74360-1

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No. 74360-I

IN THE COURT OF APPEALS, DIVISION I,
OF THE STATE OF WASHINGTON

MICHELLE J. KINNUCAN,
Petitioner/Appellant,

vs.

CITY OF SEATTLE,
Respondent,

BRIEF OF RESPONDENT CITY OF SEATTLE

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I. INTRODUCTION

Michelle Kinnucan filed a mandamus action seeking a longer administrative appeal period for tenants seeking to challenge tenant ejectment proceedings after the landlord Goodman Real Estate ("GRE") has complied with the City of Seattle's Tenant Relocation Assistance Ordinance ("TRAO"). The Superior Court properly dismissed this case because the City of Seattle ("City") already provides an adequate appeal opportunity and has no duty to offer more.

Mandamus in as extraordinary writ appropriate only where a plaintiff proves three demanding elements: (1) the government is under a clear duty to act; (2) the plaintiff has no plain, speedy, and adequate remedy in the ordinary course of law; and (3) the plaintiff is "beneficially interested" in the duty. Because Kinnucan could not establish all three elements, the Superior Court properly dismissed this case. The City respectfully asks this Court to affirm.

II. STATEMENT OF THE CASE

A. GRE acquired the Lockhaven Apartments and complied with the City's Tenant Relocation Assistance Ordinance.

Seattle adopted TRAO, Ch. 22.210 SMC, in 1990 to take advantage of its authority to require property owners to pay a portion of

tenant relocation costs for low-income tenants upon the demolition, substantial rehabilitation, or change of use of residential property under RCW 59.18.440.

Kinnucan resided at Lockhaven Apartments since 2009.[1] Around June 1, 2013, the Lockhaven landlord amended Kinnucan's lease to month-to-month.[2] GRE subsequently purchased the property and notified the City it intended to substantially rehabilitate the apartments and evict the tenants,[3] which triggers TRAO.

Under TRAO, a landlord must: (i) provide all tenants with an informational packet about TRAO; (ii) pay his/her share of relocation assistance funds[4] for qualifying low-income tenants; and (iii) provide a 90-day advance notice to all tenant of future intended development activity[5] (separate from 20-day notice to terminate tenancy required under the Washington Residential Landlord-Tenant Act of 1973 ("RLTA")). After all of this occurs, the City issues landlord a tenant relocation license.[6]

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[1] Clerk's Papers (CP) 40:3-4, CP 46.
[2] *Id.*
[3] CP 40: 10-15; CP 47-48.
[4] Seattle Municipal Code (SMC) 22.210.060, .110 and .130.
[5] SMC 22.210.060 and .120.
[6] SMC 22.210.060 provides: The Director shall issue a tenant relocation license when the owner has completed all of the following:

> A. Submitted an application for a tenant relocation license as provided in Section 22.210.070;
> B. Delivered relocation information packets to tenants and submitted proof of delivery as required by Section 22.210.080;

As part of TRAO at SMC 22.210.150, tenant or landlord can file an administrative appeal to Seattle's Hearing Examiner ("Examiner") to resolve disputes between tenants and property owners associated with an unlawful detainer action before a license is issued.[7]

Here, GRE complied with all TRAO requirements, including payment of its portion of the tenant relocation assistance funds for the Lockhaven Apartments, including for Kinnucan,[8] sending a 90-day tenant notice to Kinnucan and posting it at the Lockhaven.[9] DPD paid Kinnucan $3,002 in tenant relocation assistance funds.[10] Once GRE complied with all of the TRAO requirements, the City issued Goodman's Tenant Relocation License ("License") on April 3, 2014.[11]

B. The Hearing Examiner denied Kinnucan's appeal because she did not allege any TRAO violations.

Kinnucan attempted to file an administrative appeal with the Seattle Hearing Examiner in late May 2014.[12] Her appeal was based on her allegation that GRE delivered to Kinnucan a 20-day notice to

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C. Paid the owner's share of tenant relocation assistance as required by Section 22.210.110; and
D. Complied with the ninety (90) day tenant notice provisions as required by Section 22.210.120.

