

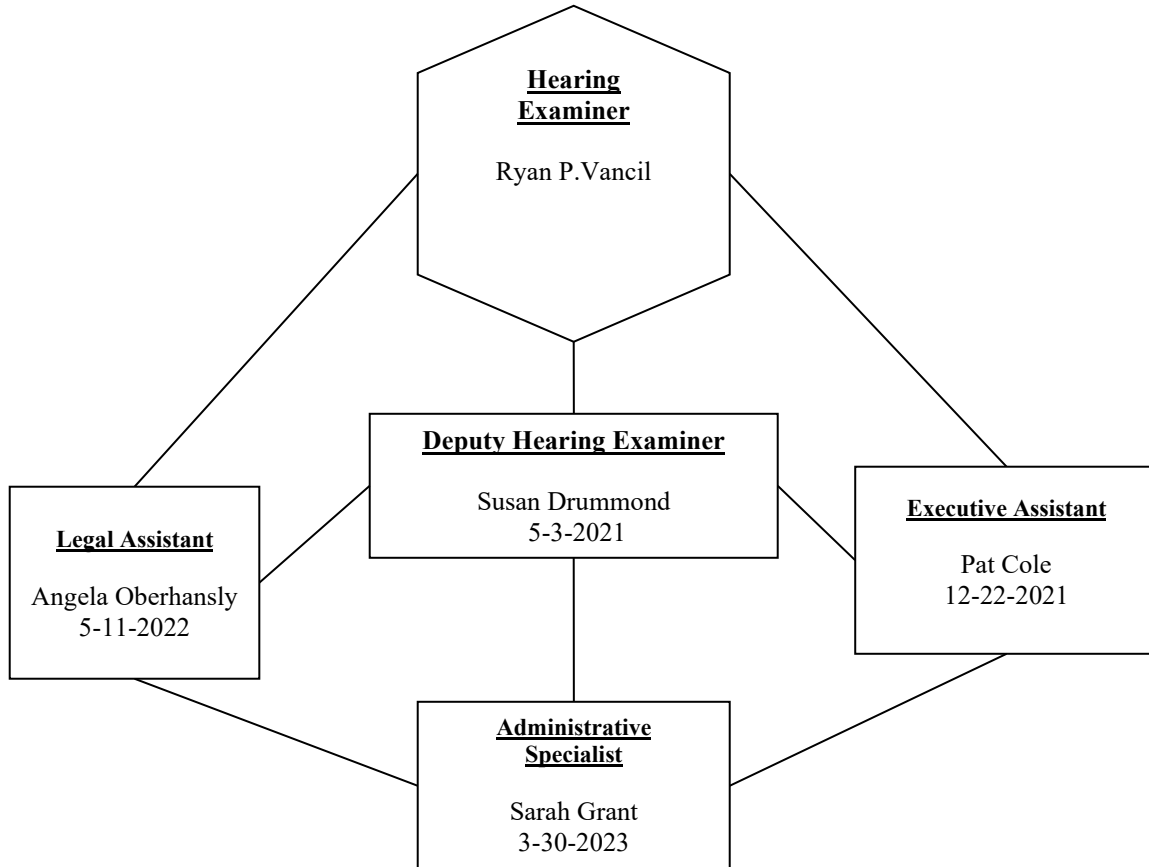
**City of Seattle**



**OFFICE OF HEARING EXAMINER**  
**2022 - 2023**  
**ANNUAL REPORT**

Office of Hearing Examiner  
Seattle Municipal Tower, Suite 4000  
700 5th Avenue  
Seattle, Washington 98104  
Phone: (206) 684-0521  
Fax: (206) 684-0536

## Office of Hearing Examiner Organizational Chart



### Mission and Authority

The mission of the Office of Hearing Examiner (“Office”) is to conduct impartial administrative hearings in matters where jurisdiction has been granted by the Seattle Municipal Code (“Code”) and to issue clear and timely decisions and recommendations that are consistent with applicable law.

The position of Hearing Examiner is established in the Seattle Municipal Code. The City Council appoints the Hearing Examiner, who is responsible for all functions of the office, and is authorized to appoint Deputy Examiners and other staff.

The Office of Hearing Examiner was created in 1973 as a part of the Municipal Court. In 1977, it became a separate and independent City office under Chapter 3.02 of the Seattle Municipal Code. Before the Office was created, some appeals of administrative decisions were heard by the City Council; others went directly to court. Pursuant to authority conferred throughout the Code, the Office of Hearing Examiner now provides an independent hearing forum to review decisions made by numerous City agencies, make initial decisions on some matters, and provide the City Council with recommendations on some types of land use applications.<sup>1</sup>

---

<sup>1</sup> A list of matters within the Hearing Examiner’s jurisdiction is found at pg. 15.

