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No. 101214-4

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

ESCALA OWNERS ASSOCIATION,

Appellant,

v.

CITY OF SEATTLE; JODI PATTERSON O'HARE; G4 CAPITAL SEATTLE HOLDINGS, LLC; 1921-27 FIFTH AVENUE HOLDINGS 591683; 1921-27 FIFTH AVENUE HOLDINGS, LLC

Respondents.

RESPONDENTS' ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION AND IDENTITY OF RESPONDENTS

In 2015, Respondent 1921-27 Fifth Avenue Holdings LLC ("Applicant") applied to Respondent City of Seattle Department of Construction and Inspections ("City" or "SDCI") for land use approval of a 48-story hotel and residential building at 1933 5th Avenue in Seattle (the "Project"). The Project will add over 430 new homes to Downtown Seattle. Petitioner Escala Owners Association ("Escala") is the condominium owners who live on the same block as the Project in a 30-story high rise (the "Escala Tower"). The Project will impact private views from Escala's condos. After nearly five years of review under the State Environmental Policy Act ("SEPA") (RCW Ch. 43.21C) and the Seattle Municipal Code ("SMC" or "Code"), the City approved the Project's Master Use Permit ("MUP"). Escala has challenged the Project's MUP – and lost – before the City's Hearing Examiner ("Examiner") and at superior court. Division I upheld the City's SEPA analysis in a unanimous

decision (the "Opinion"), which applied the plain language of SEPA and implementing regulation ("SEPA Rules")[1] and relied on longstanding Court of Appeals precedents upholding the sufficiency of the City's environmental analysis.

Escala now seeks discretionary review[2] to this Court under RAP 13.4(b)(4) alleging "substantial public interest" based on two arguments. Neither argument is persuasive.

First, Escala claims Division I's upholding of the adequacy of the City's SEPA process is a matter of substantial public interest. But Escala fails to demonstrate any error in the

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[1] WAC Ch. 197-11.

[2] Petition for Review ("Petition" or "Pet."). Escala has also challenged another project proposed for a site on the block where Escala and the Project at issue in this case are located. The Court of Appeals consolidated them for argument before issuing separate decisions: the Opinion in this case (*Escala Owners Ass'n v. City of Seattle*, 83037-6-I, 2022 WL 2915537 (Wash. Ct. App. July 25, 2022)) and a separate opinion for the other project (*Escala Owners Ass'n v. City of Seattle*, 82568-2-I, 2022 WL 2915536 (Wash. Ct. App. July 25, 2022)), which also rejected all of Escala's claims. Escala has filed two petitions with this Court seeking discretionary review of each decision.

City's SEPA analysis over the course of five years and hundreds of pages of environmental analysis that ultimately concluded the Project would not result in significant adverse environmental impacts. Escala's attempt to rewrite SEPA to better suit its goals is inconsistent with the plain language of RCW 43.21C.034 and the SEPA Rules on adopting addendum. WAC 197-11-600(4). Escala also completely ignores the Court of Appeals' longstanding precedent that interpreted and applied these issues in *Thornton Creek Legal Fund v. Seattle*, 113 Wn. App. 34, 52 P.3d 522 (2002) ("*Thornton Creek*"). *Thorton Creek* has provided 20 years of guidance to local governments on the use of addendum. The Opinion applies *Thornton Creek's* framework and defeats Escala's claim that any additional "guidance" on the use of SEPA addendum is warranted. There is no substantial public interest in extending Escala's efforts to protect private views from their condos.

Second, Escala alleges that "guidance" from this Court on the application of the SEPA "worst-case analysis" process is

merited under RAP 13.4(b)(4). Here, Escala simply ignores that the City's well-reasoned worst-case analysis on the potential for light and human health impacts based on three expert studies and hundreds of pages of environmental analysis that support the City's conclusion that the Project did not create any significant adverse light and health impacts to Escala's residents. Escala again failed to demonstrate any substantial public interest in their run-of-the-mill "Not in My Backyard" ("NIMBY") claims. Furthermore, the Legislature has recently exempted the type of claim raised by Escala here from SEPA appeals. RCW 43.21C.501(3)(b). Light-related SEPA claims for housing developments – like the Project – will not recur. Therefore, review of the unanimous Opinion does not provide an opportunity to this Court to provide future SEPA guidance.