[7] SMC 22.210.150.C.
[8] CP 40:21-23, CP 41:1-10, CP 54-57 and CP 68.
[9] CP 41:11-17, CP 59-61.
[10] CP 42:22-23, CP 68.
[11] CP 62.
[12] CP 70:1-4, CP 71-74.

terminate tenancy after GRE received its License (which Kinnucan acknowledges in her administrative appeal had already been changed to allow her to stay in her apartment until June 15, 2014, see footnote 1 at CP 71).[13] The appeal alleged GRE's change in redevelopment schedule "evinces bad faith and unfair dealing" under Seattle's Just Cause Ordinance (SMC 22.206.160.C) and RCW 59.18.240.[14] The Examiner concluded she lacked jurisdiction.[15] On reconsideration, Examiner affirmed her decision.[16]

In early June 2014, GRE delivered to Kinnucan a 20-day notice to terminate tenancy. Kinnucan filed a complaint with the City about the same issues she raised to the Examiner and GRE's June termination notice.[17] Upon investigation, DPD concluded that, GRE's June notice violated Seattle's Just Cause ordinance.[18] After notification of the violation, GRE quickly rescinded the improper notice, obtained a building permit and issued a corrected termination of tenancy requiring Kinnucan

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[13] CP 71-72.
[14] CP 72.
[15] CP 70:1-4, CP 71-74.
[16] CP 76-77.
[17] CP 42:4-21; CP 64-66.
[18] *Id.*

move by July 31, 2014.[19] Ultimately, however, Kinnucan remained in her apartment until October 2014.[20]

III. ISSUES

a. To prove the first element of mandamus, there must be a duty to act that directs the specific thing to be done. RCW 59.18.440(5) requires the adoption of administrative appeal provisions to resolve disputes during relocation, but does not dictate the exact timing of the appeal. The City has adopted administrative appeal provisions but Kinnucan argues the appeal timeline should be longer. Where the City is under no duty to provide a longer appeal timeline than it has already provided, should the Court find that the element of duty not met and affirm the trial court decision in whole?

b. To prove the second element of mandamus, petitioner must prove there is no other plain, speedy and adequate remedy at law. The Superior Court held that suing to resolve disputes related to unlawful detainer (eviction) after the City's TRAO process constituted a plain, speedy and adequate remedy of law. Where tenant could sue landlord for an erroneous notice to terminate tenancy rather than raise this in an administrative TRAO hearing, should the Court find there is another adequate remedy at law and conclude the second element of mandamus is not met?

c. To prove the third element of mandamus, petitioner must be "beneficially interested" in the duty asserted, which means petitioner has been or is threatened with specific injury. Kinnucan received $3000 in relocation monies and a 90-day advance notice of development activity under TRAO and retained tenancy until her desired move-out date and was not subject to unlawful detainer. Where Kinnucan received all of the benefits of TRAO and suffered no

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[19] *Id.*
[20] CP 42:20-21.

specific injury, should the Court find that Kinnucan is not beneficially interested in a longer administrative hearing timeline under TRAO?

IV. ARGUMENT

A. The City already provides administrative appeal opportunities consistent with RCW 59.18.440(5).

One of the writs Kinnucan seeks is to compel the City, under RCW 59.18.440, to adopt "policies, procedures, or regulations that include provisions for administrative hearings to resolve tenant ejectment disputes between tenants and property owners" during "relocation".[21] Because the Legislature did not define "during relocation" and because the City's TRAO allows for administrative appeals between the time a landlord issued a 90-day advance notice of development activity to tenants and the City issues a tenant relocation license to landlord, all of which must occur before tenant receives a 20-day notice to terminate tenancy. A writ of mandamus is an inappropriate remedy here because RCW 59.18.440 does not imposes a duty on the City to expand the timeline for an administrative appeal. Whether a statute specifies a duty is a question of law courts review de novo under the error of law standard.[22] Here, the Court should uphold the superior court's decision.

