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9 **BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

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11 **ERIC BATTLES AND EMILY**
12 **MCLAUGHLIN**, a married man and woman,
and their marital community,

13 Appellants,

14 v.

15 **SKAGIT COUNTY**, a Washington Municipal
Corporation

16 Defendant.
17

NO. APL 206-0002

**REPLY TO RESPONSE TO REQUEST /
DEMAND TO STAY ADMINISTRATIVE
APPEAL PROCEEDING**

18 **COMES NOW**, Jane Koler and Callan Johns, Land Use & Property Law, PLLC,
19 representing Appellants Eric Battle and Emily McLaughlin, who respectfully submits the
20 following Reply to Response to Request/Demand to Stay Administrative Proceedings:
21

22 **I. THE COUNTY MISCHARACTERIZES THE BASIS FOR THE STAY**

23 The County asserts that the requested stay should be denied because Appellants
24 have not yet filed a separate court action and because this appeal is “exceedingly
25 narrow.” That argument misses the point.

1 The stay is not dependent on whether a parallel action has already been filed.
2 Rather, it is required because this tribunal lacks jurisdiction to adjudicate constitutional
3 claims and cannot provide the relief to which Appellants are entitled. A jury
4 determination of liability and compensation is the only appropriate mechanism for
5 adjudicating these constitutional claims. Proceeding in a forum that cannot resolve the
6 central legal issues is precisely the circumstance in which a stay is appropriate.

7 **II. THE RIGHT TO A JURY TRIAL REQUIRES A STAY**

8 The County does not meaningfully address Appellants' central argument:
9 that the County's demolition directive functions as a taking and/or a legal claim
10 analogous to common-law causes of action triable to a jury – e.g. an inverse
11 condemnation action.

12 As set forth in the Motion the Washington Constitution guarantees that the right
13 to a jury trial "shall remain inviolate." Eminent domain principles require compensation
14 to be determined by a jury before property is taken. Courts, including the U.S. Supreme
15 Court, have consistently held that where the government seeks penalties or property-
16 based remedies analogous to common-law claims, jury trial rights attach. The County
17 offers no authority showing that an administrative hearing examiner may override these
18 constitutional guarantees.

19 **III. PROCEDURAL OBJECTIONS DO NOT OUTWEIGH CONSTITUTIONAL** 20 **RIGHTS**

21 The County argues the Motion should be denied for failure to comply with timing
22 requirements under SCHE 25(A). Even if true, that argument is insufficient.
23 Procedural rules cannot be applied in a manner that extinguishes or impairs
24 constitutional rights. Constitutional protections take precedence over procedural
25 technicalities. Where fundamental rights are implicated, especially the inviolate right to a

1 jury trial, strict procedural enforcement must yield. See Washington State Constitution,
2 Article 1 § 21.

3 Moreover, the County identifies no prejudice resulting from the timing of the Motion. The
4 absence of prejudice further supports granting the stay.

5 **IV. THE COUNTY’S “NARROW SCOPE” ARGUMENT FAILS**

6 The County attempts to limit the appeal to whether it properly followed Ecology’s
7 recommendation. That framing is incorrect. The practical effect of the County’s action is
8 to require demolition of Appellants’ home, a governmental mandate that implicates 1)
9 takings / inverse condemnation principles, 2) property rights protected by Article I, §§ 16
10 and 21, and 3) common-law analogues such as nuisance or property damage claims.
11 These are not narrow administrative questions. They are substantive legal claims
12 requiring adjudication by a court of general jurisdiction and, where applicable, a jury.

13 **V. A STAY PROMOTES JUDICIAL ECONOMY AND FAIRNESS**

14 Allowing this administrative proceeding to continue while constitutional issues
15 remain unresolved risks inconsistent rulings, duplication of proceedings, and further
16 infringement of Appellants’ rights. A stay ensures that the proper forum addresses the
17 controlling issues first.

18 **CONCLUSION**

19 The County’s Response does not rebut the core legal reality that this tribunal
20 cannot adjudicate Appellants’ constitutional claims or provide the relief required by law.
21 For that reason, and those stated in the original Motion, the Hearing Examiner should
22 grant the Motion to Stay pending resolution of Appellants’ constitutional claims in a court
23 of competent jurisdiction. Requiring Appellants to continue litigating in this juryless
24 tribunal violates Appellants’ constitutional rights.

1 DATED this 5th day of May 2026.

2 LAND USE & PROPERTY LAW, PLLC

3 

4 Jane Koler, WSBA No. 13541

5 Callan Johns, WSBA No. 60985

6 *Attorneys for Battles and*
7 *McLaughlin*

1 **CERTIFICATE OF SERVICE**

2 I, Callan Johns, hereby state that I am over the age of 18 years, competent to testify,
3 and certify to the following based on my own knowledge and belief. On the date below stated,
4 I caused the Reply to Response Motion to Stay Adjudication of this Matter to be sent in the
5 manner noted to the following parties:

6 Hearing Examiner
7 ☐ Via U.S. Mail, postage prepaid
8 ☐ Via Hand Delivery
9 ☒ Via E-Mail to:
10 HEhearings@co.skagit.wa.us

11 Jason D'Avignon
12 ☐ Via U.S. Mail, postage prepaid
13 ☐ Via Hand Delivery
14 ☒ Via E-Mail to:
15 jasond@co.skagit.wa.us

16 Pamela C. Herman
17 ☐ Via U.S. Mail, postage prepaid
18 ☐ Via Hand Delivery
19 ☒ Via E-Mail to:
20 pberman@co.skagit.wa.us

21 I declare under penalty of perjury under the laws of the State of Washington that
22 the foregoing is true and correct.

23 DATED this 5th day of May 2026 at Gig Harbor, Washington.

24 **/s/ Callan Johns**
25 Callan Johns