Escala has not explained why this Court should expend its resources reviewing Division I's decision and fails to explain how this unpublished decision can reasonably be construed as affecting any substantial public interest. Respondents City and

Applicant (collectively "Respondents") respectfully request this Court deny the petition.

II. COUNTERSTATEMENT OF ISSUE PRESENTED FOR REVIEW

1. Whether the Hearing Examiner erred when he determined that the City properly adopted an EIS and SEPA Addendum under WAC 197-11-600(4), which provides for use of a SEPA addendum when a project will have no new significant adverse impacts beyond those that have already been analyzed in an existing environmental document?
2. Whether the Hearing Examiner erred when she determined that the City's SEPA review was adequate with regard to the analysis of light and human health?

III. COUNTERSTATEMENT OF THE CASE

Respondents adopt the facts as stated by the Court of Appeals. Opinion, pp. 3-8. Respondents provide a few key points of emphasis from the Project record.

Contrary to Escala's claim that the City ignored its SEPA obligations, the Project was subject to exhaustive environmental review over more than five years. *Id.* The City's SEPA analysis utilized the procedures established by RCW 43.21C.034 and WAC 197-11-600, which provide for the use of existing documents – *i.e.* for local jurisdictions reviewing a new proposal to adopt and incorporate relevant information from analysis of a prior proposal. Here, the City determined that potential environmental impacts from the Project were within the range of impacts that had been analyzed in an environmental impact statement ("Downtown EIS") prepared in 2005 for the adoption of the zoning regulations allowing 550-foot buildings. Opinion, p. 4. Accordingly, the City adopted the Downtown EIS.

Because the Downtown EIS contained no individual discussion of the Project, the City initially prepared two Addenda – totaling hundreds of pages – providing extensive analysis of the Project. *Id.* at 6-8. The analysis in the Addenda

shows that the Project will have no probable significant adverse impacts beyond those analyzed in the Downtown EIS based on a number of expert technical analyses from each discipline.

Escala appealed the Project's SEPA determination twice. In the first hearing, Escala focused on allegations of transportation impacts to the shared public alley between Escala and the Project. Escala's main concern was that the Project would interfere with their current (illegal) use of the alley for deliveries to their building (Escala) that block the alley. Escala also raised challenges to the City's decision regarding design review, SEPA compliance, and allegations related to "loss of light" within the Escala's eastern condos units. The Examiner issued a decision denying Appellant's claims on all issues except one, remanding to the City to evaluate the potential impacts to human health due to the loss of light in units.

After almost 18 months of additional analysis, the City issued a *third* Addendum ("Lighting Addendum") documenting its analysis on the sole issue in the Examiner's remand. After

reviewing the expert analysis in the Lighting Addendum and comments from Escala and its experts, the City concluded that there was no scientific consensus for evaluating the health impacts in reduction of light (either natural or electric light), much less a scientifically validated "dose" of light required for human health. CP 5196. The City also evaluated whether the loss of natural light within the Escala's eastern condos was significant based on SEPA's required considerations of context, duration, and intensity. Although there is no scientific evidence demonstrating health impacts based on a reduction of light, the City also undertook a "worst-case analysis." Opinion, p. 21. Ultimately, the City found the potential health impacts from reduction of natural light in the Escala's eastern units to be less than moderate and not a significant adverse impact and approved the MUP. Escala appealed. The Examiner denied this second appeal, including upholding the City's worst-case analysis review. The Superior Court also upheld the Examiner's decision.

In its unpublished opinion, Division I gave proper deference to the Examiners' findings and upheld the Examiner's Decisions. Following well-developed standards for judicial review under the Land Use Petition Act ("LUPA"), Division I concluded that there was no clear error in the Examiner's ruling.

IV. ARGUMENT

Escala asserts that discretionary review is merited because the Opinion involves an issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b)(4). This case cannot satisfy this criterion. The City conducted a thorough, years-long environmental review process with hundreds of pages of site-specific analysis regarding traffic, shadows, light and human health, among other topics, and found no additional significant adverse impacts. Escala fails to show any need for "guidance" from this Court regarding the use of EIS addenda when the procedures clearly established by SEPA were straightforwardly applied by the City in this case

in accordance with decades-old precedent. This does not meet the standard for the Court's review.