## Contracting

Since 2004, the Hearing Examiner had been authorized by Seattle Municipal Code to provide hearing examiner services to other jurisdictions via contract. Starting in 2018, and continuing into 2021, the office ended contract services to the Cities of Kirkland, Mercer Island, Shoreline, and Tukwila. This change in practice was precipitated by a caseload increase associated with the region’s development boom. In order to focus office resources on the Seattle caseload, contract services were ended.

During the COVID-19 pandemic, our caseload decreased and our new Deputy Hearing Examiner expressed an interest in resuming contract examiner services. We currently provide contract examiner services to three cities: Kirkland, Milton, and Pacific. In 2022, from March through December, we conducted 7 hearings and issued 7 decisions. And, in 2023, from April through September, we conducted 8 hearings and issued 7 decisions.

The Office of Hearing Examiner is a General Fund department. In 2022 and 2023, we deposited nearly \$10,000 and just over \$16,000 respectively, in contracting revenue into the General Fund.

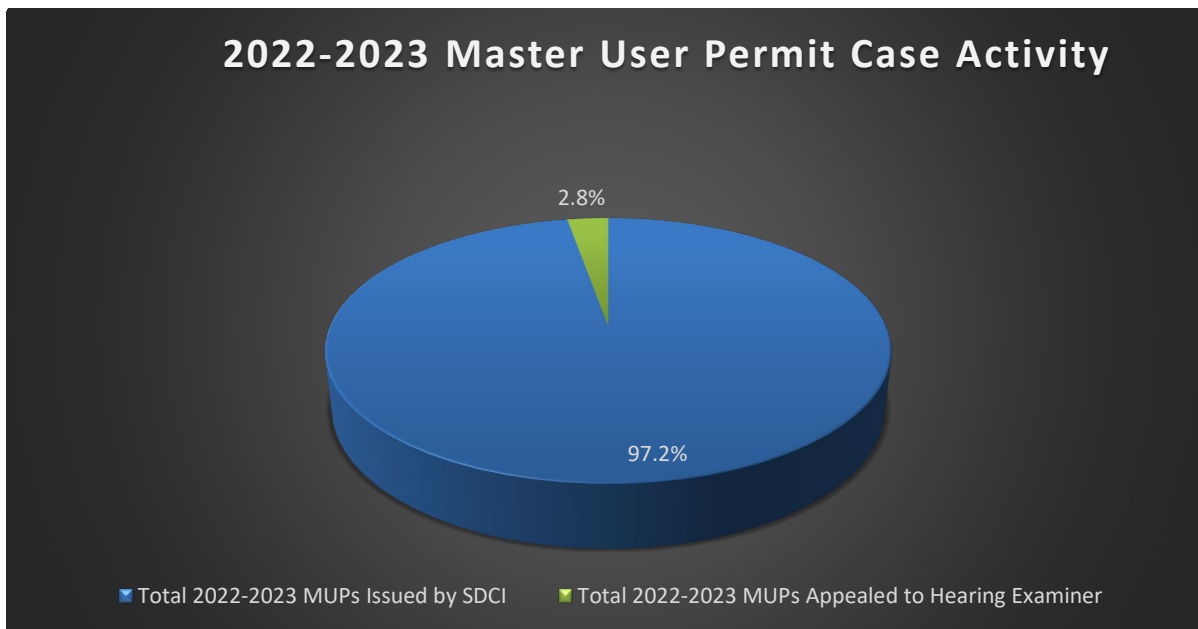
### 2022-2023 Caseload

Table I presents an overview of case activity for 2022 and 2023.

	2023	2022	2021	2020	2019	Previous 5-Yr Average
B & O Tax Appeals	3	0	2	2	9	3.2
Civil Service	1	1	0	0	0	0.4
Council Land Use Actions	3	2	3	3	6	3.4
Dangerous Animals	0	1	2	3	1	1.4
Discrimination	3	1	0	2	2	1.6
Economic Displacement Appeals (landlord)	43	0	0	0	0	8.6
Floating Homes	0	1	0	2	2	1.2
Health Codes	0	0	0	0	2	0.4
Housing and Building Unfit for Habitat	0	0	0	0	1	0.2
Labor Standards	0	0	4	3	4	2.2
Land Use Code Interpretations	0	0	2	5	2	1.8
Landmarks - Special Review Districts	1	0	2	2	0	1
Licensing Appeals	0	1	6	3	3	2.6
Master Use Permits	12	14	24	28	32	22
Noise Variance	0	2	0	0	0	0.4
Public Nuisance Violation Appeals	2	0	0	0	0	0.4
Rental Registration	0	1	0	0	0	0.2
School Development Departure	9	0	0	0	0	1.8
Sepa-Only Appeals (Non Mup)	2	3	7	1	6	3.8
Stop Work	0	1	0	0	0	0.2
Tenant Relocation Assistance Eligibility Appeals	10	13	4	16	13	11.2
Utility Service Appeals-3rd Party Billing	7	7	10	15	3	8.4
Waterfront Local Improvement District	0	0	0	442	0	n/a
<b>Total Without Citations</b>	<b>96</b>	<b>48</b>	<b>66</b>	<b>527</b>	<b>86</b>	<b>164.6</b>
SDCI Land Use Citation Enforcement Actions	147	101	130	128	132	127.6
SDOT Citation Enforcement Actions	248	234	221	141	404	249.6
Marijuana Citation Enforcement Actions	3	0	0	0	2	1.0
Nightlife Noise Enforcement Actions	0	2	0	0	0	0.4
Short Term Rental (FAS)	3	0	0	0	0	0.6
SFD Citation Enforcement Actions	155	135	17	73	0	76.0
<b>Total Citations</b>	<b>556</b>	<b>472</b>	<b>368</b>	<b>342</b>	<b>538</b>	<b>455.2</b>
<b>Grand Total</b>	<b>652</b>	<b>520</b>	<b>434</b>	<b>869</b>	<b>624</b>	<b>619.8</b>

