

**City of Seattle**



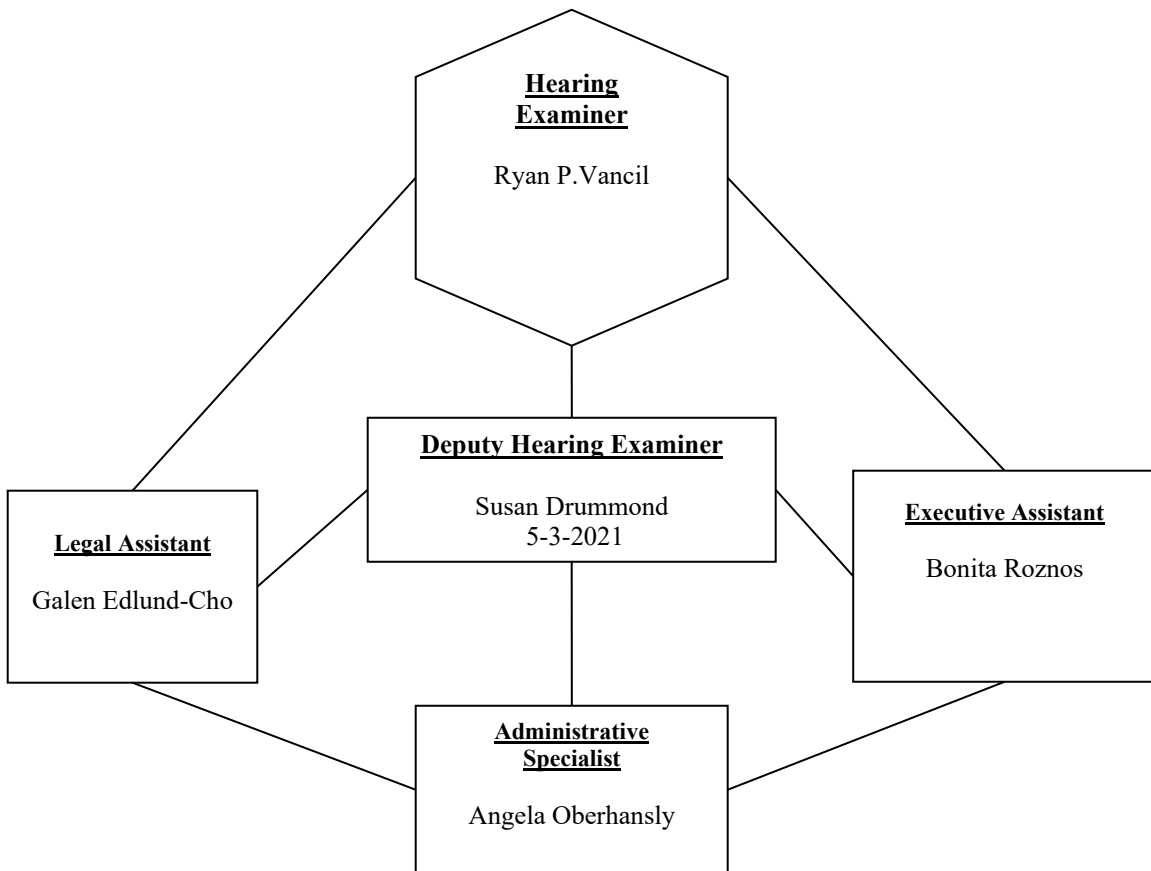
**OFFICE OF HEARING EXAMINER**  
**2020**  
**ANNUAL REPORT**

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2020  
City of Seattle  
**CITY COUNCIL**

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**Office of Hearing Examiner Organizational Chart**



## Mission and Authority

The mission of the Office of Hearing Examiner (“Office”) is to conduct impartial administrative hearings in matters where jurisdiction has been granted by the Seattle Municipal Code (“Code”) and to issue clear and timely decisions and recommendations that are consistent with applicable law.

The position of Hearing Examiner is established in the Seattle Municipal Code. The City Council appoints the Hearing Examiner, who is responsible for all functions of the office, and is authorized to appoint Deputy Examiners and other staff.

The Office of Hearing Examiner was created in 1973 as a part of the Municipal Court. In 1977, it became a separate and independent City office under Chapter 3.02 of the Seattle Municipal Code. Before the Office was created, some appeals of administrative decisions were heard by the City Council; others went directly to court. Pursuant to authority conferred throughout the Code, the Office of Hearing Examiner now provides an independent hearing forum to review decisions made by numerous City agencies, make initial decisions on some matters, and provide the City Council with recommendations on some types of land use applications.<sup>1</sup>

## 2020 Caseload

Table I presents an overview of case activity for 2020.

	2020	2019	2018	2017	2016	2015	Previous 5-Yr Average
B & O Tax Appeals	2	9	8	1	2	6	5.2
Council Land Use Actions	3	6	3	6	7	3	5
Dangerous Animals	3	1	0	1	3	0	1
Discrimination	2	2	4	10	20	7	8.6
Energy Benchmarking Appeals	0	0	0	3	0	0	0.6
Floating Homes	2	2	3	2	1	0	1.6
Health Codes	0	2	9	2	0	1	2.8
Housing and Building Unfit for Habitat	0	1	0	0	0	0	.02
Labor Standards	3	4	1	0	0	0	1
Land Use Code Interpretations	5	2	11	3	7	4	5.4
Landmarks - Special Review Districts	2	0	2	2	3	7	2.8
Licensing Appeals	3	3	8	8	3	3	5.0
Master Use Permits	28	32	31	37	25	33	31.6
Public Works Relocation	0	0	0	1	0	0	.02
School Development Departure	0	0	1	0	0	0	.02
Sepa-Only Appeals (Non Mup)	1	6	14	14	8	10	10.4
Tenant Relocation Assistance Eligibility	16	13	10	10	17	13	12.6
Utility Service Appeals-3rd Party Billing	15	3	7	13	3	3	5.8
Waterfront Local Improvement District	442	0	0	0	0	0	n/a
<b>Total Without Citations</b>	<b>527</b>	<b>86</b>	<b>112</b>	<b>113</b>	<b>99</b>	<b>90</b>	<b>100</b>
Land Use Citation Enforcement Actions	128	132	195	340	403	364	286.8
SDOT Citation Enforcement Actions	141	404	402	348	273	145	314.4
Marijuana Citation Enforcement Actions	0	2	11	29	32	16	18
SFD Citation Enforcement Actions	73	0	0	0	0	0	0
<b>Total Citations</b>	<b>342</b>	<b>538</b>	<b>608</b>	<b>717</b>	<b>708</b>	<b>525</b>	<b>619.2</b>
<b>Grand Total</b>	<b>869</b>	<b>624</b>	<b>720</b>	<b>830</b>	<b>807</b>	<b>615</b>	<b>719.2</b>