A. Escala fails to establish an issue of substantial public interest.

Escala fails to explain how this matter triggers a substantial public interest warranting review by this Court. This Court has previously identified "a prime example of an issue of substantial public interest" in *State v. Watson*, 155 Wn.2d 574, 577, 122 P.3d 903 (2005). There, the Pierce County Prosecuting Attorney had circulated a memorandum to all Pierce County Superior Court judges that established the Prosecuting Attorney's position on a matter relating to sentencing. *Id*. at 575–76. In a published holding, Division II described the letter as an improper *ex parte* communication. In considering whether to grant review, this Court explained its considerations of several factors to determine whether substantial public interest involved, including those decisions that had the potential to affect every similar proceeding, invite unnecessary litigation, create confusion generally, present a

question of public nature that was likely to recur, had the potential to chill policy decisions taken by attorneys and judges, immediately affect a significant segment of the population, or presented a deed for an authoritative determination for future guidance of public officials. *Id*. at 577–78. Noting that this holding had "the potential to affect every sentencing proceeding in Pierce County" after the date of the letter, this Court granted review because of "the sweeping implications of the Court of Appeals decision." *Id.*

Escala has not identified any similar sweeping implications in Division I's decision here. Instead, Escala argues, without explanation or support, that "the Court of Appeals' decision will allow agencies and local governments throughout the State of Washington to use an addendum to present the information and analysis that is required to be in an EIS. This is an alarming proposition that will have dire consequences to the public interest." Pet., p. 16. This position is not supported by facts or law. The use of an EIS prepared for

an area-wide rezone, in combination with an addendum analyzing new information about an individual proposal, is an approach that is authorized by SEPA and its regulations, *see* RCW 43.21C.034; WAC 197-11-600(4); SMC 25.05.600, and has been expressly affirmed by Division I in *Thornton Creek*.

In *Thornton Creek,* Division I held that the SEPA Rules "provide that when an agency uses existing documents to meet all or part of its SEPA responsibilities, addenda and SEISs may be prepared to remedy shortcomings of documents that have been adopted or incorporated by reference." *Thornton Creek,* 113 Wn. App. at 51. "'In such cases, the . . . EIS would be composed of the adopted document *and* [the] addenda or SEIS.'" *Id.* at 50 (quoting Richard L. Settle, *The Washington State Environmental Policy Act: A Legal and Policy Analysis*, § 15 (2001)). "The only new environmental analysis conducted by the adopting agency would be in the addendum or SEIS." *Id.*

As Division I found, the issue in *Thornton Creek* is the same one raised in this Petition. Opinion, p. 15. *Thornton Creek* upheld the use of an FEIS in 1992 for the Northgate Area Comprehensive Plan and subsequent zoning combined with a site-specific analysis prepared in 1998 as an Addendum for the proposed General Development Plan proposed by the owner of Northgate Mall to develop its southern parking lot in accordance with new zoning.[3] Here, the City adopted the Downtown EIS, which analyzed the environmental impacts of proposed zoning in downtown Seattle (including this Project site), and prepared three EIS addenda with site-specific analysis for the Project, in accordance with the zoning analyzed in the Downtown EIS. The Opinion follows the Court of Appeals' decision in *Thornton Creek* and upheld the Examiner's fact-specific application of a plain language reading of the SEPA

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[3] In *Thornton Creek*, the Court held that the City erred in "incorporating by reference" the EIS. Instead, the Court held it should have adopted the 1992 EIS instead. The fact the City did not adopt the EIS was found to be harmless error. *Id.* at 44.

Rules. Tellingly, Escala does not even mention *Thornton Creek*. The "dire consequences" Escala predicts will occur because of this Opinion did not occur in the 20 years that have elapsed since the similar decision in *Thornton Creek.* So, Escala is unable to provide any reasoning as to how this Opinion represents a seismic shift in the application of clear SEPA rules and Division I precedent. None of the arguments presented by Escala establish any "sweeping implications" identified in Division I's holding. *Watson*, 155 Wn.2d at 577–78.

Indeed, Escala's arguments amount to nothing more than claiming that Division I was wrong. For example, Escala argues that the "old EIS is inadequate and addenda cannot be used to cure the error." Pet., p. 21. This is merely a conclusory assertion. It does not ask this Court to provide guidance on the EIS adoption and addendum process that would apply across the state; it simply asks this Court to review the specific facts of this case and reverse the Examiner, Superior Court, and Court of Appeals

decisions finding that the City's SEPA review was adequate. Escala's dissatisfaction with the result in this case does not create a substantial public interest.