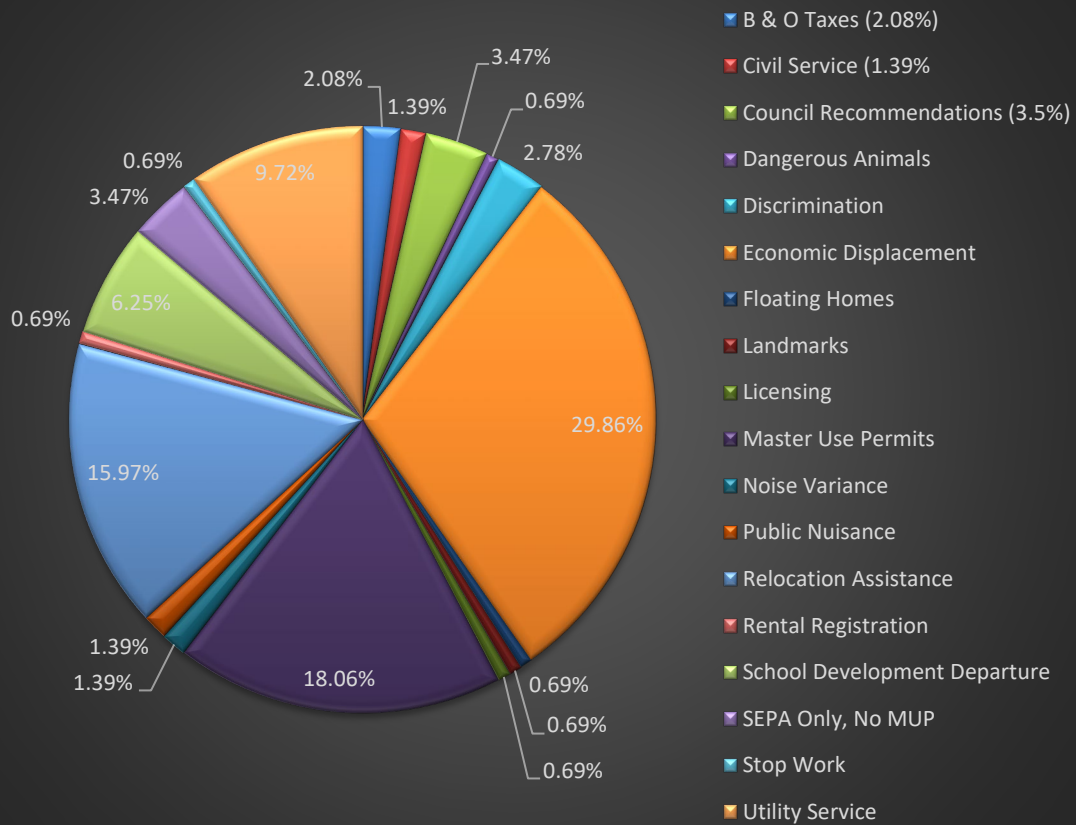
A **Master Use Permit, or “MUP,”** is a document issued to a permit applicant that includes all land-use decisions made by the Seattle Department of Construction and Inspections (“SDCI”) on an application. MUP appeals, as well as SEPA appeals, are some of the most complex matters handled by the Hearing Examiner, as they often involve multiple parties, complicated facts, substantial controversy, several days for hearings, and considerable time for research, review, and decision-writing. The number of MUP appeals filed was 37 in 2017, 31 in 2018, 32 were filed in 2019, 28 were filed in 2020 in the midst of the Covid-19 Pandemic, 24 in 2021, and down to 14 and 12, respectively in 2022 and 2023.

The Seattle Department of Construction and Inspections issued 526 MUPs in 2022 and 380 MUPs in 2023. In most years, approximately 3% to 4% of MUPs are appealed to the Hearing Examiner. The appeal rate in 2022 was about 2.7% and about 3.2% in 2023.



