

**City of Seattle**



**OFFICE OF HEARING EXAMINER**

**2004**

**ANNUAL REPORT**

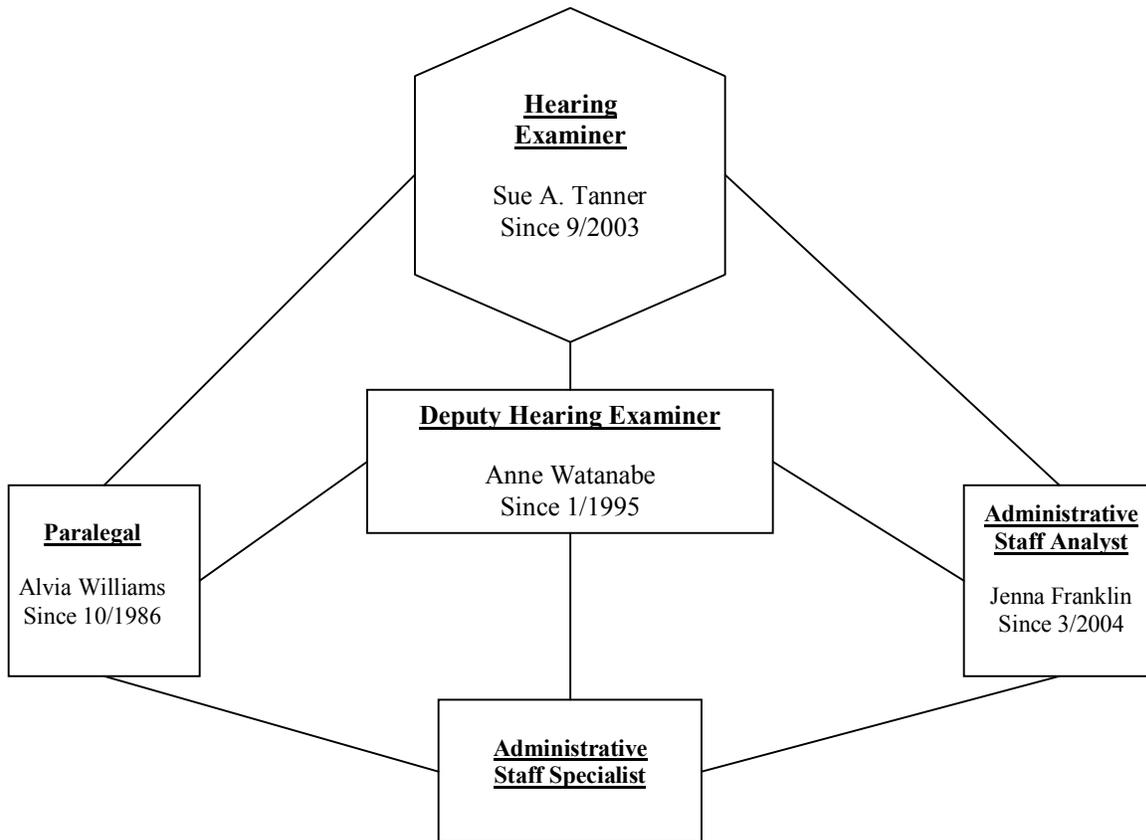
Office of Hearing Examiner  
Alaska Building Room 1320  
618 Second Avenue  
Seattle, Washington 98104-2222  
Phone: (206) 684-0521  
Fax: (206) 684-0536

**March 2005**

2004  
City of Seattle  
**CITY COUNCIL**

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RICHARD CONLIN  
JAN DRAGO, PRESIDENT  
DAVID DELLA  
JEAN GODDEN  
NICK LICATA  
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TOM RASMUSSEN  
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**2004 Organizational Chart**



**CITY OF SEATTLE  
OFFICE OF HEARING EXAMINER**

**2004 ANNUAL REPORT**

**Mission and Authority**

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

The position of Hearing Examiner is established in the Seattle Municipal Code, and the Hearing Examiner is appointed by the City Council to serve an initial term of one year and subsequent terms of four-years. The Hearing Examiner is responsible for all functions of the Office and is authorized to appoint Deputy Examiners and other staff. See the inside front cover of this report for the organization chart and staff for 2004.

The Office of Hearing Examiner is created as a separate office under Chapter 3.02 of the Seattle Municipal Code. Before the Office was created in 1973, some appeals of administrative decisions were heard by the City Council, while others went directly to court. Pursuant to grants of authority throughout the Code, the Office of Hearing Examiner now provides an independent hearing forum to review decisions made by other City agencies, and to issue decisions in areas of “original jurisdiction”.

**Jurisdictions**

The Office of Hearing Examiner currently has jurisdiction over more than 75 different types of matters.<sup>1</sup> We track 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 the Department of Planning and Development (Master Use Permits, SEPA determinations, Code Interpretations, Land Use Enforcement and Tenant Relocation Assistance); the Department of Finance (B&O Tax assessments); the Landmarks Preservation Board and Department of Neighborhoods (decisions on Certificates of Approval for alterations); the Department of Executive Administration (licensing decisions); the Department of Transportation (Vending Enforcement); and others, such as appeals of employment decisions delegated to the Office of Hearing Examiner by the Civil Service Commission.

