

Judge reverses self for second time on Kirkland development

King County Superior Court Judge Monica Benton has reversed a decision on Lobsang Dargey's Potala Village, saying she made a mistake last week.

By [Keith Ervin](#)
Seattle Times staff reporter



Superior Court Judge Monica Benton

Never mind.

For the second time in a week, a judge has reversed herself, this time reaffirming her original decision in favor of a developer in Kirkland.

King County Superior Court Judge Monica Benton's latest — and presumably last — order would allow Potala Village to be built under the more permissive zoning that was in effect when it was first proposed.

Developer Lobsang Dargey wants to build 143 apartments or condos above a parking garage and first-floor shops in a four-story building across Lake Street South from Lake Washington.

The City Council, after imposing a development moratorium in neighborhood business zones, rezoned the property to allow no more than 58 homes on 1.2 acres.

Benton wrote Monday that she goofed last week when she issued an order reconsidering and vacating her original ruling, issued in May, that Dargey had the right to build under the zoning that was in effect in 2011 when he applied for a shoreline permit.

Dargey's attorney, Duana Koloušková, said it was her understanding that Benton didn't change her mind, but accidentally signed the wrong order and then had to correct the mistake.

“My guess is this was a human error,” Koloušková said. “We all do that. It happens to the best of us.”

The judge on Monday signed an order submitted by Koloušková, inserting in longhand that she had “mistakenly filed” an alternative order last week that the city had proposed.

The judge declined to discuss the confusing chain of events Monday, saying through a spokeswoman that she wasn’t comfortable talking about a case in which motions are pending.

City Attorney Robin Jenkinson said the latest ruling leaves some unanswered questions about the judge’s intent and how to resolve the case. If the case goes in favor of the developer — as appears almost certain — Jenkinson said the city would consider appealing.

Chuck Pilcher, a neighbor who has sought to reduce the size of Potala Village, said of the judge’s reversals, “Incompetence is the only word that comes to my mind. ... It simply isn’t making the judicial system look good.”

Benton, who was first appointed to Superior Court in 2008 by then-Gov. Chris Gregoire, ranked third from the bottom among 52 judges in all three categories of the King County Bar Association’s 2012 survey of lawyers — legal decision making; integrity and impartiality; and demeanor, temperament and communication.

In the Kirkland case, Benton last month directed the city to process a building-permit application from Dargey under the zoning in effect when he applied for a shoreline permit.

The zoning at that time put no limit on how many residential units Dargey could build.

Neighbors opposed the size of his project, noting it would bring about 10 times the residential density that is allowed on surrounding properties.

The City Council imposed a development moratorium while it reviewed zoning in several business areas and adopted new zoning.

Dargey sued the city, saying he should be bound by the older zoning. The city argued that because he hadn’t applied for a building permit, his project was subject to the new zoning.

In a separate case before the state Shorelines Hearings Board, neighbors contend Potala Village doesn’t meet criteria for a shoreline permit.

Keith Ervin: 206-464-2105 or kervin@seattletimes.com

http://seattletimes.com/html/localnews/2021116343_kirklandjudgexml.html