

**SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER**

re: The Appeal of Notice of Violation	)	Health APL 25-0001
Decision by Skagit County Public Health	)	
on 2/26/25 by Tulip Time, LLC	)	TULIP TIME, LLC’S HEARING REPLY
	)	
	)	
	)	

The July 10, 2026, hearing on this appeal stems from a series of Notices of Violation from Skagit County (“County”) for an alleged failure of Tulip Time, LLC (“Tulip Time”) to secure permits for work performed on an existing on-site sewage system. The County has filed a Responsive Brief to support its two-year enforcement action which underscores a variety of flaws, two of which are particularly egregious. Initially, Tulip Time agrees that the County’s actions and Health Officer’s decision are subject to a “clearly erroneous” standard and this means that “although there is evidence to support it, the reviewing court on the record is left with the definite and firm conviction that a mistake has been committed. Wenatchee Sportsmen Ass’n v. Chelan Cnty., 141 Wash.2d 169, 176, 4 P.3d 123 (2000).

Again, the County has consistently demanded securement of permits for Tulip Time’s installation of a new tank for the system. As noted in Tulip Time, LLC’s Hearing Brief, it never added a new tank but instead installed an overflow pump and associated drainfield. In its Responsive Brief, the County does not dispute that this was the scope of work but insists nonetheless that its enforcement action and the Health Officer’s affirming decision were not “clearly erroneous.” How can the County dispute that a mistake has occurred when the acts supporting its enforcement action did not occur at all? An enforcement action and decision based upon acts that did not occur at all is a quintessential “mistake” that undermines the entire process. This fundamental mistake requires that the Health

Officer's decision be reversed and that the County start a new enforcement action if it wants to continue to object to the alleged lack of permits.

Even if the County's demands for permits and reviews were not "clearly erroneous," there is no dispute that it expects the entirety of the existing system to be subject to this process, and not just the work performed by Tulip Time. The County maintains this expectation is supported by SCC 12.05.170(2) which provides: "Upon application for a repair permit, if the existing septic or pump tank are undersized or structurally deficient, the Department may require that the tank be replaced with a tank that meets current sizing code." This provision has nothing to do with the scope of review of repair work. It simply authorizes the County to ask for replacement of a tank, upon two conditions: (1) presentment of an application for a repair permit; and (2) establishment that an existing tank is undersized or structurally deficient. Neither of these conditions has arisen. Thus, and again, the County's demand for permits/review for anything other than the installed pump and drainfield is clearly erroneous.

DATED this 29th day of June, 2026.

s/ Mark J. Lee

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