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 review and a final decision on subdivisions recommended by the Department of Planning and Development, and review of Public Nuisance determinations made by that Department; complaints of discrimination in employment, housing or public accommodation filed by the Office for Civil Rights and the City Attorney; complaints for third party billing violations; petitions for review of floating home moorage fee increases; and others.

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<sup>1</sup> See complete list at p. 15.

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 landmarks controls and incentives. For these cases, the Hearing Examiner holds a public hearing for the Council, gathers information to establish the record, and forwards the record and a detailed written recommendation to the City Council for its use in making the decision.

### **Accessibility**

An administrative hearing before the Hearing Examiner is a quasi-judicial process. Whereas policy and law are developed and adopted in a legislative process, a quasi-judicial process involves the application of existing law and policy to the specific facts of each 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 acknowledging the seriousness of the matters appealed for those involved.

The Office of Hearing Examiner uses several measures to make the process understandable and “user friendly”, while at the same time protecting the rights of parties and fulfilling legal requirements,. Examples include: a “Citizen Guide” booklet that explains the hearing process; “fill-in-the-blanks” appeal forms; and an explanatory appeal information letter that is sent along with the required notice of hearing.

The Hearing Examiner’s website, at [www.seattle.gov/examiner](http://www.seattle.gov/examiner), includes the Hearing Examiner Rules, the “Citizen Guide”, the appeal forms, the most recent Annual Report, and a schedule of upcoming hearings. Decisions dating back through 1990 are also available in a searchable database through a link on our web site.

### **Personnel Changes**

Early in 2004, two veteran employees of the Office of Hearing Examiner moved on to new challenges. Marta Idowu, who had been a paralegal in the Office for more than twenty years, left to accept a position in the Office for Civil Rights as a Planning and Development Specialist, managing two commissions and doing outreach work in the community. Aurora Mendoza, who had been a Staff Analyst in the Office for ten years, left to accept a position as an Assistant City Auditor.

In March of 2004, Jenna Franklin was hired as the new Administrative Staff Analyst in the Office. She received her bachelor’s degree from Scripps College and came to the Office of Hearing Examiner from the University of Washington’s Virology Research Clinic, where she worked on coordinating clinical research programs, budget forecasting, writing grant proposals and applications, and providing patient education.

### **New Jurisdictions (and Changes to Old)**

**Third-party Utility Billing.** Ordinance 121320, which prohibits deceptive and fraudulent practices related to third-party billing for master metered utility services provided to multi-unit buildings, took effect February 1, 2004. The ordinance vests authority in the Hearing Examiner to hear and resolve tenant complaints against landlords regarding these utility billing practices. The filing fee is set at \$5.00, and the Examiner is authorized to award actual damages as well as penalties.

The dispute resolution process under the ordinance is quite detailed, with several specific steps required of tenants before they can file a complaint with the Hearing Examiner. Only one third-party billing case was filed in 2004. It involved an alleged failure to post some of the notices required under the ordinance, but the complaint was dismissed by the tenant prior to the hearing.

Tax refund anticipation loans. Ordinance 121594, requiring disclosure of specific information about tax refund anticipation loans, took effect on October 31, 2004. The ordinance provides a civil infraction process administered by the Department of Executive Administration, but also allows a taxpayer to file a complaint with the Hearing Examiner against an entity that assists in obtaining a tax refund anticipation loan. Again, the filing fee for the complaint is \$5.00, and the Examiner is authorized to award actual damages and penalties. No tax refund anticipation loan complaints were filed with the Office of Hearing Examiner in 2004. The first tax season under the ordinance will occur in 2005, but the state legislature is considering a measure that would regulate these loan practices throughout the state. So it is too early to tell whether the Hearing Examiner will play a part in the enforcement process for tax refund anticipation loans.

Floating Homes. Ordinance 121468 took effect on June 11, 2004, and increases the proof required of moorage owners who, in a hearing before the Examiner, cite the sale or lease price of a moorage, or the terms of any transaction concerning the moorage, as a factor in demonstrating that a moorage rent increase is necessary to assure the owner a fair and reasonable return. No petitions for review of moorage fee increases were filed with the Office of Hearing Examiner in 2004, so the Office has no experience yet with this new amendment.

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

At the request of the Council, and with the assistance of the City Attorney's Office, the Office of Hearing Examiner has begun tracking the results of judicial appeals of Hearing Examiner decisions. Three Hearing Examiner decisions were appealed to court in 2004.

In *Friends of View Ridge v. City of Seattle*, King Co. Superior Ct. No. 04-2-080007-0 SEA, an appeal of a Hearing Examiner decision on a short plat appeal, the superior court issued an order upholding the Examiner's prehearing order that held that the appellants had not properly raised issues related to environmentally critical areas. The parties later filed a stipulation dismissing the remainder of the appeal.

*Passage Events and Promotions v. City of Seattle*, King Co. Superior Ct. No. 04-2-12670-3 SEA, was an appeal of a Hearing Examiner decision on a B&O tax assessment appeal. The appeal was resolved by a stipulation between the appellant and the City Attorney's Office dismissing the appeal.