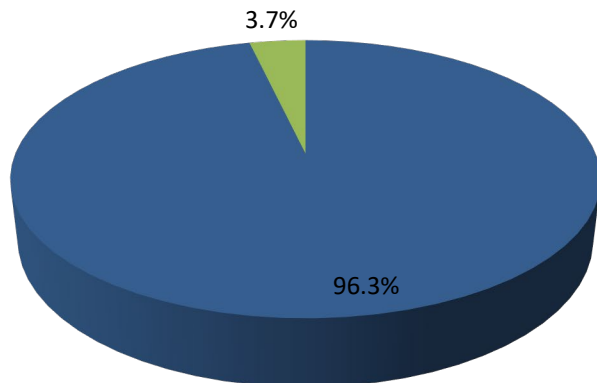
<sup>1</sup> A list of matters within the Hearing Examiner’s jurisdiction is found at pg. 17.

A **Master Use Permit, or “MUP,”** is a document issued to a permit applicant that includes all land-use decisions made by the Seattle Department of Construction and Inspections (“SDCI”) on an application. MUP appeals, as well as SEPA appeals, are some of the most complex matters handled by the Hearing Examiner, as they often involve multiple parties, complicated facts, substantial controversy, several days for hearings, and considerable time for research, review, and decision-writing. For several years, the number of MUP appeals filed was between 39 and 44. It fell to 17 in 2011, rose to 33 in 2015, reduced slightly to 25 in 2016, rose to 37 in 2017, 31 in 2018, 32 were filed in 2019, and 28 were filed in 2020 even in the midst of the Covid-19 Pandemic.

The Seattle Department of Construction and Inspections issued 736 MUPs in 2020. In most years, approximately 3% to 4% of MUPs are appealed to the Hearing Examiner. The appeal rate in 2020 was about 3.7%.

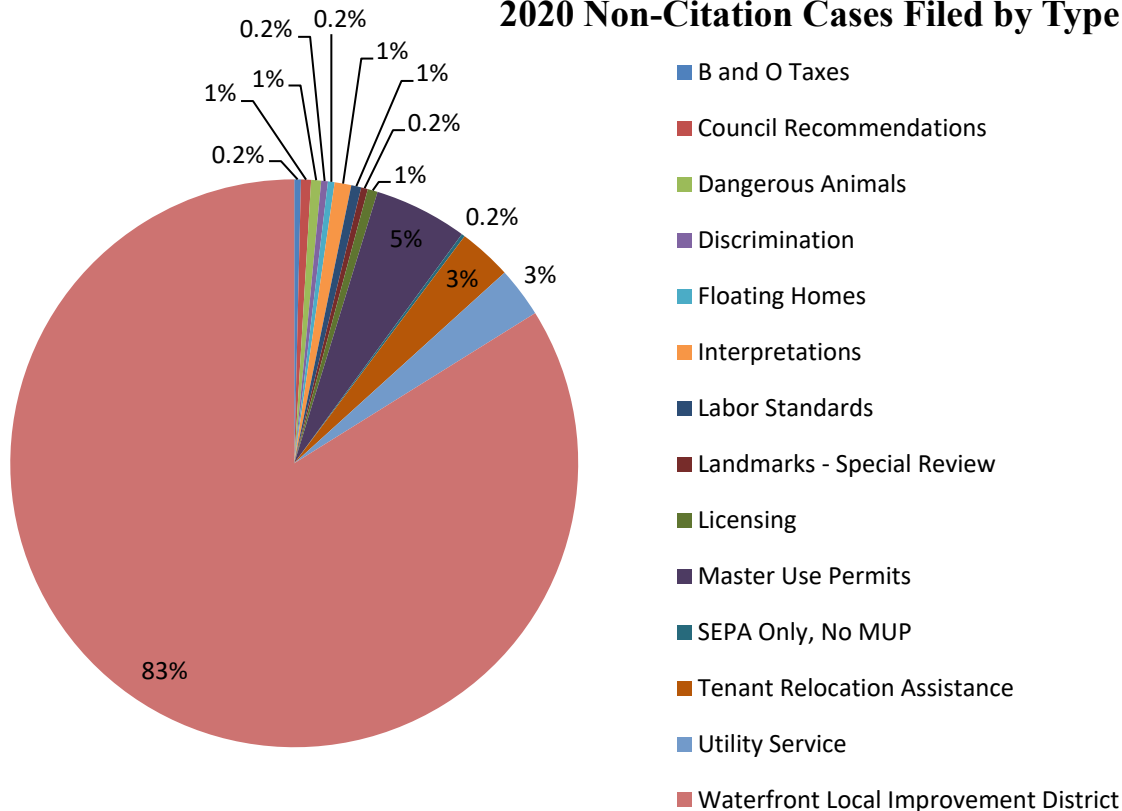
## 2020 Master User Permit Case Activity

■ Total 2020 MUPs Issued by SDCI      ■ Total 2020 MUPs Appealed to Hearing Examiner



“**SEPA-only**” appeals are appeals of environmental determinations made for two types of proposals: 1) proposals, such as legislation, that do not require a MUP or Council land use decision; and 2) proposals that require a MUP or a Council land use decision, but a department other than SDCI makes the environmental determination on the proposal. SEPA-only appeals have fluctuated from year to year. In 2017 and 2018, we received 14 SEPA appeals, a significant increase over the previous 5-year average. In 2019 the number of appeals dropped by more than half as only six such appeals were filed. In 2020 only one SEPA-only appeal was filed.

## 2020 Non-Citation Cases Filed by Type



## Citation Enforcement Cases Filed

Citation enforcement cases follow a unique procedure, and we track them separately from other categories of cases. When a citation is issued, a copy is sent to the Office of Hearing Examiner. In addition, all SDCI citations are uploaded from SDCI’s Accela tracking system into the Office of Hearing Examiner’s electronic case management system. If someone files an appeal of a citation, it is removed from the others and set up for an appeal hearing and decision. For citations that are neither paid nor appealed, the Hearing Examiner sends out Code-required orders of default, which note the failure of the party to respond, find that the violation has been committed, and impose the prescribed penalty.