“**SEPA-only**” appeals are appeals of environmental determinations made for two types of proposals: 1) proposals, such as legislation, that do not require a MUP or Council land use decision; and 2) proposals that require a MUP or a Council land use decision, but a department other than SDCI makes the environmental determination on the proposal. SEPA-only appeals have fluctuated from year to year. In 2018, we received 14 SEPA appeals, a significant increase over the previous 5-year average. In 2019 the number of appeals dropped by more than half as only six such appeals were filed. In 2020 only one SEPA-only appeal was filed. In 2021 SEPA-only appeals rebounded and seven were filed, it then dipped to three appeal filings in 2022 and held steady in 2023 with two SEPA-only appeals filed.

## 2022-2023 Non-Citation Cases Filed by Type



### Citation Enforcement Cases Filed

Citation enforcement cases follow a unique procedure, and we track them separately from other categories of cases. When a citation is issued, a copy is sent to the Office of Hearing Examiner. In addition, some citations are uploaded, from two separate City tracking systems, into the Office of Hearing Examiner’s electronic case management system. If someone files an appeal of a citation, it is removed from the others and set up for an appeal hearing and decision. For citations that are neither paid nor appealed, the Hearing Examiner sends out Code-required orders of default, which note the failure of the party to respond, find that the violation has been committed, and impose the prescribed penalty.

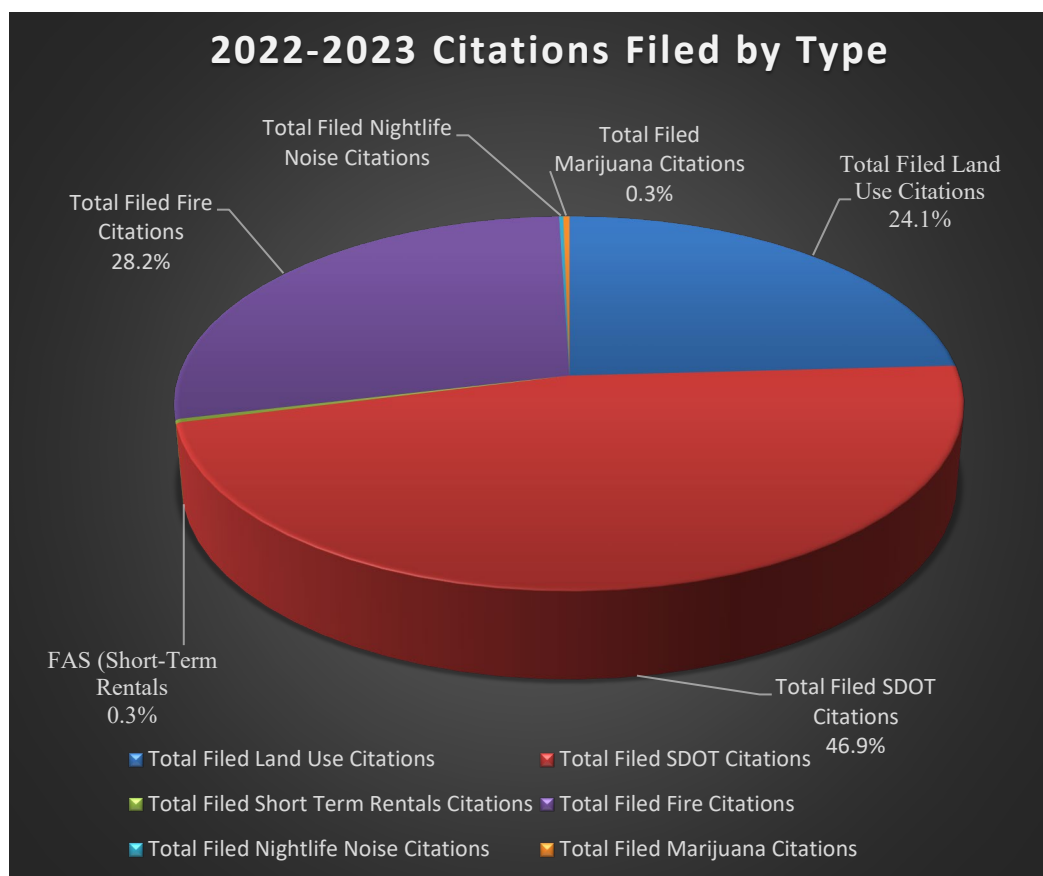
The total number of **Land Use Citations (combined Land Use Code and Noise Code citations)** was 128 in 2020, which remained steady 130 citation in 2021. 2022 saw a decrease to 101 citations and rose to 147 in 2023. These numbers remain low compared to the number of citations in years previous to 2018, which averaged over 300.