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[21] CP 6:9-14.
[22] *Id.*

1. The Legislature did not specifically dictate or define the administrative appeal process or timeline other than "during relocation".

The City's TRAO administrative appeal occurs during the first portion of the relocation process (after a tenant's relocation assistance fund eligibility is determined, after landlord paid tenant relocation funds and after landlord has issued a 90-day advance notice of redevelopment activity but before City issues tenant relocation license to landlord). Kinnucan argues that the City's appeal provisions should extend after the City issues to the landlord its License until a tenant actually physically has moved out. However, RCW 59.18.440 does not require that.

RCW 59.18.440(5) provides (emphasis added):

> (5) Any city... requiring the provision of relocation assistance under this section *shall adopt... regulations to implement such requirement. Such ... regulations shall include provisions for administrative hearings* to resolve disputes between tenants and property owners relating to... unlawful detainer actions *during relocation.*

RCW 59.18.440 sets no specific appeal period for administrative appeals. Rather, it requires that a municipality adopt policies or regulations for administrative hearings to resolve disputes between tenants and property owners relating to unlawful detainer actions during the relocation period. This requirement includes broad discretion by the

municipality to determine who will hear the administrative hearing and the timeline to file an administrative appeal if it occurs during relocation.

2. RCW 59.18.440 specifies no ministerial duty leaving nothing to the exercise of discretion regarding administrative appeal process or timeline.

While mandamus can direct an officer or body to exercise a mandatory discretionary duty, it may not direct the manner of exercising that discretion.[23] A discretionary function is "one involving a basic governmental policy, program, or objective requiring the exercise of a basic policy evaluation, judgment and expertise on the part of the officer or agency."[24] Mandamus is only appropriate where a state or local official is under a mandatory ministerial duty to perform an act required by law; where the mandate specifies the precise thing to be done so as to leave nothing to the exercise of discretion or judgment.[25]

RCW 59.18.440 authorizes municipalities to require property owners to pay relocation monies to low-income tenants upon substantial rehabilitation of a structure.[26] However, the Legislature didn't dictate the relocation period in RCW 59.18.440 or in subchapter 59.18 RCW, nor did

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[23] *Mower v. King Cnty.*, 130 Wn. App. 707, 719, 125 P.3d 148, 154 (2005).
[24] *Burg v. City of Seattle*, 32 Wn. App. 286, 291, 647 P.2d 517, 520 (1982).
[25] *Freeman v. Gregoire*, 171 Wn.2d 316, 323, 256 P.3d 264, 267-68 (2011).

the Legislature define the terms "relocation" or "relocation period" in the statute or subchapter, therefore, the City was left with discretion to determine an appropriate administrative appeal period during relocation.

Here, appeal hearings must occur during relocation-which is undefined in the statute and could be interpreted in a variety of ways. Kinnucan even interprets the term differently in her own brief, arguing it is "moving" and then citing a dictionary definition: "removal and establishment in a new place."[27] Creation of the admisntraive hearings process under the tenant relocation fee statute (RCW 59.18.440) involves municipal discretion. The City used its discretion and adopted SMC 22.210.150 authorizing administrative hearings under TRAO.

Because the statute does not define the city's duty to have administrative hearings "with such particularly as to leave nothing to the exercise of discretion or judgment," the City appropriately used its discretion and issuance of a writ to extend the City's administrative appeal deadline would be improper.

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[26] RCW 59.18.440(1). The Court may take judicial notice of Substitute House Bill 2929 (1980), pp. 2001-2003.
[27] Kinnucan's Opening Brief, pp 11-12.

3. Denial of Kinnucan's writ follows Washington common law.

In *Burg v. City of Seattle,*[28] the court held that the City of Seattle had no duty to clean up and re-open a street it had partially closed because exercising power to establish and improve streets was legislative and involved discretion.[29]

Similarly, our Supreme Court determined that a Grays Harbor County commissioner's decision to close a bridge serving many Hoquiam residents was discretionary and not mandatory even though a statute authorized the expenditure of county funds for the construction and operation of a bridge within the city.[30]

The precise action here- to adopt policies, procedures or regulations for administrative hearings during relocation is discretionary and not mandatory because RCW 59.18.440 did not dictate the terms of the appeal period. The City can exercise its judgment and discretion to select the appeal period within the course of tenant relocation.

