

**SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER**

re: Appeal of Battles & McLaughlin of
Substantial Improvement & Substantial Damage
Cost Determination in FLOOD-2006-0028

APL 2026-002

*of Administrative Decision FLOOD-
2026-0028*

**ORDER ON APPELLANT'S
"REQUEST/DEMAND" of 4/30/26 and
"OBJECTION" of 5/1/26**

The Hearing Examiner recieved a "Request/Demand to Stay Administrative Appeal Hearing,"¹ and an "Objection to Appeal Being Litigated in this Tribunal."² Despite the nomenclature and that neither pleading was filed in conformance with Skagit County Hearing Examiner's Rules of Procedure (SCHE) §19(D) nor the Pre-Hearing Order of 4/16/26,³ the Office of the Hearing Examiner is ignoring the defects⁴ and treating these pleadings collectively as a SCHE §25 Motion; the Department was able to respond,⁵ the Appellant was able to reply to that response,⁶ and both parties were afforded oral argument to the extent they desired at the pre-hearing conference held on 5/8/26.

With the authority pursuant to SCRE §§6, 7, and 25; the Hearing Examiner hereby finds and orders:

¹ Ex. 16

² Ex. 18

³ Ex. 10

⁴ Further participation in the administrative process requires strict compliance with the SCRE. See SCRE §12 at "Failure to Follow Procedure."

⁵ Ex. 17

⁶ Ex. 19

FINDINGS

The Appellant argues that “...this matter must be stayed to protect Appellants’ constitutional right to a jury trial conferred by the Washington State Constitution,”⁷ and that “This tribunal has no jurisdiction over constitutional issues. Further, Appellants have a right to a jury trial on their inverse condemnation claim. Appellants object to this administrative appeal going forward until a jury adjudicates their inverse condemnation claim.”⁸

There is no evidence in the existing record of any other action in any other court over constitutional matters or any stay issued by any court with jurisdiction to do so, though at the hearing an attorney Jane Koler of attorneys for the Appellants asserted she had filed one in Snohomish Superior Court under LUPA, so that issue of external stay may change as time proceeds. The vast majority of Appellant’s sources of authority seem to be off point, deal with damages, are not binding authority, or refer to unverified exhibits in nonexistent appendices.

Constitutional claims, crimes, or torts of any nature lie outside the Hearing Examiner's jurisdiction, as is the granting of any legal relief in the form of money damages which a great deal of the cited case law appears to look at. Unless overwhelming on its face or ordered by a body with the power to do so,⁹ the Office of Hearing Examiner will presume that the County code, and the Washington State law regulating Flood Control, which the County code reflects, are consistent with the Constitution of the State of Washington and the Constitution of the United States. After reviewing the pleadings there is no overwhelming authority, and otherwise the Office of the Hearing Examiner would have to make a ruling on the unconstitutionality of both state and local law. The Office of the Hearing Examiner’s role is to afford the parties an opportunity to be heard that is consistent with the County code and with principles of procedural due process for the administrative issue before them. Any further constitutional issues lie outside the Hearing Examiner's jurisdiction.

The only proper question before the Hearing Examiner is whether or not “...the Department erred when it did not make a determination that the Appellants possessed a pre-

⁷ Ex. 16 at 1

⁸ Ex. 18 at 1

⁹ Such as through a change in law, decision by a higher body on remand, declaratory relief, or stay on these specific matters before them.

existing non-conforming right to keep their house which overrode the Department of Ecology recommendation.”¹⁰ Further, as argued by the Department orally, and supported by the oral attestation of the Appellant’s attorney regarding a LUPA appeal, it appears the Appellant would need to exhaust their administrative remedies before challenging the constitutional nature of the law and any right for a jury trial.¹¹ This is not ruling on that matter, only a Superior Court can rule on that matter, but it emphasizes the separation of the administrative and legal process.

The Appellant is correct that “this tribunal does not have any jurisdiction over Battles and McLaughlins’ constitutional defenses against the count’s demolition directive. It would be appropriate for a superior court jury to determine what compensation is due to Mr. Battles and Ms. McLaughlin upon complying with the County’s demand to demolish their home.” Indeed, the Office of the Hearing Examiner has no jurisdiction over these matters, but also true is that these matters are not before it.

Therefore:

ORDER

The motion is denied.

SO ORDERED this 11th day of May 2026.



Rajeev D. Majumdar
Skagit County Hearing Examiner

¹⁰ Ex. 20 at §4(a)

¹¹ RCW 36.70C.060(2)(d)