B. The City complied with SEPA.

Escala unsuccessfully challenges both the City's adoption of the Downtown EIS and its preparation of the Addenda. The Examiner correctly ruled that the City met its SEPA obligations by adopting the FEIS and preparing the three EIS Addenda, and the Court of Appeals properly upheld the Examiner's decision. The City's actions were consistent with SEPA because SEPA permits (1) adoption of existing documents; and (2) providing additional information through an addendum where the project results in no new significant adverse environmental impacts. SMC 25.05.600; WAC 197-11-600(4)(c).

The Petition fails to demonstrate anything incorrect about the City's use of these procedures. SEPA utilizes a practical approach that does not require local governments to start over

every time a new building is proposed and instead authorizes them to adopt existing analysis of a prior proposal where relevant. RCW 43.21C.034; *see* WAC 197-11-030(2)(b).[4] The current and prior proposals "need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences." RCW 43.21C.034; *see also* WAC 197-11-600(2) (proposal under consideration may be "different than [the proposal] analyzed in the existing documents").

Because a new proposal may differ from the prior one, "the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed." RCW 43.21C.034. This additional documentation

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[4] *E.g.,* WAC 197-11-402(7) ("Agencies *shall* reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, *wherever possible*.") (emphasis added); WAC 197-11-640 ("Any environmental document . . . may be combined with any other agency documents to reduce duplication and paperwork and improve decision making.").

may take one of two forms: an addendum or SEIS, depending on whether the proposal presents probable, significant adverse impacts that were not previously analyzed. WAC 197-11-600(4)(e). An addendum "adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document." WAC 197-11-600(4)(c); *see Thornton Creek*, 113 Wn. App. at 51.

Escala fails to explain what would be gained by requiring an entirely new EIS that would provide the same information in a different format. Indeed, the purpose of SEPA's procedural requirements is not to ensure *process for its own sake* but to ensure adequate *analysis and disclosure* to inform decisionmakers. *See Citizens v. City of Port Angeles*, 137 Wn. App. 214, 225 n.10, 151 P.3d 1079, 1085 (2007) (rejecting claim for relief that "seems to derive more from the drafting of the SEPA rules rather than from any legal insufficiency in the City's review"). Courts have repeatedly rejected procedural

challenges that depend solely on what appears in the document designated as the EIS as long as the relevant information is conveyed to decisionmakers at the end of the day – as it clearly was here through the Addenda and more. *See, e.g.*, *Klickitat Cty. Citizens Against Imported Waste v. Klickitat Cty.*, 122 Wn.2d 619, 637-38, 860 P.2d 390, 393 (1993) (declining to find EIS inadequate, despite its failure to adequately analyze relevant impacts, because it incorporated a study that provided "a reasonably thorough discussion" and could therefore "substitute[] for an otherwise inadequate level of analysis"). As in these cases, all the information at issue in this appeal has been reviewed and discussed *ad nauseam* by City reviewers. Here, through years of analysis, the City found that the Project would not cause new significant adverse environmental impacts and properly documented the environmental review through adoption of the Downtown EIS and three EIS Addenda, as allowed by SEPA and upheld in *Thornton Creek.*

1. The City properly adopted the Downtown EIS.

Escala argues that the decisions below considered "it a foregone conclusion that a local jurisdiction can adopt an existing EIS even if the information in that EIS is unreliable, inaccurate, and outdated." Pet., pp. 20-21. This is wrong. The first Examiner made a factual determination, after multiple days of testimony and evidence, that the Downtown EIS was *not* unreliable, inaccurate, or outdated. Indeed, the City concluded – and the Examiner found at hearing – that there were "similar elements" between the Project and the zoning change analyzed in the Downtown EIS because the Downtown EIS had "specifically anticipated projects of the type represented by [the Project]" and discussed the impacts of the upzone. Opinion, pp. 12-13. This Court must accept these factual conclusions as verities. *See Families of Manito v. City of Spokane*, 172 Wn. App. 727, 741, 291 P.3d 930 (2013) (reviewing court must accept hearing examiner's assessments of weight and credibility). Escala failed to demonstrate below that the

Downtown EIS was inaccurate or outdated with respect to these impacts and those factual issues are not a basis for this Court to accept review.

