



March 29, 2024

Steve Wilcox
Development Services Director
City of Medina
501 Evergreen Point Road
Medina, WA 98039

Re: Olbrechts Hearing Examiner Proposal

Thank you for considering me as a potential hearing examiner for the City of Medina. I have lived in the Puget Sound area for more than fifty years and have worked for dozens of communities in that area. It would be a tremendous honor to add Medina to that list.

In summary, I have conducted over 2,000 land use hearings as a hearing examiner since the 1990s. I serve as Hearing Examiner for thirty-two municipalities, as alternate Hearing Examiner for two municipalities and City Attorney for two others. As detailed in my proposal below, I am regularly requested to conduct hearings on the most complex and controversial hearings in Washington State.

My rate is \$225 per hour with a one hour minimum per hearing day for in-person hearings. On rare occasions I use planners, attorneys and/or contract decision writers to help write up decisions. Attorneys are billed at 90% of my rate, planners at 75% and decision writers at \$75 per hour.

Thank you for your consideration of my proposal.

Phil Olbrechts

Phil Olbrechts
Olbrechts and Associates, PLLC Managing Member



HEARING EXAMINER STATEMENT OF QUALIFICATIONS

Please accept this as my Statement of Qualifications to provide hearing examiner services to the City of Medina, as managing member of Olbrechts and Associates, PLLC. Based upon historical performance, I would probably conduct over 97% of the hearings assigned to me by the City of Medina. In very rare circumstances I would seek permission from the City for an alternate examiner to fill in if I have an unexpected conflict with a previously scheduled hearing. My primary alternate examiner, Rick Sepler, works as one of my subcontractors and, in addition to filling in during conflicts, also sometimes helps me write decisions to ensure they are timely. Mr. Sepler's qualifications are included below.

Experience and Qualifications

A. Overview:

I have represented cities as a city attorney since 1989 and have held hearing examiner contracts since 1997. I currently serve as Hearing Examiner for Auburn, Federal Way, Fife, Mason County, Monroe, Mount Vernon, Langley, Newcastle, Tukwila, Blaine, Port Townsend, Port Orchard, Mountlake Terrace, Mill Creek, Algona, Fircrest, Edmonds, Renton, Lake Stevens, Puyallup, Dupont, Roy, Ruston, Kirkland, Bonney Lake, Oak Harbor, Orting, Lacey, Kitsap County, Kenmore, Sumner and Burien and as an alternate examiner for Seattle Public Schools and Snohomish County. I have conducted over 2,000 hearings in the past twenty-five years. I also serve as City Attorney for Buckley and Index. Working with planning staff of these cities daily gives me a unique understanding of how hearing examiner decisions are implemented at the staff level.

As a hearing examiner I have held hearings on every type of land use issue and permit imaginable, with projects ranging in size from removal of utility easements from Mason County subdivisions to the Villages and Lawson Hills Master Plan Developments in Black Diamond. I have the resources to handle cases of any size and complexity. As one example, the Villages and Lawson Hills Master Plans involved the construction of over 6,250 dwelling units, mostly composed of single-family homes, and over a million square feet in commercial space. Valued at over a billion dollars, the master planned communities were the largest residential development ever reviewed in King County. The hearings took over 40 hours and involved more than 3,000 pages of exhibits. The decision (EIS adequacy) and recommendations (master plan and development agreement) were issued in the requisite ten days from the close of the hearing without extensions. I've also held hearings on large master plan developments for Mount Vernon, Renton and Jefferson County and served as City Attorney in master plan developments in Poulsbo and Milton. I held a multi-day hearing on a 500-acre motorsports facility for Snohomish County involving over 600 public comment letters, an all-day hearing in Mason County for a racetrack and a hearing on the PSE Energize Eastside project. Some of my more recent contentious hearings include the redevelopment of the Weyerhaeuser campus for Federal Way, a regional methadone clinic in Sequim and a proposed 60-acre gravel pit in Belfair.

