

1                                   **BEFORE HEARING OFFICER FOR THE ASSEMBLY OF THE**  
2                                   **CITY AND BOROUGH OF JUNEAU**

3           KARLA HART,

4                                   Appellant,

5           vs.

6           CITY AND BOROUGH OF JUNEAU  
7           PLANNING COMMISSION

8                                   Appellee.

                                  Notice of Decision: July 20, 2023  
                                  Appeal Case No. APL 2023-AA01

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10                                   **ORDER DENYING REQUEST FOR VOLUNTARY WITHDRAWAL OF HEARING**  
                                  **OFFICER**

11           A scheduling conference on the above captioned matter was held on September 22, 2023,  
12           via Zoom. On September 22, 2023, appellant Karla Hart filed with the Clerk a Motion for Hearing  
13           Officer to Recuse. As discussed at the scheduling conference, this Motion was a request that the  
14           hearing officer voluntarily withdraw from the case under CBJ Code 1.50.100(b). This section  
15           provides:

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17                   (b) A hearing officer or appeal agency member shall voluntarily withdraw from a  
18                   case in which the hearing officer or appeal agency member cannot accord a fair and  
19                   impartial hearing. A party may request the disqualification of a hearing officer or  
20                   appeal agency member by filing an affidavit, before the taking of evidence at the  
21                   hearing, stating with particularity the grounds upon which it is claimed that a fair  
22                   and impartial hearing cannot be accorded. If the request concerns an appeal agency  
23                   member, the issue shall be determined by the other members of the appeal agency.  
24                   If the request concerns the hearing officer, the issue shall be determined by the  
25                   appeal agency.

26           The appellant indicated that the request for voluntary withdrawal to be decided by the hearing  
                 officer, under the first sentence of CBJ 1.50.100(b), not a request for disqualification to be

1 determined by the appeal agency (the Assembly sitting as the Board of Adjustment). Appellant  
2 submitted the Motion and accompanying materials indicating that the firm of Keene & Currall,  
3 PPC,<sup>1</sup> has represented tourism industry clients. The appellant requests an independent hearing  
4 officer with no association with the cruise industry or Huna Totem Corporation in any capacity.  
5 The appellant submitted an affidavit and supporting documents relating to Keene & Currall, a  
6 professional corporation, Keene & Currall, PPC, and deceased former partners of Keene & Currall.

7 The documents submitted included firm web page advertisements, a letter to the City and  
8 Borough of Skagway from H. Clay Keene on behalf of the White Pass and Yukon Route, corporate  
9 records from the State of Alaska web site for various entities, a copy of a list of steering committee  
10 members of the Alaska Alliance for Cruise Travel, Inc. board members of and a copy of the articles  
11 of incorporation of the Alaska Alliance for Cruise Travel, Inc. prepared by Geoff Currall, then a  
12 partner with Keene and Currall, but who since left the firm and died approximately 8 years ago.

13 As indicated at the status hearing, the Keene and Currall firm does not represent any party to  
14 the case, and has not previously represented the parties in other matters. H. Clay Keene regularly  
15 represents businesses active in the tourism industry. Scott Brandt-Erichsen's clients are primarily  
16 municipalities and private parties, some of whom may conduct sales to tourists. With no present  
17 or former clients of either attorney or the firm involved in this matter, service as a hearing officer  
18 in this matter does not implicate Alaska Rules of professional Conduct 1.9, duties to former clients,  
19 or 1.10, Imputation of Conflicts of interest. There are no applicable conflict of interest rules  
20 which would preclude service as the hearing officer in this matter.

21 Additionally, the hearing officer is not aware of any reason why he cannot be a fair and  
22 impartial hearing officer in this matter. With 35 years' experience advising municipalities and  
23 having served as a hearing officer for multiple municipalities in zoning and planning matters, the

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24 <sup>1</sup> Keene & Currall, PPC, is a partnership of professional corporations, Brandt-Erichsen LLC, solely owned by Scott  
25 Brandt-Erichsen, and Keene & Currall a professional Corporation, solely owned by H. Clay Keene.

1 hearing officer has relevant experience with the subject matter, but is not pre-disposed either for  
2 or against any party or the subject matter. Accordingly, the appellant's request for voluntary  
3 recusal is denied.

4 If the appellant, appellee, or intervenor desires to file an affidavit and request for the  
5 disqualification of the hearing officer by the appeal agency such a request should be filed by  
6 October 6, 2023. If a request is filed for consideration by the agency, the intervenors and appellee  
7 shall have the opportunity to file a response by October 16, 2023, and any reply by October 23,  
8 2023, so that the agency may consider any such request prior to briefing in the case.

9  
10 DATED this 25th day of September, 2023.

11  
12 HEARING OFFICER

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15 By: Scott A. Brandt-Erichsen