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[28] *Burg v. City of Seattle,* 32 Wn. App. 286, 292-293, 647 P.2d 517, 520 (1982).
[29] *Id.*
[30] *Hoquiam v. Grays Harbor County*, 24 Wn.2d 533, 166 P.2d 461 (1946).

This case is also similar to *Eugster*[31] where a city had promised to loan money from a city fund to a public corporation by ordinance but, because the ordinance was silent on the loan, the city had discretion over its terms.[32] Here, like in *Eugster*, the City has a duty to "adopt provisions for administrative hearings" relating to unlawful detainer actions during relocation.[33] However, because the statute is silent on the timeline involved in determining the appeal period during tenant relocation, the City Council correctly used its discretion when it adopted TRAO, to set the timeline for administrative appeals.

4. Under the rules of statutory construction, the Legislature intended municipal discretion to establish appeal timelines during relocation.

The text, statutory structure and purpose of RCW 59.18.440 all clarify the City has discretion, not a duty, to extend its TRAO administrative appeal timeline until tenants have moved out.

The Legislature did not set forth a statutory relocation period or timeline for admisntraive appeals, nor did the Legislature define the term "relocation". An undefined statutory term must be given its ordinary

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[31] *Eugster v. City of Spokane*, 118 Wn. App. 383, 407, 76 P.3d 741 (2003).
[32] Kinnucan acknowledge in superior court that where discretion comes in is "best illustrated in *Eugster*. " Report of Proceedings (RP) 14:7-23; RP 15:5-6.
[33] RCW 59.18.440(5).

meaning, considering legislative purposes.[34] The meaning of a particular word in a statute is not gleaned from that word alone, because the Court's purpose is to ascertain legislative intent of the statute as a whole.[35] Plain meaning of a statute may be gleaned "from all that the Legislature has said in the statute and related statutes which disclose legislative intent about the provision in question."[36]

Here, the plain meaning of "relocation" does not support Kinnucan's argument that administrative appeals are required until the moment a tenant moves out, or even until the tenant moves into a new residence. Kinnucan reliance on Webster's to provide the meaning of "during relocation" to mean "throughout the continuance or course of" "removal and establishment in a new place").[37] Based on Kinnucan's interpretation, a tenant could appeal an unlawful detainer action even after the tenant had moved into a new place. That would seem to defeat the entire purpose of allowing an administrative appeal.

Kinnucan's reliance on *Segura v. Cabrera* to supports her argument that "during relocation" means the time during which tenants

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[34] *Dept. of Ecology v. Campbell & Gwinn LLC,* 146 Wn.2d 1, 10-11 (2002).
[35] *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).
[36] *Dep't of Ecology v. Campbell & Gwinn, LLC,* 146 Wn.2d 1, 11, 43 P.3d 4 (2002).
[37] Kinnucan's Opening Brief at p. 11, second full paragraph.

"are moving"[38] is off base. First, *Segura* is inopposite because it interprets a different statute (RCW 59.18.085)[39] and the term "relocation" is only exists with the term "assistance" (as in "relocation assistance").[40] Kinnucan's argument is not even consistent: does "during relocation" mean "during removal and establishment in a new place" or "the time during which tenants are moving"?[41] Kinnucan's construction is one possible interpretation; Kinnucan's acknowledgment there are various interpretations of the phrase "during relocation" supports the City's position it may set the appeal deadlines during relocation.