In *Friends of First United Methodist Church v. City of Seattle*, King Co. Superior Ct. No. 04-2-27652-7 SEA, the superior court upheld the Hearing Examiner's summary order dismissing Friends' SEPA appeal of the adequacy of the EIS that had been issued for a MUP for construction of a 33-story office tower/sanctuary/garage, and demolition of the First United Methodist Church downtown. The case has now been appealed to the court of appeals.

Finally, in 2004, the Washington Supreme Court terminated the appeals of a 2002 Hearing Examiner decision on the Downtown Emergency Services Center. The decision had been upheld by both the superior court and the court of appeals. In *East Downtown Community Association v. Downtown Emergency Services Center*, 151 Wn.2d 1008, 87 P.3d 1185 (2004), the supreme court denied review of the court of appeals' decision in the case.

### **Contracting**

In the fall of 2004, the Hearing Examiner asked for authority to provide hearing examiner services to other public entities by contract, and the City Council agreed, adopting Ordinance 121562. The compensation received under the contracts is to be deposited in the General Subfund. Flyers describing our services were distributed at the "Small Cities Conference" in early September. Later that month, the Office of Hearing Examiner sent out a follow-up mailing to approximately sixty jurisdictions. Several small cities asked for additional information, which we supplied. Contract discussions with one city are scheduled for early in 2005, and we also intend to send out a focused mailing to other jurisdictions at that time.

### **Case Highlights**

Every year includes cases that are noteworthy, either because of the controversy surrounding them or because they present important issues in the application of the Code. This year was no exception, and the brief case descriptions that follow highlight some of those cases. Decisions issued in 2004 can be found at: [www.seattle.gov/examiner](http://www.seattle.gov/examiner).

- The Friends of First United Methodist Church and several historic preservation groups challenged the adequacy of the EIS issued for a project that included demolition of the existing Church buildings, including the light brick and terra cotta sanctuary built between 1908 and 1910, and construction of a 33-story office tower with below-grade parking and an addition to the adjacent, historic Rainier Club. The Examiner dismissed the appeal because: 1) the appellants failed to offer any evidence that the EIS's discussion of adverse impacts was inadequate; and 2) under existing law, DPD was prohibited from requiring extensive discussion in an EIS of alternatives to the project that were inherently unreasonable because they would impede the Church's goals of selling its property and using the proceeds for its religious ministry.
- The Pike Market Medical Clinic, a nonprofit provider of health services, installed reflective window film on west-facing, ground floor windows in exam rooms on Post Alley to lower temperatures and increase patient privacy. The Market Historical Commission denied a Certificate of Approval for the film. The Examiner noted that the Commission had allowed installation of tinted window film and sunscreens in the Market in several cases, and concluded that if the Clinic proved the reflective film was the only way to provide effective privacy and temperature control, it would have demonstrated the "extenuating circumstances" required under the Market Guidelines to allow use of the film. However, the Examiner affirmed the Commission's decision because the Clinic had not yet demonstrated that film was the only viable way to meet the clinic's needs.

- Citing his First Amendment right to freedom of expression, a local artist appealed a citation issued for violation of the Land Use Code’s prohibitions on structures in the front yard and outdoor junk storage in a residential zone. The citation covered several stored and/or exhibited objects the artist had created out of salvaged materials and copyrighted, some of which bore political messages. The Examiner determined that the structures were a combination of speech and conduct, that the Land Use Code regulates conduct – the height and location of structures and the outdoor storage of junk – to promote important government interests, and that the regulations affect speech and expression only incidentally and no more than necessary to further the City’s interests in regulating the conduct. The Examiner determined that some of the objects were “junk storage” under the Code, but others were not. Although the outdoor storage of their component parts qualified as junk storage, the parts had been assembled into artistic pieces that also displayed political messages, and they no longer met the Code’s definition of “junk storage”. However, the Examiner affirmed the citation because one of the art objects, which also carried a political message, violated the Code’s prohibition on structures in the front yard.
- The neighbors appealed a decision granting approval for construction of a cell tower and equipment structure in a single-family zone in the Greenwood neighborhood on a site located within a few blocks of more intensive zones in every direction. To increase existing service capacity, T-Mobile proposed to mount three panel antennas on a utility pole and locate a 25 square foot, 10 ½-foot high equipment structure on a vacant lot, five feet from the neighboring property line. The Examiner affirmed the SEPA determination for the project, but reversed the conditional use approval. Although certain design features and additional landscaping could make the facility compatible with uses allowed in a single-family zone, the Examiner held that the applicant had not demonstrated that the facility and location proposed was the “least intrusive facility at the least intrusive location consistent with effectively providing service,” as required by the Code.
- Appeals were filed by Pine Street area businesses and residents who sought additional conditions to the Department of Planning and Development’s approval of three construction staging areas for Sound Transit’s Downtown Transit Tunnel. Noise, traffic, dust, and other impacts from the tunnel construction, while substantial, were found to have been largely addressed by earlier environmental reviews, and by the conditions that the Department had placed on the projects.
- Determining where a business’s activities take place, for purposes of assessing business and occupation taxes, has become increasingly complicated, as demonstrated by recent appeals brought by providers of internet services and a provider of “call center” services located in India. While unsuccessful, the appeals highlighted the difficulty of applying traditional notions of “location” to such companies and activities.
- A major renovation of Roosevelt High School was approved by decisions of the City’s Landmarks Preservation Board and the Department of Planning and Development, both of which were appealed. In affirming the decisions, the Hearing Examiner concluded that the proposed demolition and alteration of some of the school’s landmark features was necessary in order to meet educational specifications, but that requiring the school to provide a substantial number of new parking spaces was warranted.