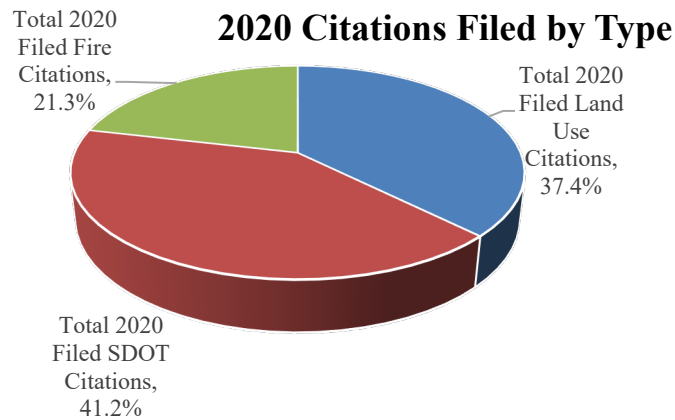
The total number of **Land Use Code and Noise Code citations**, which are combined for tracking purposes, was 132 in 2019, which is a decrease from 195 in 2018. 2020 yielded 128 citations. These numbers remain low compared to the number of citations in most recent years, which averaged over 300.

**Marijuana citation** appeals were reduced to two filed in 2019 and zero filed in 2020 as marijuana businesses continued to come into compliance since the time of licensing for such businesses passed into legislation.

**Seattle Department of Transportation (“SDOT”)** citations increased from 348 in 2017 to 402 in 2018, and 404 citations were received in 2019. Only 141 citations were processed in 2020 reflecting the impact from the Covid-19 Pandemic.



In fall 2019, the Council passed legislation allowing the **Seattle Fire Department (“SFD”)** to issue citations concerning Fire Code violations, including frequent false alarms, failure to maintain fire alarms and sprinklers, and failure to maintain exits free from obstructions. That same legislation allows for appeals of citations to the Office of Hearing Examiner, and for the Office to provide administrative support to SFD by processing payments and citation database management. In early 2020 the Office started receiving its first SFD citations and processed a total of 73 SFD citations.



**Prehearing, Hearing, and Decision Activity**

**Prehearing Conferences.** Under the Hearing Examiner Rules, prehearing conferences can be held at the request of a party to a case or the direction of the Hearing Examiner. The prehearing conference is used to organize and prepare a case for hearing, including clarifying the issues to be addressed, facilitating disclosure of each party’s intended witnesses and exhibits, establishing a case schedule for prehearing motions, and other matters. Following the conference, the Examiner normally prepares a prehearing order memorializing any agreements reached, rulings made at the conference, and dates set for the hearing schedule. Prehearing conferences are usually held in MUP, SEPA, tax, dangerous animal, discrimination, and third-party billing cases and are scheduled in other types of cases as needed. They occasionally provide the catalyst for the eventual settlement of a case, as the parties are asked if they have considered mediation or settlement, and may work during the conference to clarify the issues underlying the appeal and often stay for additional private discussions after the Hearing Examiner leaves the room.

**Prehearing Decisions.** Prehearing motions are frequently filed in MUP, SEPA, landmark, interpretation, and tax cases, and on SEPA or design review issues in some Council recommendation cases. Most concern substantive or procedural legal issues that the parties address in written memoranda. They usually require legal research and a written decision by the Examiner, and sometimes, but do not always, require a separate hearing. Decisions on prehearing motions affect whether, and how, a case proceeds to hearing by narrowing the issues or determining in advance whether certain testimony or evidence will be admissible at hearing. Consequently, most prehearing decisions can be appealed to court as part of an appeal of the final decision in a case. Because work on prehearing decisions involves considerable Examiner time, the Office of Hearing Examiner includes the orders in the “decisions issued” category of annual statistics.

**Hearings.** The length of a hearing before the Hearing Examiner depends upon many variables, such as the type and complexity of a case, the number of witnesses, and the parties’ level of preparation and expertise in the subject area. Consequently, one case may take an hour to hear, while another may require several hours, or several days. Because of the great variety in the types of cases that come before the Office of Hearing

Examiner, we do not track the number of hearing hours or hearing days per case. All dates dedicated to a hearing are counted together as one hearing regardless of the time involved.

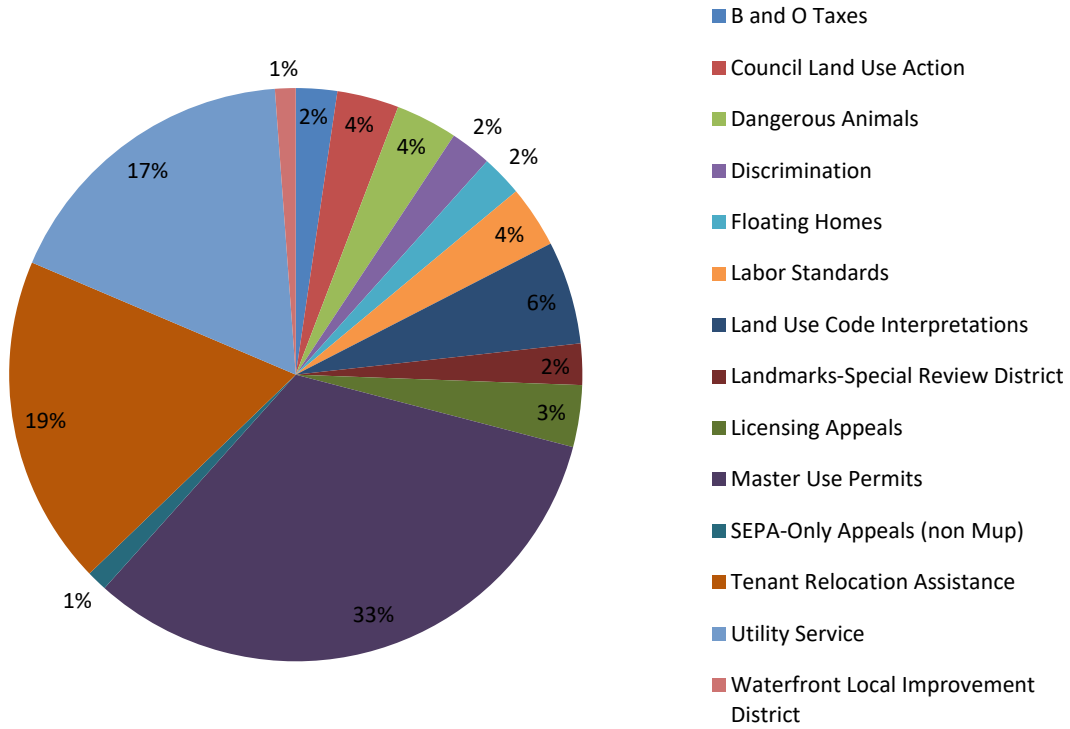
**Total decisions.** As noted above, total decisions include decisions issued after a full evidentiary hearing and those issued following submittal of legal memoranda and exhibits, and sometimes oral argument, on the party’s prehearing motions. In 2020, the Office of Hearing Examiner issued 113 decisions.