In determining the Legislature's intent of "relocation", that terms should be interpreted to "best advance" the municipality's legislative purpose.[42] Here, the Legislative purpose was to set up a system to provide relocation funds to low-income tenants subject to displacement through redevelopment.[43] The Legislature likely intended that administrative appeals be used to resolve issues regarding tenant relocation assistance or

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[38] Kinnucan's Opening Brief at p. 12, *citing Segura v. Cabrera*, 179 Wn. App. 630, 637, 319 P.3d 98 (2014).
[39] *Segura v. Cabrera*, 179 Wn. App. 630, 639, 319 P.3d 98 (2014).
[40] *Id.* That court recognized that RCW 59.18.085 exists primarily to provide monetary relocation assistance.
[41] Kinnucan's Opening Brief at pp. 11 and 12.
[42] *Morris v. Blaker*, 118 Wn.2d 133, 143, 821 P.2d 482 (1992).
[43] The Court may take judicial notice of Substitute House Bill 2929 (1980), pp. 2001-2003.

attempts to circumvent the obligation of landlords to pay tenant relocation monies for low-income tenants being displaced.

This is clear when reading RCW 59.18.440(1) and (5) together, which support creation of a municipal system where landlords must pay low-income tenant relocation assistance monies, and, if that isn't occurring or if landlords attempt to evict tenants to avoid payment, there is an admisntraive appeal right. This follows subsection (5), last sentence, where the Legislature created a right of judicial appeal relating only to "relocation assistance."[44]

The City's interpretation follows the entire structure of RCW 59.18.440-every subsection involves how tenant relocation assistance funds can be required of landlords- how much they must pay, who qualifies for tenant relocation assistance, how a municipality can determine costs for relocation.

Finally, the underlying purpose of RCW 59.18.440 clarifies the Legislature's intent was to authorize municipalities to create a system to provide certain low-income tenants with money to move, which would

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[44] RCW 59.18.440(5) provides "*Judicial review* of an administrative hearing decision *relating to relocation assistance may be had* by filing a petition, *within ten days of the decision,* in the superior court in the county where the residential property is located (emphasis added)."

encourage economic opportunity for all Washington citizens. [45] This is clear from the authorizing language at subsection (1) to the discretion the Legislature gave to municipalities to set up such systems. Kinnucan's interpretation that RCW 59.18.440 requires a longer timeline for an administrative appeal fails.

5. Under the rules of statutory construction, the Legislature intended municipal discretion to establish the scope of administrative appeals.

Kinnucan also includes a one-paragraph argument that TRAO improperly includes a "substantive limitation" which restricts hearings requests to those "relating to the authority to pursue unlawful detainer actions during the relocation period."[46] Under RCW 59.18.440, a landlord cannot evict a tenant to avoid paying tenant relocation assistance monies. Therefore, the City allows administrative appeals related to disputes between landlords and tenants over unlawful detainer until the landlord's tenant relocation license is issued.

The City's system conforms to the Legislature's intent that the City's utilizing RCW 59.18.440 ensure qualifying low-income tenants obtain tenant relocation monies. The appeal provisions provide tenant

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[45] *Garneau v. City of Seattle*, 147 F.3d 802, 804 (1998).

[46] Kinnucan's Opening Brief at p. 13.

recourse if a landlord attempts to evict to avoid payment of funds. This follows the Legislature's provision that allows tenants or landlords to appeal a hearing examiner decision to superior court under RCW 59.18.440(5).

Further, if the Legislature intended municipality's to issue binding decisions related to unlawful detainer, Legislature have included more than a passing reference to disputes related to unlawful detainer. Nowhere in RCW 59.18.440 does it modify the unlawful detainer provisions, set forth at RCW 59.12.170.[47] The superior court decides on the viability of unlawful detainer actions.[48] If the Legislature intended for municipalities to resolve administratively disputes about an unlawful detainer action including failure of tenant to pay rent or failure of a landlord to maintain habitable temperatures the Legislature would have amended the RLTA accordingly. Yet, it did not. Further, Kinnucan's interpretation is contrary to common sense. If the City made no city determination, the Hearing Examiner does not have jurisdiction.

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[47] An unlawful detainer action is a special proceeding and superior court's jurisdiction in such action is limited to primary issue of right of possession, plus incidental issues such as restitution and rent, or damages. *Mead v. Park Place Properties* (1984) 37 Wn. App. 403, 681 P.2d 256, review denied. *See also* RCW 59.18.050 (superior court jurisdiction), 59.12.030 (definition of unlawful detainer).