- What's in a name, and even the order of the words, has always mattered deeply to someone, as shown in an appeal brought by the Seattle Chinese Chamber of Commerce. The Chamber sought reversal of a sign permit issued by the Department of Neighborhoods for a new community center. The sign bore the phrase "International District Chinatown," but the Chamber believed that "Chinatown International District" more accurately reflected the history and culture of the neighborhood. The appeal was ultimately dismissed (as being beyond the scope of a sign permit review) but the debate over the neighborhood's "true" name will doubtless continue.

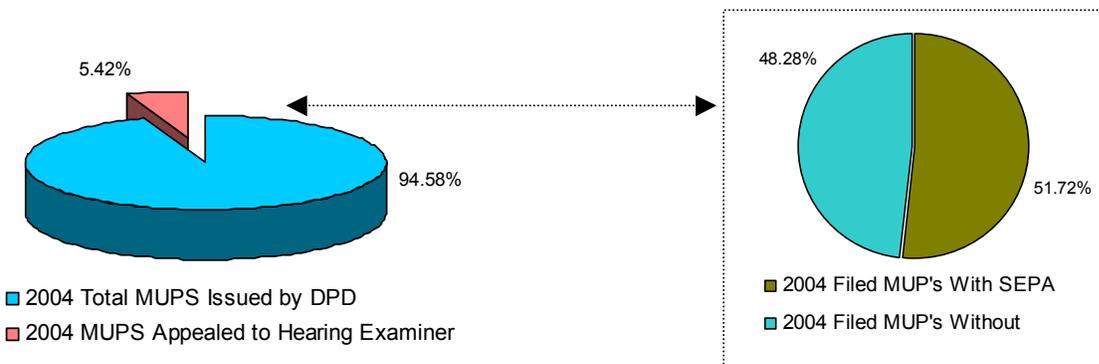
## 2004 Caseload

### Cases Filed - Non-Citation

There were 124 Non-Citation cases filed with the Office of Hearing Examiner in 2004, twenty fewer than in 2003, but approximately equal to the number filed in 2002.

A **Master Use Permit, or MUP**, is a document issued to a permit applicant that includes all land use decisions made by the Department of Planning and Development on the application. MUP appeals remain 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 review and decision writing. The number of MUP appeals (29) was down from the number filed in 2003 (49) and 2002 (53). Of the 535 MUPs issued by DPD, only 5.42% were appealed. Just over half of the MUP appeals also included a SEPA appeal.

### 2004 Master Use Permit Case Activity



**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 Council land use decision, but for which a department other than DPD makes the environmental determination on the proposal. SEPA-only appeals (5) were down from 2003 (12), and were more in line with the numbers filed in 2002 and 2001.

The number of **recommendations to Council** (rezones, council conditional uses, etc.) filed in 2004 (2) was approximately half the number filed in 2003 (4) which, in turn, was approximately half the number filed in 2002 (9).

Twenty-one **appeals of license suspensions** were filed in 2004, more than double the number filed in 2003 (9) and nearly double the number filed in 2002 (12). However, 2004 licensing appeals were still down significantly from the numbers filed in 2001 (72) and 2000 (44).

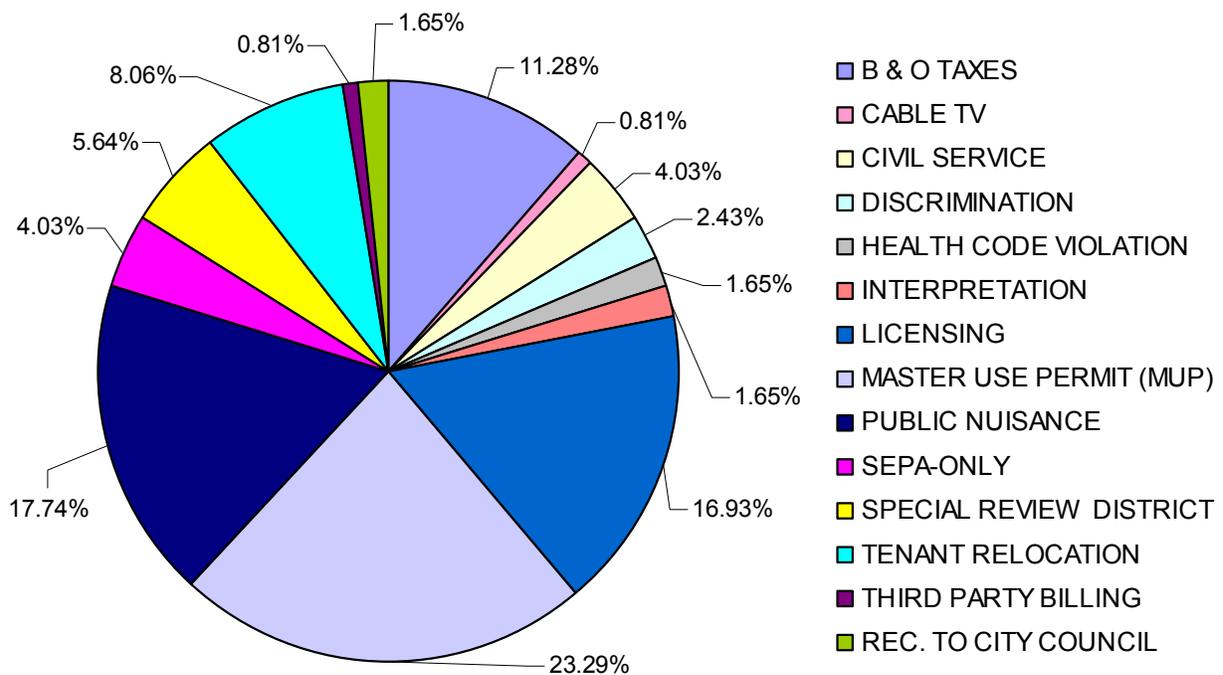
Appeals from **B&O tax assessments** (14) were up slightly from the number filed in 2003 (11) and were nearly three times the number filed in 2002 (5).