**Table 2 – CASE ACTIVITY SUMMARY**

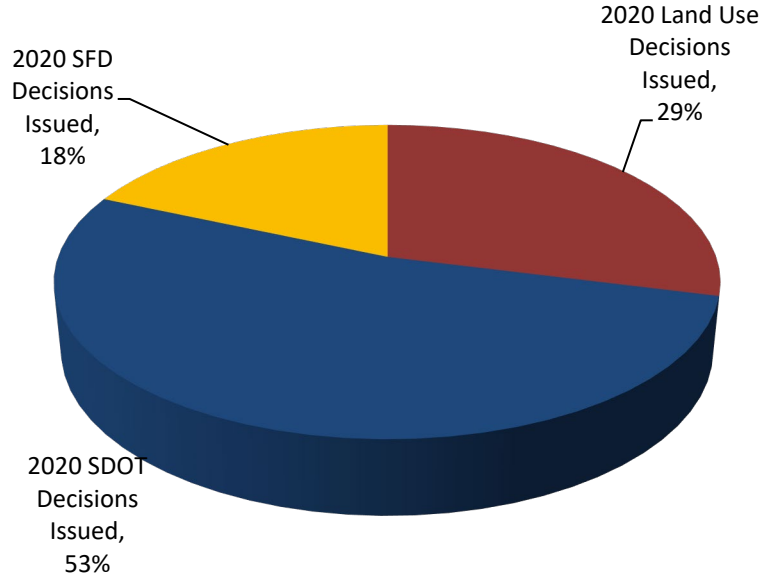
	2020 Cases Filed				2020 Case Disposition			
	Pending Appeals at Start of Year	Cases Filed	Total Caseload	Cases Heard**	Decisions Issued**	Cases Dismissed (No Hearing)***	Defaults Issued (Untimely)	Pending Appeals at End of Year
B & O Tax Appeals	7	2	9	2	3	1	0	6
Council Land Use Actions	1	3	4	2	2	0	0	2
Dangerous Animals Appeals	0	3	3	2	3	1	0	0
Discrimination	0	2	2	1	2	0	0	1
Floating Homes Petitions	0	2	2	0	2	2	0	0
Health Codes	2	0	2	1	1	0	0	1
Labor Standards	1	3	4	2	2	0	0	2
Land Use Code Interpretations	1	5	6	2	4	2	0	2
Landmarks-Special Review Districts	0	2	2	1	1	0	0	1
Licensing Appeals	0	3	3	0	2	2	0	1
Master Use Permits	3	28	31	16	22	8	0	7
Sepa-Only Appeals (Non Mup)	3	1	4	3	4	0	0	0
Tenant Relocation Assistance Eligibility Appeals	4	16	20	11	16	4	0	5
Utility Service	0	15	15	8	10	3	0	4
Waterfront Local Improvement District	0	442	442	1	1	0	0	0
<b>Total</b>	<b>22</b>	<b>527</b>	<b>549</b>	<b>52</b>	<b>75</b>	<b>23</b>	<b>0</b>	<b>32</b>
Land Use Citation Enforcement Actions	5	17	22	18	11	2	90	2
SDOT Citation Enforcement Actions	5	17	22	18	20	1	89	3
Fire Citation Enforcement Action	0	9	9	7	7	1	32	1
<b>Total Citations</b>	<b>10</b>	<b>43</b>	<b>53</b>	<b>43</b>	<b>38</b>	<b>4</b>	<b>211</b>	<b>6</b>
<b>Total Including Citations</b>	<b>32</b>	<b>570</b>	<b>602</b>	<b>95</b>	<b>113</b>	<b>27</b>	<b>211</b>	<b>38</b>

\*Indicates some cases in category may have multiple hearings or decisions/\*\* Indicates some cases in category were pending from prior years or will carry-over into subsequent years /\*\*\*Indicates rescinded citations, dismissals, or fines paid prior to default.

### 2020 Non-Citation Decisions Issued by Type



### 2020 Citation Decisions Issued by Type





## Disposition of Appeals to the Hearing Examiner

At the request of the Council, the Office of Hearing Examiner includes in the Annual Report a breakdown of the outcome of cases appealed to the Hearing Examiner. Table 3 shows the disposition of appeals by type of case, and is followed by an explanation of the standard of review required in each type.

In appeals for which the Examiner issued a final order or decision, the Examiner affirmed the Department's decision without change approximately 41% of the time, remanded or modified the Department's decision approximately 15% of the time, reversed the Department's decision approximately 1% of the time, and dismissed the appeal on procedural grounds approximately 41% of the time.

**Table 3 - DISPOSITION OF APPEALS\***

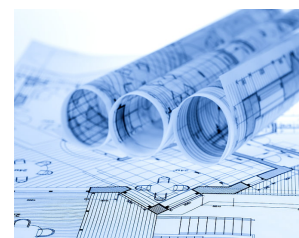
	Affirmed	Affirmed as Modified	Affirmed, Penalty Mitigated	Other	Denied	Dismissed	Rescinded	Reversed	Remanded	Sustained	Total
B & O Tax Appeals	0	0	0	0	0	3	0	0	0	0	3
Dangerous Animals Appeals	1	0	0	0	0	2	0	0	0	0	3
Discrimination	1	0	0	1	0	0	0	0	0	0	2
Floating Homes Petitions	0	0	0	0	0	2	0	0	0	0	2
Health Codes	0	0	0	0	0	1	0	0	0	0	1
Labor Standards	2	0	0	0	0	0	0	0	0	0	2
Land Use Code Interpretations	0	1	0	0	1	2	0	0	0	0	4
Landmarks-Special Review District	0	0	0	0	0	1	0	0	0	0	1
Licensing Appeals	0	0	0	0	0	2	0	0	0	0	2
Master Use Permits	4	2	0	0	1	15	0	0	2	0	24
SEPA-Only Appeals (Non MUP)*	2	0	0	0	0	2	0	0	0	0	4
Tenant Relocation Assistance Eligibility Appeals	2	0	0	0	0	8	0	2	4	0	16
<b>Total Without Citations</b>	<b>12</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>38</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>0</b>	<b>64</b>
Land Use Citation Enforcement Actions	1	1	3	1	0	3	1	0	0	1	11
SDOT Citation Enforcement Actions	8	0	8	0	0	2	2	0	0	0	20
SFD Citation Enforcement Actions	3	0	2	0	0	1	0	0	0	1	7
<b>Total Citations</b>	<b>12</b>	<b>1</b>	<b>13</b>	<b>1</b>	<b>0</b>	<b>6</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>38</b>
<b>Total Including Citations</b>	<b>24</b>	<b>4</b>	<b>13</b>	<b>2</b>	<b>2</b>	<b>44</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>2</b>	<b>102</b>

\*Includes only final decision on appeals. Does not include subdivision applications, third party billing complaints or recommendation to the City Council.