**Marijuana citation** appeals were reduced to two filed in 2019 and zero filed in 2020, 2021, and 2022. While marijuana businesses seem to have mostly come into compliance since the time of licensing for such businesses passed into legislation, there were three appeals filed in 2023.

**Seattle Department of Transportation (“SDOT”)** citations were fairly equal from 402 in 2018 to 404 in 2019. Only 141 citations were processed in 2020, 221 in 2021, 234 in 2022, and 248 in 2023, still reflecting the impact from the Covid-19 Pandemic.

In fall 2019, the Council passed legislation allowing the **Seattle Fire Department (“SFD”)** to issue citations concerning Fire Code violations, including frequent false alarms, failure to maintain fire alarms and sprinklers, and failure to maintain exits free from obstructions. That same legislation allows for appeals of citations to the Office of Hearing Examiner, and for the Office to provide administrative support to SFD by processing payments and citation database management. In early 2020 the Office started receiving its first SFD citations and processed a total of 73 SFD citations, this number was reduced to 17 in 2021, and rose significantly in 2022 and 2023 to 135 and 155 citations, respectively.



## **Prehearing, Hearing, and Decision Activity**

**Prehearing Conferences.** Under the Hearing Examiner Rules, prehearing conferences can be held at the request of a party to a case or the direction of the Hearing Examiner. The prehearing conference is used to organize and prepare a case for hearing, including clarifying the issues to be addressed, facilitating disclosure of each party's intended witnesses and exhibits, establishing a case schedule for prehearing motions, and other matters. Following the conference, the Examiner normally prepares a prehearing order memorializing any agreements reached, rulings made at the conference, and dates set for the hearing schedule. Prehearing conferences are usually held in MUP, SEPA, tax, dangerous animal, discrimination, and third-party billing cases and are scheduled in other types of cases as needed. They occasionally provide the catalyst for the eventual settlement of a case, as the parties are asked if they have considered mediation or settlement, and may work during the conference to clarify the issues underlying the appeal and often stay for additional private discussions after the Hearing Examiner leaves the room.

**Prehearing Decisions.** Prehearing motions are frequently filed in MUP, SEPA, landmark, interpretation, and tax cases, and on SEPA or design review issues in some Council recommendation cases. Most concern substantive or procedural legal issues that the parties address in written memoranda. They usually require legal research and a written decision by the Examiner, and sometimes, but do not always, require a separate hearing. Decisions on prehearing motions affect whether, and how, a case proceeds to hearing by narrowing the issues or determining in advance whether certain testimony or evidence will be admissible at hearing. Consequently, most prehearing decisions can be appealed to court as part of an appeal of the final decision in a case. Because work on prehearing decisions involves considerable Examiner time, the Office of Hearing Examiner includes the orders in the "decisions issued" category of annual statistics.

**Hearings.** The length of a hearing before the Hearing Examiner depends upon many variables, such as the type and complexity of a case, the number of witnesses, and the parties' level of preparation and expertise in the subject area. Consequently, one case may take an hour to hear, while another may require several hours, or several days. Because of the great variety in the types of cases that come before the Office of Hearing Examiner, we do not track the number of hearing hours or hearing days per case. All dates dedicated to a hearing are counted together as one hearing regardless of the time involved.

**Total decisions.** As noted above, total decisions include decisions issued after a full evidentiary hearing and those issued following submittal of legal memoranda and exhibits, and sometimes oral argument, on the party's prehearing motions. In 2022, the Office of Hearing Examiner issued 21 decisions and 56 decisions were issued in 2023.

