



City of Seattle

Office of Hearing Examiner

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

April 5, 2012

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

RE: Proposed Council Bill Raising Hearing Examiner Filing Fees

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would raise Hearing Examiner filing fees to cover filing costs and account for inflation in the cost of living, as measured by the consumer price index, since the fees were last increased in 1992.

Background

In November of 1991, Ordinance 115925 was adopted by the City Council and took effect January 1, 1992. The Ordinance raised filing fees for most Hearing Examiner cases from \$25.00 to \$50.00. (No filing fee is charged for some matters, such as discrimination cases, which are filed by the City Attorney's Office, and citation cases, in which the appellant is contesting a penalty imposed by the City for violation of the Code.) Filing fees have remained at \$50.00 since 1992.

In 2011, the Office of Hearing Examiner (OHE) began looking at the possibility of raising filing fees, not as a source of revenue, but to assure that OHE was recovering the true costs associated with the filing of each case. OHE reviewed the federal Bureau Of Labor Statistics website several times to determine the change in the CPI between 1992, the date when filing fees were last raised, and the present date. The change in the CPI between 1992 and May of 2011 was 59%. In February of 2012, the change had risen to 60%, and in March of 2012, it had risen to 62%.

OHE also contacted other larger jurisdictions in 2011, and again in 2012, to determine what they charge for filing hearing examiner cases. The results are shown in the table below.

Jurisdiction	Filing Fee	Comments
Bellevue	No charge	There have been several years of discussions about charging a filing fee, but there is concern about potentially reducing access to the process, and no action has been taken.
Portland	\$149 – less complex cases \$1,583 – more complex cases	These amounts are part of the city's land use fee schedule and are intended to cover most direct HE costs associated with a case. They are paid by the applicant as part of the permit fee.
Spokane	\$250 – all matters	
Tacoma	\$300 - land use appeals \$100 - animal control appeals no charge - all other appeals	The land use appeal fee is part of the city's land use fee schedule and is intended to cover some of the direct HE costs associated with a case.
Vancouver	\$165 – most cases \$87 – cases filed by a "recognized neighborhood association"	
King County	\$250	This amount is intended to cover some of the direct HE costs associated with a case.
Pierce County	\$2,200 – SEPA appeal \$3,000 – appeal of other administrative decisions	These amounts are part of the county's land use fee schedule and are intended to cover most direct HE costs associated with a case.
Snohomish County	\$500	This amount is intended to cover some of the direct HE costs associated with a case.
Spokane County	\$1,367	This amount is reviewed each year and is intended to cover most direct HE costs associated with a case.
Thurston County	No filing fee, but a deposit is required	HE time is billed at \$200 per hour. The deposit amount ranges from \$400 to \$2,000 based upon the typical number of HE hours required for a particular case type.

Proposed Amendments

A "filing fee" is normally intended to cover costs associated with the filing of a case, not necessarily the costs of handling the case through decision issuance, or to generate

revenue. OHE has calculated the salary, benefits and overhead costs incurred for the steps involved in setting up a new case at between \$80.00 and \$85.00. During 2006, 2007 and 2008, the three years out of the last ten during which the highest number of cases were filed, OHE collected a yearly average of \$3,200 in fees. Clearly, doubling or tripling the existing filing fee would not bring in significant revenue, but it could impede access to the appeal process for a significant segment of the public. Individuals who join together to file a group appeal would likely be unaffected. But a considerably higher fee could create a barrier in cases where there is just one appellant, or where one person has appeal issues that are substantially different from those raised in a group's appeal.

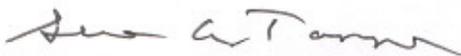
I am recommending that the Council raise the filing fee for most Hearing Examiner cases to \$85.00. This would constitute a 70% increase in the filing fee and would cover the costs incurred in setting up a new case. It would also account for both the rate of inflation since 1992 and the fact that the rate of inflation has increased in recent months. Had this fee been in place between 2006 and 2011, OHE would have received between \$1,400 and \$2,485 each year in additional revenue from filing fees. I intend to revisit the issue of filing fees annually, and would expect to retain a filing fee of \$85.00 for between two and five years.

The types of cases heard by the Hearing Examiner have increased significantly since the filing fee table in Section 3.02.125 was developed. Because the filing fee is the same for all but a few types of cases, it is most efficient for the table to list just the exceptions to the normal fee. The proposed ordinance would amend the table to make this change, which would also eliminate the need to amend Section 3.02.125 each time a future Code amendment adds a new case type to the Hearing Examiner's jurisdiction.

Finally, the proposed legislation would correct inconsistencies between the fees established in Section 3.02.125 for floating home moorage fee cases and downtown housing maintenance appeals, and the fees set forth in the Code sections that regulate those matters. The ordinances establishing the applicable fees in Section 3.02.125 were adopted more recently than the ordinances that set the filing fees contained in Sections 7.20.080 and 22.220.140. Therefore, the proposed legislation would amend the two Code sections to simply refer back to Section 3.02.125 for the correct amount of the filing fee in these cases.

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

Sincerely,



Sue A. Tanner
Hearing Examiner