## **Jurisdiction**

**Appeals.** The Office of Hearing Examiner tracks all cases that come into the Office as “Cases Filed.” The most numerous of these are appeals of decisions made by other City agencies, such as: 1) the Seattle Department of Construction and Inspections (master use permits, SEPA determinations, Land Use Code interpretations, land use and noise enforcement citations, and decisions on tenant relocation assistance); 2) the Office of Planning and Community Development (SEPA determinations on programmatic initiatives, such as comprehensive plan amendments and area-wide rezones); 3) the Department of Finance and Administrative Services (tax assessments, licensing decisions, and marijuana citations); 4) the Office of Labor Standards (decisions on alleged violations of City ordinances on paid sick and safe leave, minimum wage, wage theft, and use of criminal history in hiring); and 5) the Seattle Department of Transportation (citations related to right-of-way use).

**Original Jurisdiction.** In cases where the Hearing Examiner has original jurisdiction, the Examiner makes the initial decision in a case rather than reviewing another department’s decision. Original jurisdiction cases include: 1) subdivision applications processed by the Seattle Department of Construction and Inspections; 2) complaints filed by the Office for Civil Rights and Seattle City Attorney’s Office for discrimination in employment, housing, public accommodation, or public contracts; 3) complaints for third party utility billing violations; 4) petitions for review of floating home moorage fee increases; and several others.



**Recommendations.** The City Council has retained jurisdiction over certain land use actions, including Council conditional uses, rezone proposals, major institution master plans, planned unit developments, and landmark controls and incentives. For these cases, the Examiner holds a public hearing for the Council, gathers information to establish the record, and forwards the record and detailed written findings, conclusions and recommendation to the Council for its use in making the decision.

## **Judicial Appeals of Hearing Examiner Decisions**

At the request of the City Council, and with the assistance of the City Attorney’s Office, the Office of Hearing Examiner tracks the results of judicial appeals of Hearing Examiner decisions. The following cases were appealed in 2020:

In the *Ballard Coalition v. City of Seattle*, appellants appealed the Deputy Hearing Examiner’s decision upholding Final EIS for the Burke Gilman Trail Missing Link Project. The appeals involved multiple prongs of appeals of City decisions, including an appeal to the Court of Appeals in which the Court of Appeals found an appearance of fairness violation when the Deputy Hearing Examiner was hearing the EIS adequacy challenge and simultaneously applying to be the Hearing Examiner. SDOT is evaluating its litigation and project options. (W-17-004)



In *Melvyn V. Mahon, II v. City of Seattle*, Superior Court #21-2-03466-3SEA, the Hearing Examiner dismissed the appeal from Appellant from a SDCI denial of Appellant’s Floating on-water Residence verification. The matter has been set for trial. (S-20-005)

## **Case Highlights**

Each year includes cases that are noteworthy, either because of the controversy surrounding them or because they present important issues in the application of the Seattle Municipal Code or other regulations. The brief, case descriptions that follow highlight some of these cases that came before the Hearing Examiner in 2020. (The complete decision or recommendation can be found through the “Decisions” link at [www.seattle.gov/examiner](http://www.seattle.gov/examiner) using the Hearing Examiner case number included in parentheses after each case description below.)

- On January 28, 2019, the City Council unanimously passed Ordinance 125760, implementing the City’s plan to create a local improvement district (“LID”) for the purpose of partially funding the Seattle Central Waterfront Improvement Program by assessing a part of the cost and expense of certain program improvements against properties identified as specially benefiting from the improvements.

The City of Seattle Office of Hearing Examiner was designated by the City Council to conduct the Waterfront Local Improvement District Assessment Hearing to hear objections from property owners. Approximately 442 property owners submitted timely objections

The hearing opened on February 4, 2020, in the Seattle City Hall Council Chambers. The hearing continued from that date with presentations by Objectors and later the City for over twenty days of hearing. The hearing was initiated prior to the start of the pandemic but was in progress when it started and progressed. The first day of the hearing—during which the Hearing Examiner delivered opening remarks, many Objectors presented oral argument for their objections, and all other Objectors were scheduled for later appearances—was conducted in person, as were many individual Objector’s presentations to the Hearing Examiner. Audio and video recordings were maintained for the entire hearing. A transcript of the hearing was produced during the course of the hearing by an independent court reporter service.

As the pandemic manifested and then progressed, hearing conditions were modified to accommodate rapidly changing circumstances. The hearing continued with live presentation of Objectors’ cases through the end of February. This completed presentation by all but a handful of Objectors. In March, the remaining Objectors completed witness presentation by remote hearing platform. Final presentation by the City and cross-examination of City witnesses by a large group of Objectors were completed by remote hearing platform at the end of June, and final written closing arguments were received in July. The 123-page preliminary recommendation from the Hearing Examiner was issued on September 8, 2020.

The Hearing Examiner’s Recommendation indicated some additional work should be completed with regard to some properties. The Council returned the objections with regard to these properties to the Hearing Examiner for further review. A Final Recommendation was issued following a remand hearing briefing process by the Hearing Examiner on January 29, 2021.