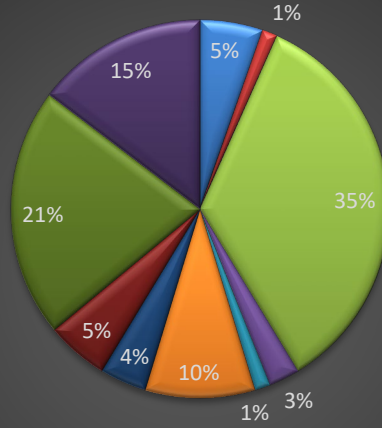
**Table 2 – CASE ACTIVITY SUMMARY**

	2022 and 2023 Cases Filed				2022 and 2023 Case Disposition			
	Pending Appeals at Start of Year	Cases Filed	Total Caseload	Cases Heard**	Decisions Issued**	Cases Dismissed (No Hearing)***	Defaults Issued (Untimely)	Pending Appeals at End of Year
B&O Tax Appeals	0	3	3	0	0	2	1	0
Civil Service Appeals	0	2	2	0	0	2	0	0
Council Land Use Actions	0	5	5	5	5	0	0	0
Dangerous Animals Appeals	0	1	1	1	1	0	0	0
Discrimination Complaints	0	4	4	1	1	2	0	1
Economic Displacement Relocation Assistance	0	43	43	28	26	13	0	4
Floating Homes Petitions	0	1	1	0	0	1	0	0
Health Codes	1	0	1	0	0	1	0	0
Labor Standards Appeals	3	0	3	0	0	0	0	3
Land Use Code Interpretations	1	0	1	0	0	1	0	0
Landmarks	2	1	3	1	2	1	0	0
Licensing Appeals	0	1	1	1	1	0	0	0
Master Use Permits	0	26	26	11	8	13	0	5
Noise Variance Appeals	0	2	2	1	1	1	0	0
Public Nuisance Appeals	0	2	2	1	0	0	0	2
Rental Registration	0	1	1	0	0	1	0	0
School Development Departure Appeals	0	9	9	8	3	2	0	0
Sepa-Only Appeals (Non Mup)	1	5	6	3	2	3	0	1
Stop Work Appeals	0	1	1	0	0	1	0	0
Tenant Relocation Assistance Eligibility Appeals	0	23	23	17	17	6	0	0
Utility Service Complaints	6	14	20	9	10	5	0	0
<b>Total</b>	<b>14</b>	<b>144</b>	<b>158</b>	<b>87</b>	<b>77</b>	<b>55</b>	<b>1</b>	<b>16</b>
Land Use Citation Enforcement Actions	15	248	263	24	23	74	134	32
FAS Short Term Rental Enforcement Actions	0	3	3	0	0	0	0	3
FAS Marijuana Enforcement Actions	0	3	3	1	1	1	0	1
Nightlife Noise Citation Enforcement Actions	0	2	2	2	2	0	0	0
SDOT Citation Enforcement Actions	13	482	495	28	28	103	334	30
SFD Citation Enforcement Action	3	290	293	11	14	100	174	5
<b>Total Citations</b>	<b>31</b>	<b>1028</b>	<b>1059</b>	<b>66</b>	<b>68</b>	<b>278</b>	<b>642</b>	<b>71</b>
<b>Total Including Citations</b>	<b>45</b>	<b>1172</b>	<b>1217</b>	<b>153</b>	<b>145</b>	<b>333</b>	<b>643</b>	<b>87</b>

\*Indicates some cases in category may have multiple hearings or decisions/\*\* Indicates some cases in category were pending from prior years or will carry-over into subsequent years /\*\*\*Indicates rescinded citations, posthumous dismissals, or fines paid prior to default.

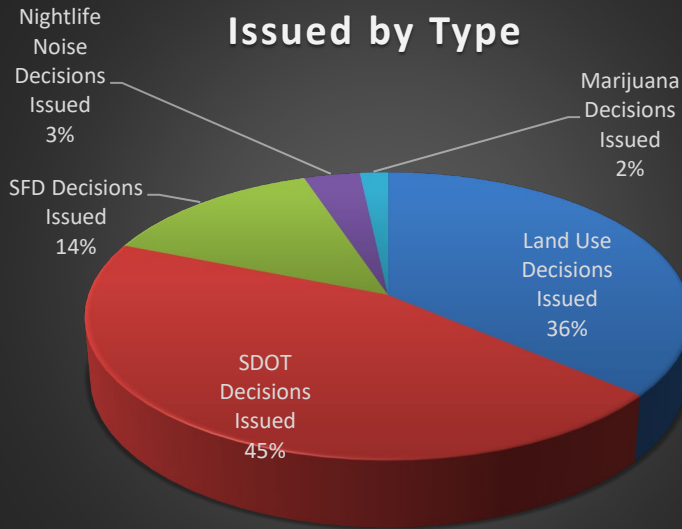


## 2022-2023 Non-Citation Decisions Issued by Type



- Council Land Use Action
- Economic Displacement
- Licensing
- School Development Departure
- Tenant Relocation Assistance
- Discrimination
- Landmarks
- Master Use Permits
- SEPA only, No MUP
- Utility Service

## 2022-2023 Citation Decisions Issued by Type



## Disposition of Appeals to the Hearing Examiner

At the request of the Council, the Office of Hearing Examiner includes in the Annual Report a breakdown of the outcome of cases appealed to the Hearing Examiner. Table 3 shows the disposition of appeals by type of case, and is followed by an explanation of the standard of review required in each type.

In appeals for which the Examiner issued a final order or decision, the Examiner affirmed the Department’s decision without change approximately 41% of the time, remanded or modified the Department’s decision approximately 15% of the time, reversed the Department’s decision approximately 1% of the time, and dismissed the appeal on procedural grounds approximately 41% of the time.