The Court of Appeals recognized that the City's adoption of the Downtown EIS was a routine application of RCW 43.21C.034 and WAC 197-11-600 as discussed in *Thornton Creek* – and that it was consistent with basic logic and the common-sense practice of incorporation by reference. This decision does not raise an issue of substantial public interest.

2. The SEPA Review was adequate.

The determination as to whether a supplemental EIS or an addendum is used for environmental review depends on a question that the Petition entirely ignores: whether the project under review will have new significant adverse impacts. WAC 197-11-600(4)(c). Escala's insurmountable problem continues to be that, through the past seven years, three Addenda, two Hearing Examiner appeals, a Superior Court appeal, and an appeal to the Court of Appeals, Escala has been unable to

demonstrate likely new significant adverse environmental impacts resulting from the Project. Instead, Escala focuses solely on the process, arguing that the Opinion would allow agencies "to use an addendum to present the information and analysis . . . that is required to be in an EIS." Pet., p. 16. As Division I observed, however,

> Escala's argument is based on the false premise that, upon issuance of a DS for a proposal, the City's only option is preparation of a new EIS. On the contrary, adoption of the Downtown EIS along with the project specific Addenda did not ignore the requirement that an EIS be prepared; instead, it fulfilled it. RCW 43.21C.034 expressly authorizes use of existing environmental documents such as the Downtown EIS. The SEPA Rules then expressly allow adoption of existing EISs along with incorporating project specific addenda. WAC 197-11-600(4)(c).

Opinion, p. 16.

The City did not "circumvent" the EIS process or use the Addendum "as a substitute for [creating a new] EIS." *See* Pet., pp. 19, 21. Instead, the City simply followed the text of WAC 197-11-600(4), under which creation of an addendum was proper and *no new EIS was required*. In claiming that the Opinion has

far-reaching implications, Escala is effectively asking this Court to ignore the substantive analysis, the plain language of SEPA, the *Thornton Creek* decision, and the highly fact-intensive inquiry to provide "guidance" that no City may adopt a programmatic EIS and provide project-specific analysis through an addendum when no additional significant adverse impacts are identified.

Escala attempts to show an issue of substantial public interest by arguing that the Addendum was prepared according to deficient procedures – specifically, that creation of an addendum does not require the same analysis of alternative approaches or public participation as creation of a new EIS, which Escala believes would have been more consistent with the purpose of SEPA. This argument does not make sense: an addendum was the correct document to use, and the regulatory procedures for creating an addendum are, by definition, consistent with the law. *See State v. Kingen*, 39 Wn. App. 124, 128, 692 P.2d 215 (1984) (if a statute's "language is clear, it

cannot be construed contrary to its plain statement" on the basis of "purpose and intent").

As the Court of Appeals recognized, Escala "ignores that the requirement for an alternatives analysis *is only triggered where a new EIS or SEIS is required*." Opinion, p. 17 (emphasis added). "[T]here is no similar requirement for an analysis of alternatives in an addendum." *Id.* at 18 (citing WAC 197-11-625). Contrary to the claims in the Petition, alternatives were not ignored; when the facts of the record are reviewed, the Opinion concludes "the Downtown EIS and addendum provide[] a reasonably thorough discussion of alternatives." Opinion, p. 19.

Escala's complaint that the use of an addendum does not require the same responses to comments as a new EIS, Pet. p. 18, is similarly unavailing. According to Escala, because the SEPA rules do not require the same public comment process for an addendum as they do for preparation of a new EIS, use of the addenda "thwarts the SEPA goals of meaningful public

involvement, government accountability, and the reduction of environmental harm." Pet., p. 15. This is a red herring. The public participation processes for an EIS and an addendum differ because they are subject to different regulatory procedures. *Compare* WAC 197-11-560 *with* WAC 197-11-625. Again, Escala asks the Court to erase the procedural distinctions carefully drawn by SEPA and the SEPA Rules. Tellingly, Escala ignores that the City Code actually *requires* circulation of an EIS addendum and a 15-day public comment period. SMC 25.05.625. Here, Escala had myriad opportunities to express its views, and the City repeatedly responded to those comments. Opinion, pp. 6-8. Thus, the issue raised by Escala regarding public participation is not relevant to this appeal.