There were 7 **landmark and special district appeals** in 2004, which is consistent with the number in 2003 (5) and with the average for the preceding 5-year period.

**Tenant relocation assistance appeals** increased more than three-fold in 2004 to 10, up from 3 in 2003.

The number of **civil service appeals** assigned to the Hearing Examiner by the Civil Service Commission in 2004 (5) was consistent with the number assigned in 2003 (7) and in 2002 (6).

**2004 Non-Citation Cases Filed by Type**



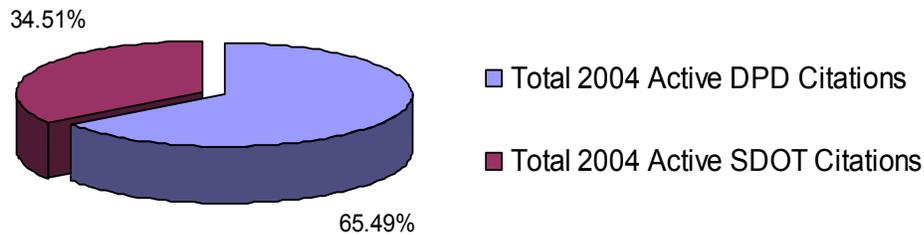
Cases Filed - Citation Enforcement

Because citation enforcement cases follow a unique procedure, we now track them separately from other categories of cases. When Land Use Code and Vending Code citations are issued, a copy is sent to the Office of Hearing Examiner. When someone files an appeal of a citation, it is removed from the others and set up for an appeal hearing and decision. For all citations that are neither paid nor appealed, the Office of Hearing Examiner prepares and sends out orders of “default” which, as explained on the citations themselves, note the failure of the party to respond, find that the violation has been committed and impose the cited penalty.

The Land Use Code citation enforcement jurisdiction, which began in August of 1999, saw the most filings again in 2004 (170), but this number represents just nine months of enforcement. A problem in the Department of Planning and Development with the “Hansen” case management system led to a three-month hiatus in DPD’s filing citations with the Office of Hearing Examiner. Therefore, the number of filings in 2004 is approximately 28% below the 237 Land Use Code citation cases filed in 2003, and approximately 18% below the 208 cases filed in 2002.

SDOT citation cases (vending without a permit, vending in a no-vending area, etc.) are similar to Land Use Code citations, and they are now reflected in the “Citation” category of cases in the tables, rather than in “other jurisdictions”. The ordinance authorizing SDOT citations took effect mid-year in 2002, and there were just 6 appeals filed that year. In 2003, as the City increased enforcement efforts, 35 appeals were filed, and that number more than doubled in 2004 to 98 cases.

**2004 Citation Cases Filed by Type**



**Table 1 – Cases Filed**

	2004	2003	2002	2001	2000	1999	Previous 5-Yr. Average (99-03)
<b>B&amp;O TAX ASSESSMENTS</b>	14	11	5	17	13	8	11
<b>LAND USE CODE INTERPRETATIONS</b>	2	4	1	2	3	5	3
<b>LANDMARKS/SPEC DIST. (Pioneer Sq., Pike Market, ID, etc.)</b>	7	5	3	8	7	5	6
<b>LICENSING (taxis, adult entertainment, etc.)</b>	21	9	12	72	44	44	36
<b>MASTER USE PERMITS (MUP)</b>	29	49	53	41	40	49	46
<b>OTHER JURISDICTIONS (Tenant Relocation, Nuisance, etc.)</b>	44	15	34	19	38	50	31
<b>SEPA-only Appeals (non MUP)</b>	5	12	5	3	28	10	12
<b>COUNCIL RECOMMENDATIONS</b>	2	4	9	4	8	10	7
<b>TOTAL WITHOUT CITATIONS</b>	124	109	122	166	181	181	160
<b>LAND USE CITATION ENFORCEMENT ACTIONS</b>	170	237	208	236	320	74*	250**
<b>SDOT CITATION ENFORCEMENT ACTIONS</b>	98	35	6				***
<b>GRAND TOTAL</b>	392	381	336	402	501	255	375