In years past as a land use attorney, I have represented neighborhood groups and developers on land use issues. I've represented parties in all levels of the courts, including the United States Supreme Court, the Growth Management Hearing Board, and the Shoreline Hearings Board

B. Career Development:

I received a B.S. in molecular biology from the University of Washington in 1986 and a J.D. with honors from Seattle University School of Law in 1989, the year I was admitted into practice. After stints as City Attorney and Planning Director of Forks, Washington (1991-94), and Planning Director of Sequim (1994), Washington, I became an associate at Ogden Murphy Wallace, P.L.L.C. (“OMW”) in 1994. I left OMW for three years in 1997 to teach land use law in the graduate planning program at the University of Washington and to work on other projects. During that time, I developed my hearing examiner practice, working for Mount Vernon, McCleary, and Shelton. I passed those clients on to my alternate examiner and returned to OMW in 2000 as *of counsel*, where I subsequently became a partner in 2004. In my time at OMW I served as City Attorney for Monroe, Buckley, Milton, Gold Bar, Index and Carnation. OMW has over forty attorneys and I worked in the firm’s municipal department, where I had the privilege of collaborating with the state’s best municipal attorneys on land use issues. I was elected to OMW’s executive board, where I managed the firm as the partner representing the firm’s municipal department.

I established Olbrechts and Associates, PLLC (“OA”) on November 1, 2010 to maintain competitive rates for my clients. Hearing examiner compensation rates are not feasible with the overhead expenses of major Seattle law firms. Over 80% of my practice is devoted to examiner services. The remaining portion of my practice is primarily composed of providing land use services to city attorney clients. As a hearing examiner, I currently conduct five to fifteen hearings per month.

C. Expertise:

Land Use Law. I’m fully up to date on the leading edge of developing land use law due to the numerous land use seminars and courses I teach each year. I present two land use case law update webinars every year for the Municipal Research Services Center for an audience of a couple hundred planners, attorneys and municipal officials. I moderate, organize and present at several land use “boot camps” for the Planning Association of Washington every year, which involves a day long program of legal presentations on topical land use issues and “bread and butter” training on recurring land use issues. I do several land use case law presentations every year to professional conferences throughout the state. I’ve written several land use articles for organizations such as the Municipal Research Services Center and the Washington State Bar Association (“WSBA”). I have co-chaired the yearly conference of the Environmental and Land Use Law Section of the WSBA. I’ve also taught several credits of land use law in the graduate program at the University of Washington Department of Urban Design and Planning, covering both constitutional law and Washington’s land use statutory framework. I’ve presented a couple hundred “short courses” for planners and local officials across the state on behalf of the Washington State Department of Commerce to educate local officials on planning and open government laws. Because of this extensive involvement in developing case law, my land use decisions are always consistent with developing judicial and legislative requirements.

Over the years I’ve worked with dozens of local land use codes. As a city attorney I’ve been responsible for the legal review of major code updates, including the land use codes of Edmonds, Monroe, Milton,

Buckley, Index, Gold Bar, Poulsbo and Carnation. As a Hearing Examiner for multiple jurisdictions I've become familiar with those codes as well. For twenty years I have also advised on local code compliance issues to my city attorney clients.

Through my extensive involvement in public education on land use law, I've developed a focus upon my favorite topics – constitutional takings and vesting law. Through my work I've been asked to testify at the state legislature on vesting legislation and I've made numerous presentations on how to write and implement "reasonable use" standards for critical area ordinances.

Environmental Law. My science education enables me to critically assess the scientific evidence that is often disputed in environmental proceedings. I have ruled upon and participated in dozens of SEPA appeals (threshold determinations and EIS adequacy), critical area ordinance reasonable use hearings and compliance issues with the National Environmental Policy Act.

Shoreline Management Act. I have issued hundreds of shoreline decisions for Mason County, San Juan County and the City of Edmonds. Some of my decisions have been appealed to the Shoreline Hearings Board. All decisions have been sustained. Through this work I've accumulated a significant amount of knowledge on shoreline issues, such as aesthetic impacts, shading impacts and protection of endangered fish and eelgrass and kelp.