[48] RCW 59.18.050 and 59.17.050.

Kinnucan failed to establish the City has a duty to either extend the timeline for appeals or to expand appeals beyond that in TRAO.

B. Issuance of a writ is inappropriate here where tenants have a speedy, adequate remedy at law, which is to sue if a tenant receives an improper notice of unlawful detainer after TRAO has been met.

The Superior Court properly concluded Kinnucan could sue to challenge her landlord's notice to terminate tenancy. Whether there is a plain, speedy, and adequate remedy in the ordinary course of the law is a question left to the discretion of the court in which the proceeding is instituted.[49] Courts "will not disturb a decision regarding a plain, speedy, and adequate remedy on review unless the superior court's discretion was manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons."[50]

A remedy is not inadequate merely because it involves delay, expense, annoyance, or even some hardship.[51] To be found inadequate, there must be something in the nature of the action that clarifies that the

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[49] *Eugster v. City of Spokane*, 118 Wn. App. 383, 403.
[50] *Id.*
[51] *Eugster v. City of Spokane*, 118 Wn. App. 383, 414 (2003) *citing State ex rel. O'Brien v. Police Court*, 14 Wn.2d 340, 347-348, 128 P2d 332 (1942).

rights of the litigants will not be protected or full redress will not be afforded without the writ.[52]

The superior court, exercising its discretion, properly concluded that Kinnucan had an adequate remedy at law: to sue. The superior court stated: "I do believe there is an alternative remedy, and that is to file suit, a lawsuit. I mean, I realize it may be inconvenient. It might be expensive especially for low-income folks, but there is still that option for people."[53]

Kinnucan pursued that remedy. She already had brought a private right of action against the property owner.[54] The superior courts, like the City, are also sensitive to the needs of low-income individuals and the courts can use their discretion to waive filing fees for those unable to pay.

Kinnucan failed to establish the litigant's rights would not be protected without the writ. She argues that the litigant has a right to an administrative appeal; however, the City offers an administrative appeal at SMC 22.210.150. Kinnucan really seeks an easier way to challenge a termination of tenancy notice of a landlord. However, she solved that

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[52] *Id.*
[53] Report of Proceedings (RP) 24:14-18.

[54] RCW 59.18.240. In fact, Kinnucan filed suit under KCSC 14-2-18073-0 (see paragraph 4.68, 4.92 and V. retaliation under RCW 59.18.240). Another remedy involves a private right of action with appeal at SMC 22.206.305-.310.

problem by filing her own lawsuit against her landlord[55] and, through settlement, retained tenancy through October 2014.[56] Kinnucan has failed to establish the court's finding that a lawsuit as an alternative remedy constitutes "untenable grounds" that would warrant reversal.[57]

C. Issuance of a writ is improper because Kinnucan is not "beneficially interested" where there was no injury, landlord did not violation TRAL and she is like any other tenant.

Kinnucan bears only a generalized interest in a longer appeal deadline under TRAO, which cannot establish she is "beneficially interested". The "beneficially interested" element involves the concept of standing.[58] The standing requirement for a mandamus action requires a party to be "specifically injured" by the action.[59] A generalized interest will not confer standing to challenge an action.[60] Kinnucan is also not threatened with unlawful detainer so she can establish no specific injury associated with the current appeal timeline under TRAO.

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[55] *Kinnucan v. GRE Lockhaven, Inc. et al.*, King County Cause No. 14-2-18073-0, cited at CP 99:13-15.
[56] CP 99:13-15, 100:1-12.
[57] *Eugster v. City of Spokane*, 118 Wn. App. 383, 414 (2003) *citing State ex rel. O'Brien v. Police Court*, 14 Wn.2d 340, 347-348, 128 P.2d 332 (1942).