**Table 3 - DISPOSITION OF APPEALS\***

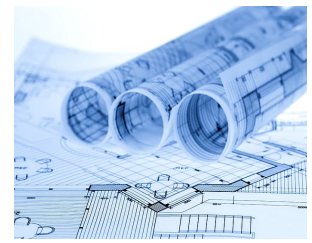
	Affirmed	Affirmed as Modified	Affirmed , Penalty Mitigated	Denied	Dismissed	Rescinded	Reversed	Remanded	Sustained	Total
Economic Displacement Relocation Appeals	15	0	0	4	1	0	6	0	0	26
Landmarks	0	0	0	0	0	0	2	0	0	2
Licensing Appeals	1	0	0	0	0	0	0	0	0	1
Master Use Permits	3	0	2	1	1	0	0	0	0	7
Seпа-Only Appeals (Non Mup)	2	0	0	0	0	0	0	0	0	2
Tenant Relocation Assistance Eligibility Appeals	6	0	0	0	3	0	4	3	1	17
<b>Total Without Citations</b>	<b>27</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>12</b>	<b>3</b>	<b>1</b>	<b>55</b>
Land Use Citation Enforcement Actions	3	0	12	0	6	0	2	0	0	23
FAS Marijuana Citation Enforcement Actions	0	0	1	0	0	0	0	0	0	1
Nightlife Noise Enforcement Actions	0	0	1	0	1	0	0	0	0	2
SDOT Citation Enforcement Actions	5	0	16	0	4	0	1	0	1	27
SFD Citation Enforcement Actions	9	0	5	0	0	0	0	0	0	14
<b>Total Citations</b>	<b>17</b>	<b>0</b>	<b>35</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>67</b>
<b>Total Including Citations</b>	<b>44</b>	<b>0</b>	<b>37</b>	<b>5</b>	<b>16</b>	<b>0</b>	<b>15</b>	<b>3</b>	<b>2</b>	<b>122</b>

\*Includes only final decision on appeals. Does not include subdivision applications, third party billing complaints or recommendation to the City Council

### Jurisdiction

Appeals. The Office of Hearing Examiner tracks all cases that come into the Office as “Cases Filed.” The most numerous of these are appeals of decisions made by other City agencies, such as: 1) the Seattle Department of Construction and Inspections (master use permits, SEPA determinations, Land Use Code interpretations, land use and noise enforcement citations, and decisions on tenant relocation assistance); 2) the Office of Planning and Community Development (SEPA determinations on programmatic initiatives, such as comprehensive plan amendments and area-wide rezones); 3) the Department of Finance and Administrative Services (tax assessments, licensing decisions, and marijuana citations); 4) the Office of Labor Standards (decisions on alleged violations of City ordinances on paid sick and safe leave, minimum wage, wage theft, and use of criminal history in hiring); and 5) the Seattle Department of Transportation (citations related to right-of-way use).

Original Jurisdiction. In cases where the Hearing Examiner has original jurisdiction, the Examiner makes the initial decision in a case rather than reviewing another department's decision. Original jurisdiction cases include: 1) subdivision applications processed by the Seattle Department of Construction and Inspections; 2) complaints filed by the Office for Civil Rights and Seattle City Attorney's Office for discrimination in employment, housing, public accommodation, or public contracts; 3) complaints for third party utility billing violations; 4) petitions for review of floating home moorage fee increases; and several others.



Recommendations. The City Council has retained jurisdiction over certain land use actions, including Council conditional uses, rezone proposals, major institution master plans, planned unit developments, and landmark controls and incentives. For these cases, the Examiner holds a public hearing for the Council, gathers information to establish the record, and forwards the record and detailed written findings, conclusions and recommendation to the Council for its use in making the decision.

### **Judicial Appeals of Hearing Examiner Decisions**

At the request of the City Council, and with the assistance of the City Attorney's Office, the Office of Hearing Examiner tracks the results of judicial appeals of Hearing Examiner decisions. The following cases were appealed in 2023:

In *Seattle Housing Authority v. City of Seattle*, Superior Court # 23-2-19329-6 SEA Seattle Housing Authority appealed the Examiner's decision to uphold citations issued to it by the Seattle Fire Department for a large number of false fire alarms. Aspects of this matter currently remain in process in King County Superior Court. However, the appeal of the Hearing Examiner decision, the Petition for Writ of Review, has been dismissed in this case. The surviving cause of action, the Complaint for Declaratory Relief, is not an appeal of the hearing examiner. (Cit. PFA-23Q1-001, 008 & Cit. PFA-22Q3-004, 006, 010, 018)

In *Hodzic v. City of Seattle*, Superior Court # 23-2-00180-0 SEA Haris and Spomenka Hodzic appealed the Examiner's decision to grant a motion to dismiss their appeal. The appeal concerned the Department's approval of a land use permit allowing a single family residence. Appellants requested review of the project property's legal description based on the contention that a portion of the lot should have been previously dedicated to the City for right of way purposes. The Examiner determined that this issue was outside the scope of a Type II Special Exception, and was therefore not within the jurisdiction of the Hearing Examiner to hear. King County Superior Court dismissed the appeal. (MUP-22-010)

In *Jacqueline Szikszoy et. al. v. City of Seattle*, Superior Court # 23-2-16503-9 SEA neighbors to a proposed Seattle School District project appealed the Examiner's decision denying their appeal. The Superior Court dismissed the appeals on summary judgment. (SDD-23-003, 004, 006, 008)

## **Case Highlights**



Each year includes cases that are noteworthy, either because of the controversy surrounding them or because they present important issues in the application of the Seattle Municipal Code or other regulations. The brief, case descriptions that follow highlight some of these cases that came before the Hearing Examiner in 2023. (The complete decision or recommendation can be found through the “Decisions” link at [www.seattle.gov/examiner](http://www.seattle.gov/examiner) using the Hearing Examiner case number included after each case name below.)