- The Director of the Seattle Department of Construction and Inspections (“Department”) issued a Determination of Non-Significance (“DNS”) for associated land use applications for the development of adjacent residential lots. An appeal of the DNS, a related code interpretation (“Interpretation”), and short subdivision were filed by Neighbors of 13 West. The hearing for this matter was the first to be held entirely by remote hearing platform Zoom in response to the pandemic. The appeal of the DNS was based on several issues related to environmental impacts, including but not limited to: geological hazards, vegetation loss, energy, aesthetics, and transportation. The Appellants also challenged the Department’s handling of measurements for a large tree to be removed from the property, and whether the

multiple parcels of the project were subject to design review. The Hearing Examiner upheld the DNS, and denied the appeal of the Interpretation. (MUP-20-008)

The Seattle Department of Construction and Inspections approved a 48-story building in Seattle’s Belltown neighborhood. The Escala Owners Association, representing residents of an adjacent building, appealed. The appeal was narrow, addressing an issue the Examiner had previously remanded to the Department on the health impacts from project shading on Escala residents. Extensive technical analysis and testimony, including 85 exhibits and nine witnesses, provided input on the additional environmental review embodied in a “Lighting Addendum” accompanying an environmental impact statement. Evidence was presented on technical issues, such as circadian entrainment and its governance by the intrinsically photosensitive retinal ganglion cells (ipRGCs) system, which is separate from the visual system. Ultimately, the Examiner concluded that while there were differences in expert opinion, and the Escala residents had reasonable concerns, the Department analysis was reasoned and supported by the record, so environmental review requirements were met. The Examiner upheld the Department’s updated SEPA analysis. (MUP-20-012).

- The Seattle Department of Construction and Inspections approved a three-story apartment building with 32 small efficiency micro-apartments on an 8,000 square foot site, just above a steep slope along Fremont Avenue North. The Code did not require parking, and the project did not provide any. The project was transit/bike/rideshare oriented, so it was anticipated to generate a relatively limited number of vehicle trips. However, though limited, these trips were within a residential neighborhood with difficult access issues. The building entrance is off an alley, which lacked sidewalks, had no room for parking and had garages often built to the property line. Given these challenges, though otherwise upholding the Master Use Permit, the Examiner remanded the decision for further consideration of the approach to mitigating impacts from vehicle circulation within the immediate neighborhood. (MUP-20-019)

## **ADMINISTRATIVE SECTION**

### **Accessibility**

An administrative hearing before the Hearing Examiner is a quasi-judicial process that involves the application of existing law and policy to the specific facts of a case. Constitutionally guaranteed due process requires procedural safeguards for those whose rights are affected by the outcome of the case. The hearing format resembles an informal court proceeding and is structured to provide a fair opportunity for each party to participate while also reflecting the seriousness of the matters appealed for those involved.

The Office of Hearing Examiner uses various tools to make the appeal and hearing processes understandable and more accessible while at the same time protecting the rights of parties and fulfilling legal requirements. Examples include: a “Public Guide,” which is a booklet that explains the hearing process in a question and answer format; “fill-in-the-blanks” appeal forms; an explanatory letter that is sent along with the notice of hearing in each case; sample forms for use in cases before the Examiner, and two pocket-sized pamphlets that include basic information about the hearing process and are available from our website, and at the Office. In addition, the Office’s pamphlet on code enforcement citation hearings is included with each citation issued by SDCI and SDOT. If appropriate, an information card in one of the City’s seven core languages is also handed out with the citation. The card explains what basic hearing-related information is available from the Office of Hearing Examiner.

In 2019 the Office continued to expand access to the Office for individuals for whom English is not their first language. Language interpreters are provided for appeal hearings when requested. The form for filing Land Use and SEPA appeals has been translated into the City’s seven core languages, and appellants may file an appeal in the language of the form. Information pamphlets concerning Third-Party Utility Billing appeals were also translated into the City’s seven core languages. As funding is made available, the Office will continue to have materials translated until all primary office materials can be accessed in the City’s seven core languages. LanguageLine Solutions interpretation services are now provided to individuals utilizing the Office.



Four assisted listening devices have been purchased and are made available for use by participants or audience members during hearings proceedings.

The Office accepts credit and debit cards for payment of filing fees and citation penalties, and we are the only hearing examiner office in the state to offer the option of electronic filing of appeals and subsequent documents in our cases. This is provided through a portal on the Office of Hearing Examiner website. We also provide 24-hour public access to our case files, including recordings of hearings, through the website. A Listserv on the website allows people to receive updates on proposed rule changes and other matters. We also solicit feedback from everyone who participates in a hearing. Our “Customer Satisfaction Survey” is available on-line as well as in the office and hearing rooms; it is also administered quarterly via SurveyMonkey and may be submitted anonymously through these forums.

Hearing Examiner decisions dating back to 1990 are available in a searchable database through a link on the Hearing Examiner’s website at [www.seattle.gov/examiner](http://www.seattle.gov/examiner). Although not searchable, decisions prior to 1990 are available by year on the website, which also includes the Hearing Examiner Rules, the “Public Guide,” appeal forms and fee and payment information, information on mediation of cases, public records request information, other information, and links to the Seattle Municipal Code and other resources relevant to matters that come before the Hearing Examiner.

### **Race and Social Justice Initiative**



All staff members in the Office, including the Hearing Examiner, participate in the People’s Institute Undoing Institutional Racism training. The newly hired Deputy Hearing is expected to also complete the training. All staff members have also taken all available RSJI classes offered by the City. The Office of Civil Rights has generously supported the Office in efforts to understand and train in the application of Racial Equity Toolkits. The

Office Executive Assistant is a Certified Race and Social Justice Trainer.

In 2019 the Office initiated a pro tem hearing examiner training program targeting legal practitioners who are People of Color. The OHE is committed to advancing diversity and inclusion within the Environmental and Land Use Law section of the Washington Bar Association. Based on the experience of the Hearing Examiner, and as reflected in data from the WSBA, there is a lack of diversity in the ranks of lawyers practicing in the area of land use law. The pro tem hearing examiner training program is an opportunity for experienced legal practitioners who are People of Color to become more experienced in land use and as a hearing officer. In

addition to requiring review of some written materials, the centerpiece of the program includes mentoring the candidate through a series of nine or more citation hearings. The Office hopes to put up to two candidates a year through the program. The first candidate, Anthony Jones, a member of the Port Gamble S'klallam Tribe, completed the program in January 2020.

As discussed above, under "Accessibility," the Office has continued efforts to expand access to Office materials and procedures for those for whom English is not their primary language.