\*Land Use Citation Enforcement process began in August of 1999

\*\*Four-year average – 2000 through 2003

\*\*\*Insuff. data – SDOT Citation Enforcement process began mid-2002

### **2004 Prehearing, Hearing and Decision Activity**

**Prehearing Conferences:** The Office of Hearing Examiner held prehearing conferences in 27 of the cases scheduled for hearing in 2004. Under the Hearing Examiner Rules, prehearing conferences can be held at the behest of either a party or the Hearing Examiner. The conferences are designed to organize and prepare a case for hearing, including clarifying the issues to be addressed, facilitating discovery of each party’s intended witnesses and exhibits, and determining scheduling requirements for any prehearing motions and other matters. Prehearing conferences are usually held in MUP, civil service and B&O tax appeals and are scheduled in other types of cases as needed.

**Decisions Issued Following Hearing:** The length of a hearing before the Hearing Examiner depends upon many variables, such as the type and complexity of a case and the parties’ level of preparation. Consequently, a hearing can take less than an hour in one case and up to several days in another. 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 hearings held on each case are counted together as one hearing.

In 2004, the Office of Hearing Examiner issued 171 decisions on cases after hearing. These include decisions issued after a full, evidentiary hearing, and those issued following submittal of legal memoranda and a hearing for oral argument on a party’s motion for full or partial dismissal of a case.

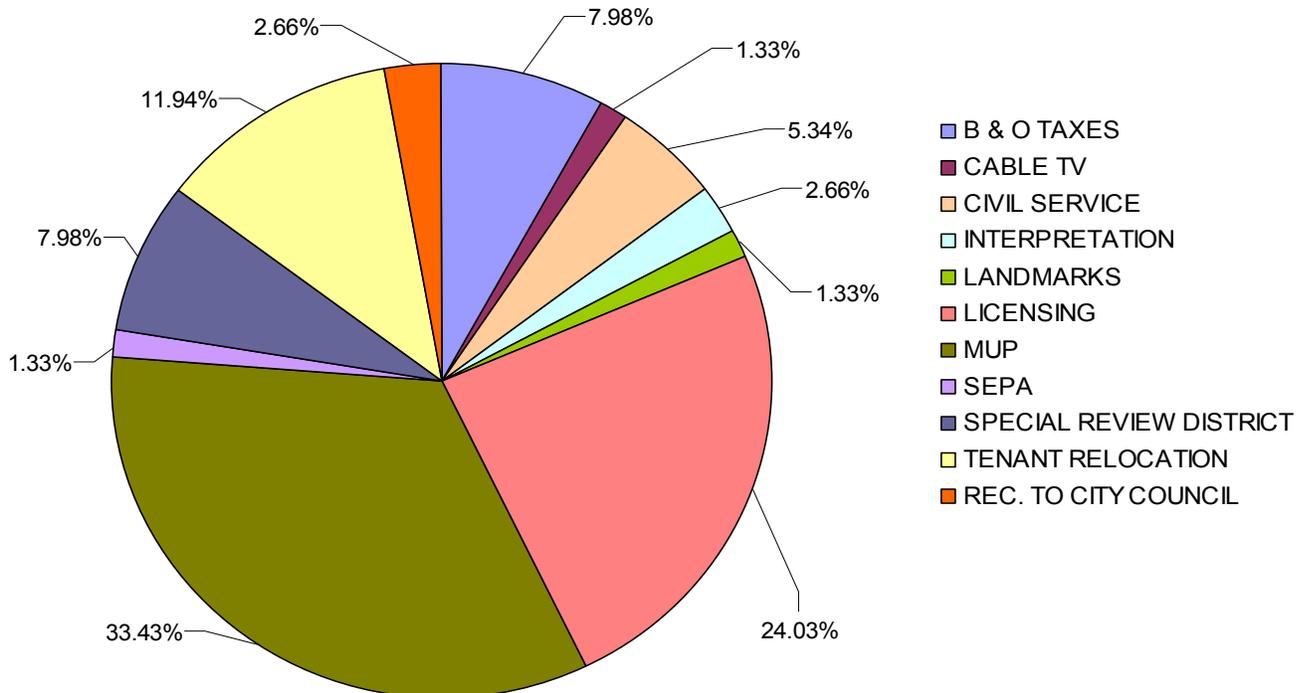
The greatest number of hearings held and decisions issued in a non-citation jurisdiction was 25 for **MUP appeals**. This was below the 30 MUP decisions issued in 2003, and below the five-year average of 33.

Two **Land Use Code interpretation appeals** were decided this year, which equals the recent five-year average. However, just 1 **SEPA-only appeal** was decided in 2004. This number was well below the recent five-year average of 7. Seven decisions involved **landmarks and special districts**, more than double the five-year average of 3.

