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BEFORE HEARING OFFICER FOR THE ASSEMBLY OF THE
CITY AND BOROUGH OF JUNEAU

KARLA HART)	
)	
Appellant)	
)	
vs.)	
)	
CITY AND BOROUGH OF JUNEAU)	
PLANNING COMMISSION)	
)	
Appellee)	Notice of Decision: July 20, 2023
)	Appeal Case No. APL 2023-AA01

APPELLANT REPLY TO INTERVENOR’S OPPOSITION TO MOTION FOR
HEARING OFFICER DISQUALIFICATION

Appellant Karla Hart (Appellant), responding to Intervenor Hoonah Totem Corporation’s (HTC) response to Appellant’s *Motion for Hearing Officer Disqualification* (Motion).

REITERATION OF FACTS PRESENTED IN MOTION

- Hearing Officer Scott Brandt-Erichsen is one of two partners, in the law firm of Keene & Currall, PPC, as it presently exists.¹

¹Keene & Currall, P.P.C. at keenecurrallaw.com states they have provided legal services since 1980, thus representing that the existing legal iteration of Keene & Currall is a continuation of prior legal iterations and partnerships.

- 1 2. Alaska Rules of Court, Alaska Rules of Professional Conduct, clearly state that if lawyers
2 “present themselves to the public in a way that suggests that they are a firm or conduct
3 themselves as a firm, they should be regarded as a firm for purposes of the Rules.”²
4
- 5 3. The cruise advocacy organization, Alaska Alliance for Cruise Travel Inc. has been a client of
6 iterations of Keene & Currall law firm at 540 Water Street, Suite 302 in Ketchikan at least
7 since filing articles of incorporation in 2009, and through June 30, 2023 when listed as the
8 registered agent in the 2023 Biennial Report filed with Alaska Department of Commerce.
9 Under Alaska Rules of Court, Alaska Rules of Professional Conduct³, this makes Alaska
10 Alliance for Cruise Travel Inc. a client of the Hearing Officer for purposes of considering
11 conflict.
12
- 13 4. Huna Totem Corporation effectively holds three of 18 seats on the Steering Committee of
14 the cruise advocacy organization, Alaska Alliance for Cruise Travel Inc.⁴
15

16 ARGUMENT RESPONDING TO ASSERTIONS OF HTC OPPOSITION

17 In HTC’s *Opposition to Appellant’s Motion*, HTC places emphasis on the “qualified”
18 aspect of “a qualified, unbiased, and impartial hearing officer,” and appears to assert that the
19 SUBJECT MATTER of the appeal is cruise, and therefore the Hearing Officer’s “experience and
20 proximity to the subject matter qualifies him to be the Hearing Officer in this case.” **The subject**
21 **matters under this appeal** of a permit issued by the Planning Commission, **are asserted**
22 **Community Development staff and Planning Commission failures** in a major development
23 review. **The cruise industry, and specifically Huna Totem are the objects impacted by the**
24

25 _____
26 ² <https://courts.alaska.gov/rules/docs/prof.pdf>, page 69, accessed October 3, 2023.

27 ³ <https://courts.alaska.gov/rules/docs/prof.pdf>, page 69, accessed October 3, 2023.

28 ⁴ Russell Dick, President and CEO of Huna Totem Corporation; and from HTC subsidiaries: Tyler Hickman, Icy Strait Point; Dennis McDonnell, Alaska Coach Tours.

1 **outcome**; however, they are not the subjects of the appeal. Having a Hearing Officer with
2 experience and proximity to the cruise industry (the overriding object) creates reasonable
3 concern that conscious or unconscious biases could impact unbiased and impartial review.
4

5 The Hearing Officer’s *Order Denying Request for Voluntary Withdrawal of Hearing*
6 *Officer*, when the connection between Keene & Currall (in any iteration) and Alaska Alliance for
7 Cruise Travel Inc. and Huna Totem was obfuscated rather than addressed,⁵ though that
8 connection was clearly spelled out in the Appellant’s *Affidavit for Motion for the Hearing Officer*
9 *to Recuse*.⁶ Appellant presents this as contemporary and relevant evidence of bias.
10