### **SEPA Appeal Process**

The City of Seattle City Council passed Ordinance 125964 in October 2019. Ordinance 125964 concerned (among other items) identifying specific deadlines for the Hearing Examiner to conclude the SEPA appeals. In addition, the Ordinance provides:

Section 14. The Hearing Examiner is requested to include in its 2020 Annual Report a section identifying any opportunities to shorten, streamline or otherwise improve Hearing Examiner processes. The report should identify changes to processes or procedures, new code provisions or amendments to existing code sections, or any resources that could support the Examiner's work and improve equity in the process and outcomes for participants. The report should identify changes to the Hearing Examiner's rules that have already been made, or that are in the process of being made at the time of the report. In developing these recommendations, the Hearing Examiner shall convene a stakeholder committee consisting of members with experience going through the hearing process, expertise in environmental justice, and a representative of the City Council.

### **Stakeholder Committee**

The stakeholder committee called for in Ordinance 125964 was formed and planned to convene in the Spring of 2020; however, due to the exigencies of the COVID-19 Pandemic the Committee was unable to convene but is expected to do so in the third or fourth quarter of 2021.



## HEARING EXAMINER JURISDICTIONS

### LAND USE & ENVIRONMENTAL [Administered by Department of Construction and Inspections]

#### Appeals:

Downtown Housing Maintenance (SMC 22.220.140)  
Denial or Revocation of Rental Housing Registration (SMC 22.214.045)  
Environmental Determinations (SMC 25.05.680)[Admin. by any City dept. as lead agency]

#### Environmentally Critical Areas

Conditional Use (SMC 25.09.260)  
Reasonable Use Exception (SMC 25.09.300)  
Variance (SMC 25.09.160.C, 25.09.280)

Habitable Building Standards Variances (SMC 22.206.217)  
Housing & Building Maintenance Code Violations (SMC 22.208.050)  
Land Use Code Citations (SMC 23.91.006, 23.91.010, 23.91.012)  
Land Use Code Interpretations (SMC 23.88.020)  
Land Use Regulations (SMC 23.47A.004)  
Adult Cabarets (SMC 23.49.030)  
Land Use Regulations – Industrial (SMC 23.50.012)  
Land Use Regulations – Affordable Housing Impact Mitigation Program for Commercial Development – (SMC 23.58B.030)  
Land Use Regulations – Mandatory Housing Affordability for Residential Development (SMC 23.58C.035)  
Land Use Regulations – Seattle Shoreline Master Program Regulations (SMC 23.60A.064, 23.60A.202, 23.60A.203, 23.60A.204, 23.60A.214)  
Land Use Regulations – Station Area Overlay District (SMC 23.61.016)  
Land Use Regulations – Master Planned Communities (SMC 23.75.085, 23.75.120)  
Master Use Permit [Type II] decisions (SMC 23.76.06, SMC 23.76.022):  
Administrative Conditional Uses  
Consistency with Planned Action Ordinance and EIS  
Design Review  
Downtown Planned Community Developments

Establishing Light Rail Transit Facilities  
Establishing Monorail Transit Facilities  
Major Phased Developments  
Short Subdivisions  
Special Exceptions  
Temporary Uses  
Variances

Noise Code Variances (SMC 25.08.590, 25.08.610, SMC 25.08.655)  
Noise Code Citations (SMC 25.08.900, 25.08.910, 25.08.920, 25.08.930, 25.08.940, 25.08.950)  
Pioneer Square Minimum Maintenance Violations (SMC 25.28.280, 25.28.300, 25.28.310)  
Relocation Assistance: (City action causes displacement) (SMC 20.84.225, SMC 20.84.640)  
Stop Work Orders (SMC 23.76.034)  
Stormwater, Grading & Drainage exceptions (SMC 22.800.040)  
Tenant Relocation Assistance Eligibility Determinations (SMC 22.210.100, 22.210.110, 22.210.120,  
22.210.150, 22.210.160)  
Weed and Vegetation Citations (SMC 10.52.031, 10.52.032, 10.52.034, 10.52.035, 10.52.034, 10.52.036)  
[Admin. by DPD]

Land use decisions on Type III applications

Subdivisions (SMC 23.76.024 and SMC 23.22.054)

Recommendations to City Council on Type IV applications (SMC 23.76.036, SMC 23.76.052, SMC 23.76.054):

Council Conditional Uses

Major Amendment to Property Use and Development Agreement (SMC 23.76.058)

Major Institution Master Plans (SMC 23.69.030)

Public Facilities (SMC 23.69.032)

Rezone Applications (SMC 23.34)

**SCHOOL REUSE & DEPARTURES** [Administered by Department of Neighborhoods]

School Development Standard Departures (SMC 23.79.012) within MUP decision

School Reuse/SUAC (SMC 23.78.014) within MUP decision

**CIVIL RIGHTS** [Administered by the Office for Civil Rights]

Employment Discrimination Complaints (SMC 14.04.150, 14.04.170, 14.04.180, 14.04.185)

Unfair Public Accommodations Practices (SMC 14.06.040, 14.06.110, 14.06.120, 14.06.130, 14.06.140)

All-Gender Single-Occupant Restrooms Requirements (SMC 14.07.040)

Fair Housing (SMC 14.08.170, 14.08.180, 14.08.200)

Use of Criminal Records in Housing (SMC 14.09.085, 14.09.090,

Fair Contracting Practices (SMC 14.10.120, 14.10.130, 14.10.140, 14.10.150)

Paid Sick/Safe Leave Appeals (SMC 14.16.050, 14.16.070, 14.16.085, 14.16.090, 14.16.100, 14.16.105)

Fair Chance Employment Appeals (SMC 14.17.045, 14.17.060, 14.17.065, 14.17.075, 14.17.080)

Minimum Wage Appeals (SMC 14.19.050, 14.19.070, 14.19.085, 14.19.090, 14.19.100, 14.19.105)

Wage Theft Appeals (SMC 14.20.030, 14.20.050, 14.20.065, 14.20.070, 14.20.080, 14.20.085)      The Use of  
Conversion Therapy on Minors (SMC 14.21.050)

Secure Scheduling (SMC 14.22.065, 14.22.085, 14.22.100, 14.22.105, 14.22.115, 14.22.120)

Domestic Workers (SMC 14.23.095, 14.23.095, 14.23.100, 14.23.105, 14.23.115, 14.23.120)

Protecting Hotel Employees from Violent or Harassing Conduct (SMC 14.26.150, 14.26.170,  
14.26.180, 14.26.210, 14.26.220)

Protecting Hotel Employees from Injury (SMC 14.27.150, 14.27.170, 14.27.180, 14.27.190, 14.27.210,



14.27.220)

Improving Access to Medical Care for Hotel Employees (SMC 14.28.150, 14.28.170, 14.28.180, 14.28.210, 14.28.220)

