to apprise interested parties" of hearings and decisions.¹ The procedures in SMC 3.02.090 and .100 likely meet this requirement, so OHE uses them unless other Code sections specific to particular types of cases require different procedures.

If amended as proposed, SMC 3.02.090 and .100 would state that unless otherwise provided, hearing notices and decisions "shall be provided by personal service or mail to each party," but that with the agreement of a party, notice or decisions "may instead be provided to that party by electronic means." (Notice to City agencies would be provided through interoffice mail or electronically.) The rest of the proposed amendments would remove requirements throughout the Code for mailing notices of hearings, mailing decisions, or both. OHE would then default to the procedures found in SMC 3.02.090 and .100 for providing hearing notices and decisions for these cases as we presently do for most other cases.

OHE anticipates that the terms "mail" and "electronic means" in the proposed amendments to SMC 3.02.090 and .100 are sufficiently generic to cover future developments in mail service and communications without need for frequent amendment. In the attached sample of OHE's hard copy appeal form, the first section ("Appellant Information") shows the formats that OHE would offer today for notices and decisions if the proposed amendments were adopted.

Thank you for considering this legislation. Please contact me if I can answer any questions about it.

Sincerely,



Sue A. Tanner
Hearing Examiner

¹ See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 319-20, 70 S.Ct. 652, 94 L.Ed. 864 (1950).

APPEAL FORM

You do not have to use this form to file an appeal. However, if you do not use it, please make sure that your appeal includes all the information requested on this form. The appeal, along with any required filing fee, must reach the Office of Hearing Examiner, no later than 5:00 p.m. of the last day of the appeal period.

APPELLANT INFORMATION (Person or group making appeal)

1. **Appellant:**

If several individuals are appealing together, list the additional names, addresses, and numbers on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate the group's name, addresses, and numbers here and identify a representative in #2 below.

Name _____

Address _____

Phone: Work: _____ Home: _____

Fax: _____ Email Address: _____

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: _____ *U.S. Mail* _____ *Fax* _____ *Email Attachment*

2. **Authorized Representative:**

Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Name _____

Address _____

Phone: Work: _____ Home: _____

Fax: _____ Email Address: _____

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: _____ *U.S. Mail* _____ *Fax* _____ *Email Attachment*

DECISION BEING APPEALED

1. **Decision appealed** (Departmental File or Reference #.): _____

2. **Address** (if any) connected to decision being appealed:

Deliver or mail appeal and appeal fee to:

Mailing **City of Seattle**
Address : **OFFICE OF HEARING EXAMINER**
 P.O. Box 94729
 Seattle WA 98124-4729

Physical	SEATTLE MUNICIPAL TOWER
Address:	700 5th Avenue, Suite 4000 Seattle, WA 98104

Note: Appeal fees may also be paid by credit or debit card over the phone (Visa or MasterCard only).

Phone: (206) 684-0521

Fax: (206) 684-0536

www.seattle.gov/examiner