[58] *Eugster* at 403, *citing Retired Pub. Employees Council v. Charles*, 148 Wn.2d 602, 616, 62 P.3d 470 (2003).
[59] *SAVE v. Bothell*, 89 Wn.2d 862, 866, 576 P.2d 401 (1978).
[60] *SAVE* quoting *Sierra Club v. Morton*, 405 U.S. 727, 734-35 (1972).

Further, Kinnucan's reliance on *Retired Pub. Employees Council v. Charles* is misplaced because it is distinguishable. In *Retired Pub. Emps. Council of Wash. v. Charles*[61] the court found that the plaintiffs who were employees and retirees who had paid into the retirement system of their public employer had a specialized interest in present and future retirement fund payouts so these plaintiffs were beneficially interested in the duty. Unlike the plaintiffs in *Charles* whose retirement benefits may be harmed, Kinnucan cannot establish that she bears any greater risk of injury than any other tenant in being threatened with unlawful detainer action.

Kinnucan provides no evidence she was specifically injured by the inability to obtain a prior administrative hearing. While she argues of an alleged unlawful detainer dispute between GRE and Kinnucan after the License was issued, she provides no proof that an unlawful detainer action was ever filed. The only evidence she might point to is the landlord GRE's June notice to terminate tenancy that GRE withdrew several days after it was issued[62] Kinnucan never alleged or provided any evidence that either notices to terminate tenancy escalated to an actual unlawful detainer action. It is undisputed that she retained tenancy at the Lockhaven

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[61] 148 Wn.2d 602, 620, 62 P.3d 470 (2003), cited at Kinnucan's Opening Brief. at pp. 19-20.
[62] CP 42, lines 4-15.

Apartments until October 2014.[63] Kinnucan has no specialized interest beyond any other tenant.

D. Kinnucan did not brief the dismissal of Writ 2; the dismissal should therefore be upheld.

The second writ Ms. Kinnucan sought, but which was dismissed by the superior court on the City's motion, was to compel the City to grant administrative hearings to tenants who after Sept. 2014 filed appeals related to relocation assistance or unlawful detainer during relocation.[64] ("Writ 2"). Since Kinnucan alleged no error associated with dismissal of Writ 2. The Superior Court's dismissal should be affirmed.

E. The case is moot and presents no issue that involves a matter of public interest.

The case is moot because the opportunity for an administrative hearing for Ms. Kinnucan has long passed and she has long ago moved into a new residence. The relief Kinnucan sought was a hearing based on violations of the City's Just Cause ordinance and unlawful detainer statute, not TRAO. The City has no duty to provide such a hearing.

If a landlord is attempting improper eviction or retaliation, there is an entire statutory eviction process including provisions for retaliation

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[63] CP 42: 20-21.
[64] CP 6, lines 3-8, Section 6.4 of Kinnucan's Application for Writ ("Writ").

under RCW 59.12 and RCW 59.18 addresses such action. See e.g., RCW 59.12, RCW 59.18.240, 59.18.250

The Court should not decide the issue because Kinnucan has failed to establish the likelihood this issue will arise again.

V. CONCLUSION

A writ of mandamus must be denied where (1) RCW 59.18.440(5) creates no ministerial duty but instead grants to the City Council discretion to determine the specific timeline for administrative hearings; (2) a litigant can sue in superior court, as an adequate alternative remedy, if an unlawful detainer dispute arises after the administrative appeal deadline has passed; and (3) Kinnucan is in the same position as other tenants, all of whom lack evidence of any injury. The Court should uphold the superior court's decision.

DATED this 20th day of May, 2016.

PETER S. HOLMES
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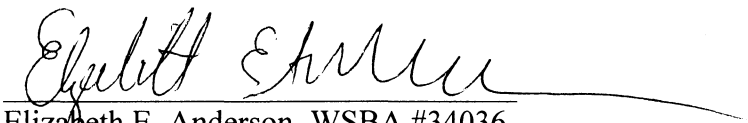
By: 

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CERTIFICATE OF SERVICE

I certify that on this date, I served a copy of the Respondent's Brief to the following parties by the method below stated:

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Dated this 20th day of May, 2016, at Seattle, Washington.

s/_____
ALICIA REISE