



December 7, 2021

**BY E-MAIL ONLY**

Re: Case No. 21-1-0923-1

Dear Mx. XXXX:

The Seattle Ethics and Elections Commission (“SEEC”) received your complaint on September 23, 2021. Your complaint alleges that Mayor Jenny Durkan (1) used her official position for a purpose that did or would to a reasonable person appear to be primarily for the private benefit of Ms. Ginny Gilder, an owner of the Seattle Storm, and (2) used or permitted the use of City funds, property or personnel for a purpose which was, or to a reasonable person would appear to be, for other than a City.

The basis for these allegations is the Mayor’s prioritization of legislation allowing for a change in the land use code. The change could permit the Storm to establish a practice facility in the Ballard Interbay Northend Manufacturing and Industrial Center (“BINMIC”).

I have determined that the actions taken by the Mayor in support of the legislation is not a violation of SMC 4.16.070.

**Findings**

The Mayor proposed legislation amending the land use code to allow a single building in the BINMIC to exceed the current 10,000 square foot limit. The legislation was sought by Ms. Gilder, who currently owns a parcel in BINMIC. Ms. Gilder wants to construct a practice facility for the Storm. The building would also be used for recreation, training camps and youth development activities.

The Mayor’s office did consult with Ms. Gilder, a part owner of the Storm, and her attorney regarding the proposal. Ms. Gilder will likely see her property appreciate in value if she is permitted to site a practice facility.

The legislation ultimately passed the City Council by a vote of 9-0.

The Ethics Code requires that we determine whether the legislation *primarily* serves a City purpose or a private one. In *Op Sea Ethics & Elects Comm’n 26 at 2* (1992), the Commission wrote that the “City Charter authorizes the City Council to identify what is the public’s business and to determine how the City’s funds and facilities are to be used....”

Here I am faced with a piece of legislation that passed the City Council unanimously. If I take the position that it violates the Ethics Code, I would be saying that I, not the City Council, identify what is the public's business. That would not square with my conception of my role in the City's charter framework. If you believe that the City has chosen the wrong vehicle to pursue this legislative change, I believe you would be better served by lodging a complaint with the courts.

### **Conclusion**

For the reasons stated above, I am dismissing your complaint. You may appeal this decision by submitting to this office a written request for appeal pursuant to the Commission's Administrative Rule 4.<sup>1</sup>

If you have questions you may contact me at 206-684-8500.

Very truly yours,



Wayne Barnett  
Executive Director

cc: Seattle Ethics and Elections Commission (*complainant's name and address redacted*)  
Mayor Jenny Durkan (*complainant's name and address redacted*)

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<sup>1</sup> Rule 4 APPEALS

A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.

B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.

...

D. A request for review shall state the grounds therefor, and shall be no longer than twelve 8-1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than 12 characters per inch.