Code Enforcement. I've been involved in dozens of code enforcement hearings, either as a hearing examiner, city attorney or prosecutor. The code enforcement hearings include dangerous building appeals, zoning code violations, building code violations, stormwater violations and health department violations (including solid waste violations and junk vehicle abatement). I've also written or updated several code enforcement ordinances as a city attorney.

Other Hearings. As a hearing examiner, I've conducted hearings and issued decisions on dangerous dog appeals, street vacations, vehicle impounds, drug property and sex crime forfeitures, rental housing violations, local improvement district formation, building code appeals and business license revocations. As a city attorney, I've been involved in the full spectrum of hearings held by city councils.

D. Compensation:

My hourly rate is \$225/hour with a one hour minimum per day of in person hearings (no minimum time for virtual hearings) and IRS mileage from Seattle. Rick Sepler, my alternate examiner, helps me write decisions when I have too many decisions due at once to meet the ten-day issuance deadline. He also substitutes for me in the very rare occasions when an unexpected conflict or illness prevents me from doing a hearing. His rate is 75% of my rate. In the absence of Mr. Sepler, I would hire other subcontractor planners at Mr. Sepler's rate. Subcontractor attorneys, if ever needed, would have a rate set at 90% of my rate. I would also seek reimbursement for hearing transcription costs. I currently use Rev.com, which charges \$1.50/minute of edited transcripts and \$0.25/minute of computer generated transcripts. Finally, I would seek reimbursement of City business license fees.

Roles/Duties/Approach

My objectives as a hearing examiner are to create and maintain a hearing process that inspires trust in its competency and integrity. I seek to create a system that is accessible and responsible to the public and provides a fair opportunity for all hearing participants to express their concerns and have them addressed in a meaningful way. I believe that an important role of the examiner is to serve as a “translator” of land use law and process so that hearing participants aren’t made to feel that the only way they will be heard is through legal representation. I’m always vigilant in “road mapping” hearings for citizens and am constantly inquiring whether hearing participants understand what is happening. If hearing comments do not appear to be relevant, I will explain the relevant criteria and will work with the hearing participant(s) on ensuring that relevant concerns are placed within the proper regulatory context.

The objectives of my written decisions and recommendations are similar to those of the hearing process. My goals is to issue decisions that are: (1) legally bullet-proof; (2) fair; (3) responsive to the concerns of hearing participants; (4) understandable to lay persons; (5) consistent with past decisions, (6) successful in mitigating all impacts to the extent legally permissible, and (6) reflective of the values of the community as identified in the comprehensive plan and applicable code provisions.

My decisions are thorough. I recognize that courts give deference to the factual findings of an Examiner as well as the Examiner’s interpretation of local ordinances. However, a court cannot provide this deference unless the decision makes very clear what findings and interpretations are made. Also, I will have far more expertise in land use law than any reviewing judge. For these reasons, I provide a detailed written analysis of all significant legal and factual issues, quoting every applicable regulation and precisely identifying why a code criterion is satisfied or not satisfied. This thorough writing style leaves no room for reasonable disagreement from a reviewing judge and provides clarity to all hearing parties.

In terms of what I consider to be a “good result” from a hearing, it is basically a hearing from which all my objectives as described above have been met. I want all hearing participants to feel like they have been treated fairly, that their concerns have been thoroughly understood and addressed, and that ultimately it was worth their time to participate. A great result is that my hearings reflect positively on city government and the citizen participation ideals of local permit review.

Alternate Examiner

Richard Sepler, Mr. Sepler has recently retired from serving as the Community Development Director for the City of Bellingham. He still currently teaches in the graduate program at the University of Washington College of Architecture and Urban Planning. For a few years, Mr. Sepler also served as the hearing examiner for the City of Mount Vernon and McCleary. Mr. Sepler helps write hearing examiner decisions.

Professional References

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