Because **recommendations to Council** on land use actions involve the same hearing, research, review and writing time required for many MUP decisions, they are included in the total decision figures in Tables 2 and 3. There were only 2 of these in 2004: One involved a rezone application; and the other was a Council conditional use application for tenant improvements at the Washington Convention Center.

The 6 **B&O Tax appeals** decided in 2004 was twice the recent five-year average, while **licensing appeal decisions** (18) matched the average and were up sharply from the 2 issued in 2003. The number of decisions issued on appeals of Tenant Relocation Assistance Eligibility determinations (9) was over four times higher than the 2 decided in 2003 and in 2002.

**2004 Non-Citation Decisions Issued by Type**



### 2004 Citation Decisions Issued by Type



For citation cases, 60 decisions were issued on land use enforcement appeals, and 36 decisions on SDOT enforcement appeals.

**Table 2 - Decisions Issued After Hearing**

	2004	2003	2002	2001	2000	1999	Previous 5-Yr Average (99-03).
<b>B&amp;O TAX ASSESSMENTS</b>	6	4	1	5	3	1	3
<b>LAND USE CODE INTERPRETATIONS</b>	2	3	2	0	5	2	2
<b>LANDMARKS/SPEC DIST. (Pioneer Sq., Pike Mrkt, ID, etc.)</b>	7	2	3	7	2	2	3
<b>LICENSING (taxis, adult entertainment, etc.)</b>	18	2	14	28	28	21	19
<b>MASTER USE PERMITS (MUP)</b>	25	30	31	24	33	40	32
<b>OTHER JURISDICTIONS (Tenant Reloc., Nuisance, etc.)</b>	14	5	7	12	15	34	15
<b>SEPA-only Appeals (non MUP)</b>	1	13	2	2	11	5	7
<b>COUNCIL RECOMMENDATIONS</b>	2	6	9	3	9	5	6
<b>TOTAL WITHOUT CITATIONS</b>	75	65	69	81	106	110	86
<b>LAND USE CITATION ENFORCEMENT ACTIONS</b>	60	83	66	95	97	23*	86**
<b>SDOT CITATION ENFORCEMENT ACTIONS</b>	36	4					***
<b>GRAND TOTAL</b>	171	152	135	176	203	133	160

\*Land Use Citation Enforcement process began in August of 1999

\*\*Four-year average – 2000 through 2003

\*\*\* Insuff. data – SDOT Citation Enforcement process began in mid-2002

**Table 3 – Case Activity Summary**

	2004 Cases Filed					2004 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 TAXES	6	14	20	5	6	6	1	7		
BLDG.CODE / HOUSING	1		1			1				
CABLE TV		1	1	1	1					
CIVIL SERVICE	2	5	7	4	4	3				
DISCRIMINATION		3	3			1		2		
HEALTH CODE VIOLATION		2	2			2				
INTERPRETATION	3	2	5	2	2			3		
LANDMARKS	1		1	1	1			0		
LICENSING	5	21	26	18	18	1		7		
MASTER USE PERMIT (MUP)	13	29	42	28	25	12		5		
PUBLIC NUISANCE		22	22			22				
SEPA-ONLY		5	5	1	1	3		1		
SPECIAL REVIEW DISTRICT		7	7	6	6	1				
TENANT RELOCATION		10	10	9	9	1				
THIRD PARTY BILLING		1	1			1				
REC. TO CITY COUNCIL	1	2	3	2	2			1		
<b>TOTAL</b>	<b>32</b>	<b>124</b>	<b>156</b>	<b>77</b>	<b>75</b>	<b>54</b>	<b>1</b>	<b>26</b>		
<b>CITATION ENFORCEMENT</b>	<b>Pending Appeals at Start of Year</b>	<b>Cases Filed</b>	<b>Total Caseload</b>	<b>Cases Heard</b>	<b>Decisions Issued *</b>	<b>Cases Dismissed (No Hearing) **</b>	<b>Defaults Issued</b>	<b>Pending Appeals at End of Year</b>		
DPD (Land Use Code)	31	170	201	60	60	22	76	43		
SDOT (Vending Code)	8	98	106	36	36	5	56	9		
<b>TOTAL CITATIONS</b>	<b>39</b>	<b>268</b>	<b>307</b>	<b>96</b>	<b>96</b>	<b>27</b>	<b>132</b>	<b>52</b>		
<b>TOTAL INCLUDING CITATIONS</b>	<b>71</b>	<b>392</b>	<b>463</b>	<b>173</b>	<b>171</b>	<b>81</b>	<b>133</b>	<b>79</b>		

\* indicates some cases in category are pending from 2003 or will carry-over into 2005

\*\* indicates rescinded citations, posthumous dismissals, or fines paid prior to default