There is no issue of substantial public interest because the City's adoption of the Downtown EIS and additional analyses in the Addenda was consistent with both the letter and

the spirit of SEPA: it applied the regulations and prepared an extraordinarily thorough analysis of the Project.

C. Escala fails to establish that reviewing the application of WAC 197-11-080 and the worst-case analysis is an issue of substantial public interest.

Escala also fails to demonstrate how the City's textbook application of worst-case analysis under WAC 197-11-080 is a matter of substantial public interest per RAP 13.4(b)(4). This Court should decline review this element of the Petition.

Escala's argument is that "defining the legal parameters" of the worst-case analysis "would prevent government from continuing to sweep these issues under a rug." Pet., p. 25. Any implication that the City swept anything under the rug is misplaced. The City thoroughly considered these issues – including reviewing Escala's expert comments and requiring hundreds of pages of additional environment analysis from Respondent's experts in response – over the course of several years prior to making its SEPA decision. Opinion, p. 8. The second Examiner upheld the City's worst-case analysis after

hearing the testimony from Escala's experts. *Id.* at 21-23. Ultimately, Division I unanimously upheld the City's worst-case analysis after a thorough analysis of WAC 197-11-080 framework and process. *Id.*

Escala simply reargues that Division I (and the Examiner) was wrong in upholding the City's textbook application of SEPA's worst-case analysis requirements. Escala has not identified any "sweeping implication" of Division I's unpublished decision that relates only to development of a single block in Downtown Seattle. *Watson,* 155 Wn.2d at 577-78. Nor has Escala identified how this Court's review of Division I's decision would provide any guidance to the application of the worst-case analysis. Escala's disagreement with how Division I applied the text of WAC 197-11-080 here is not a matter of substantial public interest.

Escala's argument for review on the worst-case analysis fails to establish any of the *Watson* factors for substantial public interest. 155 Wn.2d at 577-78. Division I's decision does not

have the potential to affect similar proceedings, nor does it immediately impact a significant segment of the population. This is a run of the mill land use appeal by condo owners in a single condo building.

Nor is this specific issue likely to recur or result in unnecessary litigation. Escala failed to cite a single instance that supports its allegation that local governments are "sweeping" SEPA decisions under the rug using the worst-case analysis. On the contrary, at the urging of advocates who described how meritless SEPA appeals such as those advanced by Escala here have delayed badly needed housing, the Legislature exempted SEPA appeals based on light-related claims for housing projects – like this Project – that secured design review approval. RCW 43.21C.501(3)(b); *see also* H.B. Rep. on Substitute H.B. 5818, 67th Leg., Reg. Sess., at 5 (Wash. 2022). Escala's worst-case analysis claim falls squarely within this new legislative exemption. Thankfully, future land use approvals throughout Washington eligible for RCW

43.21C.501(3)(b)'s protections will not need to defend themselves from litigious neighbors seeking to weaponize SEPA to protect their private views. Finally, Escala advances no argument under any of the other *Watson* factors. This Court, therefore, should decline this element of the Petition as well.

D. The Court should award attorneys' fees and costs to Respondents.

Division I determined that Respondents are entitled to their reasonable attorneys' fees and costs under RCW 4.84.370 as Respondents were the prevailing party before the Examiner, the Superior Court, and the Court of Appeals. Opinion, pp. 23-24. This section also provides for an award of reasonable attorneys' fees and costs in an appeal of a land use decision to the Supreme Court. Respondents should be awarded attorneys' fees and costs in the event the Petition for Review is denied. RAP 18.1(j); *Prosser Hill Coal. v. Spokane Cty.*, 176 Wn. App. 280, 292-3, 309 P.3d 1202, 1208 (2013).

V. CONCLUSION

For these reasons, Respondents City and the Applicant respectfully ask this Court to deny the Petition.

DATED this 23rd day of September 2022.

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Pursuant to RAP 18.17(b), I certify that this answer to a petition for review contains 4,542 words.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that today I filed this document via the Clerk's electronic portal filing system, which should cause it to be served by the Clerk on all parties, and emailed a courtesy copy of this document to:

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Dated this 23rd day of September 2022, at

Seattle, Washington.

s/Sarah Willis
Paralegal
McCullough Hill Leary, PS

MCCULLOUGH HILL LEARY, PS

September 23, 2022 - 11:46 AM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	101,214-4
Appellate Court Case Title:	Escala Owners Association v. City of Seattle, et al.

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