11 The intervenor, HTC, asserts, without any evidence, that Appellant is “simply attempting
12 to delay the proceedings and forum shop.”⁷ In fact, on August 31, 2023, the day the Hearing
13 Officer’s name was announced, and upon discovering the direct connection between Huna
14 Totem, Alaska Alliance for Cruise Travel, Keene & Currall, and the Hearing Officer, Appellant
15 promptly contacted the City Clerk and parties to the appeal at that time by email outlining
16 concerns. As instructed by the City Clerk (citing CBJC 01.50.100(b)), the Appellant then filed a
17 Motion for Hearing Officer to Recuse before the Pre-Hearing on September 22, 2024. And, now,
18 as instructed by the Hearing Officer’s *Order Denying Request for Voluntary Withdrawal of*
19 *Hearing Officer*, dated September 25, is filing a Reply to the Intervenor’s *Opposition*.
20
21

22 _____
23 ⁵ “...a copy of a list of steering committee members of the Alaska Alliance for Cruise Travel, Inc. board
24 members of and a copy of the articles of incorporation of the Alaska Alliance for Cruise Travel, Inc.
25 prepared by Geoff Currall, then a partners with Keene and Curral, but who since left the firm and died
26 approximately 8 years ago.” Order Regarding Voluntary Withdrawal 9/25/23

27 ⁶ “Keene & Currall... active registered agent for Alaska Alliance for Cruise Travel...” “Russell Dick, Huna
28 Totem Corporation, Juneau; Tyler Hickman, Icy Strait Point, Hoonah (a Huna Totem subsidiary); and
Dennis McDonnell, Alaska Coach Tours, Anchorage (a Huna Totem subsidiary that operates in Juneau)
are on the steering committee of Alaska ACT [Alaska Alliance for Cruise Travel]. Affidavit of Karla Hart,
8/5/23

⁷ Intervenor’s Opposition, October 16, 2023

1 Appellant expects the right to an qualified, unbiased, and impartial hearing officer. That
2 HTC is pushing for retaining this Hearing Officer, rather than ceding that their interests could be
3 served as well by a Hearing Officer without ties to the cruise industry through his firm, is cause
4 for more concern.

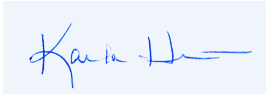
5
6 Under the existing *Prehearing Order*, dated September 25, 2023, Appellee is preparing
7 the Record, with a deadline of October 26, 2023. The Record is to be available for pick up by
8 October 30, 2023.

9
10 Appointing a replacement hearing officer who is qualified (to review local government
11 planning decisions), unbiased, and impartial could result in little to no delay in the appeal
12 process, if done promptly. The hearing process is already being conducted remotely, there is no
13 geographic limitation and a hearing officer from somewhere in Alaska that is not directly
14 touched by the cruise industry would help to ensure that there was not existing bias and
15 impartiality. Appellant would have no objection if a new unbiased and impartial hearing officer
16 adopted the appeal timeline set in the *Prehearing Order*.

17
18 CONCLUSION

19
20 The **subject of the appeal is a planning decision.** The object of the appeal relates to the
21 cruise industry. Conflict from the Hearing Officer firm's connection to HTC and the firm's long-
22 association with the cruise industry, compounded by HTC opposition to the Motion for Hearing
23 Officer Disqualification, when a replacement could be handled in a manner that creates little if
24 any delay in the appeal process, begs that there is valid reason for the City and Borough of
25 Juneau Assembly to disqualify Scott Brandt-Erichsen from Hearing Officer duties in this
26 particular case and to direct the City Attorney to appoint a qualified, unbiased, and impartial
27

1 hearing officer with no cruise industry associations, and who does not reside in a town where
2 cruise ships call.

3
4 A handwritten signature in blue ink, appearing to read 'Karla Hart', is enclosed in a light blue rectangular box.

5
6 Karla Hart, October 23, 2023

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