## **HEARING EXAMINER JURISDICTIONS**

### **LAND USE & ENVIRONMENTAL [Administered by Department of Planning and Development]**

#### **Appeals:**

- Downtown Housing Maintenance appeals (SMC 22.220.140)
- Environmental Determinations (SMC 25.05.680)[Admin. by any City dept. as lead agency]
  - Determinations of Non-Significance(DNS)/ No EIS required (SMC 25.05.340)
  - Determinations of EIS Adequacy (SMC 25.05, Subchp. IV)
  - SEPA Conditions in MUP decisions (SMC 25.05.660)
- Fire & Safety Standards Citations (SMC 22.207.006)
- Land Use Code Citations (SMC 23.91.006)
- Land Use Code Interpretations (SMC 23.88.020)
- Master Use Permit [Type II] land use decisions (SMC 23.76.022):
  - Administrative Conditional Uses
  - Consistency with Planned Action Ordinance
  - Design Review
  - Establishing Light Rail Transit Facilities
  - Establishing Monorail Transit Facilities
  - Major Phased Developments
  - Short Subdivisions
  - Special Exceptions
  - Temporary Uses
  - Variances
- Building Unfit for Habitation (SMC 22.208.050)
- Environmentally Critical Areas Reasonable Use Exceptions (SMC 25.09.300)
- Housing & Building Maintenance Code violations (SMC 22.208.050)
- Pioneer Square Minimum Maintenance violations (SMC 25.28.300)
- Relocation Assistance: (City action causes displacement) (SMC 20.84.160)
- Stop Work Orders (SMC 23.76.034)
- Stormwater, Grading & Drainage exceptions/enforcement (SMC 22.808.040)
- Tenant Relocation Assistance Eligibility Determinations (SMC 22.210.150)

#### **Original Jurisdiction [Type III] land use decisions (DPD rec., Hearing Examiner decision)**

- Subdivisions (SMC 23.76.024 and SMC 23.22.052)

#### **Recommendations to Council on Type IV land use decisions (SMC 23.76.036):**

- Council Conditional Uses
- Downtown Planned Community Developments
- Major Institution Master Plans
- Public Facilities Master Plans
- Rezone Petitions

### **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 COMPLAINTS [Administered by the Office of Civil Rights]**

- Employment Discrimination Complaints (SMC 14.04.170)
- Fair Housing/Business Practice Complaints (SMC 14.08.170)

### **CONTRACTUAL RELATIONS [Administered by the Executive Administration]**

- Boost Program Sanctions (SMC 20.49.100)
- WMBE Sanctions (SMC 20.46A.190)

**PUBLIC NUISANCE**

- Graffiti Nuisance Violations (SMC 10.07.050) [Administered by Seattle Public Utilities]
- Public Nuisance Abatements (SMC 10.09.100) [Administered by Seattle Police Department]

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

- Certificates of Approval for Designated Landmarks (SMC 25.12.740)
- Landmark Controls & Incentives (SMC 25.12.530) [Recommendations to City Council]
- Landmarks Code Interpretations (SMC 25.12.845)
- Special Review Districts' Certificate of Approval and Code Interpretations
  - Pioneer Square Historical District (SMC 23.66.030)
  - International District (SMC 23.66.030)
  - Pike Place Market Historical District (SMC 25.24.080 & SMC 25.24.085)
  - Harvard Belmont Landmark District (SMC 25.22.130 & SMC 25.22.135)
  - Ballard Avenue Landmark District (SMC 25.16.110 & SMC 25.16.115)
  - Columbia City Landmark District (SMC 25.20.110 & SMC 25.20.115)

**HEALTH CODE VIOLATIONS** [Administered by Seattle-King County Public Health]

- Health Code Permit actions (SMC 10.01.220)
- Noise Ordinance variance appeals (SMC 25.08.770) [Administered by DPD]
- Radiofrequency Radiation Ordinance violations (SMC 25.10.540)

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

- Admission Tax Exemptions (SMC 5.40.085)
- All Ages Dance and Venues (SMC 6.295.180)
- Bond Claims (SMC 6.202.290)
- Business and Occupation Tax assessments (SMC 5.55.140)
- Horse Drawn Carriage Licenses (SMC 6.315.430)
- License denials, suspensions & revocations (SMC 6.02.080, 6.02.290 and 6.202.270)
  - Adult Entertainment (SMC 6.270)
  - For-Hire Vehicles & Drivers (SMC 6.310.635)
  - Pawnshops (SMC 6.288)
  - Panorama and Peepshows (SMC 6.42.080)
  - Unit Pricing (SMC 7.12.090)
- Animal Control:
  - Animal License Denials (SMC 9.25.120)
  - Determinations of Viciousness/Order of Humane Disposal (SMC 9.25.036)

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

- Franchise Termination (SMC 21.60.180)
- Rates and Charges Increases (SMC 21.60.310)

**MISCELLANEOUS JURISDICTIONS**

- Civil Service Appeals (SMC 4.04.250) [Delegation from Civil Service Commission]
- 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) [Administered by Dept. of Transportation]
- Petitions For Review of Floating Home Moorage Fee Increase (SMC 7.20.080)
- Property Tax Exemption Elimination (SMC 5.72.110) [Administered by Office of Housing]
- Side Sewer Contractor Registration Appeal (SMC 21.16.065) [Admin. by SPU]
- Street Use Ordinance Citation Appeals (SMC 15.91.006.) [Admin. by Dept. of Transport.]
- Tax Refund Anticipation Loan Complaints (SMC 7.26.070)
- Third Party Utility Billing Complaints (SMC 7.25.050)