Hotel Employees Job Retention (SMC 14.29.170, 14.29.180, 14.29.190, 14.29.210, 14.29.220)

**LANDMARKS AND SPECIAL DISTRICTS** [Administered by the Dept. of Neighborhoods]

Certificates of Approval for Designated Landmarks (SMC 25.12.740)

Factors to be considered by Board or Hearing Examiner (SMC 25.12.750)

Hearing Examiner procedure (SMC 25.12.760)

Landmark Controls & Incentives (SMC 25.12.530) [Recommendations to City Council]

Owner's objections to Board's recommendation (SMC 25.12.535)

Scheduling of hearing (SMC 25.12.540)

Hearing Examiner procedure (SMC 25.12.560)

Basis for Hearing Examiner's recommendations. (SMC 25.12.570)

Hearing Examiner recommendations – Referral to Council (SMC 25.12.610)

Service of notices (SMC 25.12.840)

Landmarks Code Interpretations (SMC 25.12.845)

Conformance with general development (SMC 25.12.980)

Special Review Districts' Certificate of Approval and Code Interpretations

Certificate of Approval – Application, review and appeals (23.66.030)

Ballard Avenue Landmark District (SMC 25.16.110 & SMC 25.16.115)

Columbia City Landmark District (SMC 25.20.110 & SMC 25.20.115)

Fort Lawton Landmark District (SMC 25.21.110, 25.21.130 & 25.21.135)

Harvard Belmont Landmark District (SMC 25.21.110, 25.22.130 & SMC 25.22.135)

International District (25.24.080 & 25.24.085)

Pike Place Market Historical District (SMC 25.24.080 & SMC 25.24.085)

Pioneer Square Historical District (SMC 25.28.280, 25.28.300, 25.28.310)

Sand Point Naval Air Station Landmark District (SMC 25.30.090, 25.30.110, 25.30.120)

**HEALTH AND PUBLIC SAFETY CODE VIOLATIONS**

Graffiti Nuisance Violations (SMC 10.07.050) [Administered by Seattle Public Utilities]

Health Code Permit Actions (SMC 10.01.220) [Admin. by Seattle-King County Public Health]

Infectious Waste Management Ordinance Violations (SMC 21.04.090) [Admin. by Seattle-King County Public Health]

Public Nuisance Abatements (SMC 10.09.100) [Administered by Seattle Police Department]

Frozen Dairy Food Products (SMC 10.18.140) [Administered by Seattle-King County Public Health]

Noise Variance (SMC 25.08.610)

Radiofrequency Radiation Ordinance Violations (SMC 25.10.540) [Admin. by Seattle-King County Public Health]

Corrosion Prevention (SMC 21.08.350, 21.08.360) [Admin. By Seattle-King County Public Health]

**CITY TAXES AND LICENSES** [Admin. by Financial and Admin. Serv., Revenue & Consumer Affairs]:

Admission Tax Exemptions (SMC 5.40.028, SMC 5.40.085)

All Ages Dance and Venues (SMC 6.295.180)

Bond Claims (SMC 6.202.290)

Business and Occupation and other Tax Assessments (SMC 5.55.140, 5.55.150, 5.55.230)

Income Tax on High-Income residents (SMC 5.65.160, 5.65.170, 5.65.230)

Multifamily Housing Property Tax Exemption (SMC 5.72.110)

2004 Multifamily Housing Property Tax Exemption Program (SMC 5.73.110)  
Horse Drawn Carriage Licenses (SMC 6.315.430)  
License Denials, Suspensions & revocations (SMC 5.55.230, SMC 6.02.080, SMC 6.02.285, SMC 6.214.320, SMC 6.02.290, SMC 6.202.240, SMC 6.202.270, Chap. 6.500 SMC, SMC 6.10.120, SMC 6.10.130, 6.208.020, 6.214.320, 6.295.160, 6.295.180)

Animal Control:

Animal License Denials (SMC 9.25.120)

Determinations of Viciousness/Order of Humane Disposal (SMC 9.25.036)

Adult Entertainment (SMC 6.270)

For-Hire Vehicles & Drivers (SMC 6.310.635, 6.310.735)

Gas Piping (SMC 6.430.210)

Panorama and Peepshows (SMC 6.42.080)

Refrigeration Systems (SMC 6.410.210)

Steam Engineers and Boiler Fireman (SMC 6.420.210)

Unit Pricing (SMC 7.12.090)

Marijuana Business License Citations (SMC 6.500.147, 6.500.150, 6.500.170)

Short-Term Rentals 6.600.120)

**CABLE COMMUNICATIONS** – [Administered by the Office of Cable Communications]

Franchise Termination (SMC 21.60.120)

**MISCELLANEOUS JURISDICTIONS**

Civil Service Appeals (SMC 4.04.250) [Delegation from Civil Service Commission]

Commuter Benefit (SMC 14.30.150)

Energy Benchmarking Appeals (SMC 22.920.155) [Admin. by Office of Sustainability and Environment]

Ethics Code Violations (SMC 3.70.100) [Delegation from Ethics & Elections Commission]

Improvement District Assessment Appeals as provided by Ordinance

LID Assessment Rolls (SMC 20.04.090) [Admin. by SDOT]

Rental Agreement (7.24.130) [admin. By DCI]

Restricted Parking Zone Appeal (SMC 11.16.317) [Admin. by SDOT]

Review of Floating Home Moorage Fees (SMC 7.20.080, SMC 7.20.090, SMC 7.20.110)

Property Tax Exemption Elimination (SMC 5.72.110, SMC 5.73.100) [Admin. by Office of Housing]

SDOT Citation Appeals (SMC 15.91.006) [Admin. by SDOT]

Street Use Appeals (SMC 15.90) [Admin. by SDOT]

Third Party Utility Billing Complaints (SMC 7.25.050)

Whistleblower Retaliation Complaints (SMC 4.20.865) [Filed by the Ethics and Elections Commission]

Compensation and Working Conditions Generally (SMC 4.20.225, 4.20.860, 4.20.870)

Documentation of Eligibility for certain uses of Sick Leave and Funeral Leave (SMC 4.30.865)

Floating Home Moorages (SMC 7.20.080, 7.20.090, 7.20.100, 7.20.110)

Refund Anticipation Loan Regulation (SMC 7.26.070)

Please note that the list is provided only for the public's convenience and may not reflect recent ordinances adopted by the City Council. The Seattle Municipal Code and those ordinances are the ultimate authorities on the extent of the Examiner's jurisdiction.