### ***Seattle Mobility Coalition W-23-001***

The City of Seattle Council Central Staff Division of the City Council issued a State Environmental Policy Act Determination (“SEPA”) of Non-Significance for a proposed ordinance that would modify the Seattle Comprehensive Plan to make provisions for a transportation impact fee program. The Seattle Mobility Coalition appealed. The appeal alleged inadequacy with the City’s environmental review, with a strong emphasis on arguing that the City failed to fulfill SEPA’s procedural requirements, and that the City had failed to consider specific significant environmental impacts that would result from the proposed legislation. Appellant’s arguments at hearing placed a heavy emphasis on alleged significant environmental impacts to housing. The Examiner denied the appeal, finding that the City had fulfilled the basic procedural requirements of SEPA, and that the Appellant had failed to demonstrate that there would be any significant negative environmental impacts to housing or otherwise.

### ***Baja Concrete, Newway Forming Inc., and Antonio Machado LS-21-002, -003, and -004***

Baja Concrete USA Corp. and other parties filed appeals of a final order entered by the Office of Labor Standards (“OLS”), finding that those parties had violated the Seattle Municipal Code, including the Wage Theft Ordinance, SMC 14.20; Minimum Wage Ordinance, SMC 14.19; and, the Paid Sick and Safe Time Ordinance, SMC 14.16. OLS required various measures for the parties to come into compliance and a financial remedy of \$ 2,225,990.30. The matter was heard over fourteen days of hearing between June 12, 2023 and September 20, 2023. At issue was the arrangement for a large group of concrete laborers (largely brought into the United States for purposes of their labor) to provide work without being provided sick leave, over-time pay and other required benefits and compensation. The Appellants largely did not argue at hearing that the violations of the Code had occurred, and instead focused on denying responsibility, which would shift liability to the other Appellants. The Examiner affirmed the OLS order with regard to Baja Concrete USA Corp. and Newway Forming Inc., but reversed the order with regard to Antonio Machado as OLS did not demonstrate that he was an employer of the laborers.

### ***Szikszoj, et al. SDD-23-003; SDD-23-004; SDD-23-006; SDD-23-008***

The Department of Construction and Inspections approved Seattle Public School’s Alki Elementary redevelopment. The new school will accommodate 542 student and 75 staff members. Multiple appeals were filed and consolidated. The appellants supported the project, but raised various design concerns, including on parking adequacy. Most of Seattle’s primary and secondary schools are within residential zones. Typically, schools do not meet all underlying zoning requirements so the code allows land use code departures if established criteria are met. The Department approved seven departures related to parking, bus loading, curb cuts, bicycle parking, and a changing image electronic sign. The Examiner upheld all departures except for parking. Although the code would have required 48 spaces, no parking was proposed. On-site parking had previously provided 20 spaces, coupled with an area with 27 spaces for school events. The parking departure was reversed based on several considerations. These included on-site demand for 26-45 vehicles, the

neighborhood's cramped conditions and the school's location proximate to Alki Beach, a regional recreational draw. The area's unique parking constraints are recognized in code through the Alki Area Parking Overlay, with its higher minimum parking requirements than is otherwise typical. The other departures were upheld.

***Seattle Housing Authority SFD Cit. PFA-23Q1-001, 008; SFD Cit. PFA-22Q3-004, 006, 010, and 018***

The Seattle Fire Department issued six citations identifying 57 preventable false fire alarms at six Seattle Housing Authority ("SHA") properties. SHA appealed. The Fire Department detailed the circumstances surrounding each call, which involved malicious pulls, cooking events, or mechanical failures. The Department identified measures to prevent these calls. The Department's penalties were \$746 or \$900 for each of the six properties. The citations were issued after warnings and attempts to work with SHA to resolve these issues. Although the citations addressed 57 preventable false fire alarms, the Fire Department documented 540 such SHA calls since 2019. SHA's principle argument was that it was incapable of addressing the situation as third party tenants and contractors were involved. The Department outlined the measures SHA could take to alleviate the situation, including proper system maintenance, mechanical improvements, and tenant and contractor training. The Examiner determined SHA had not substantiated its asserted inability to reduce preventable false fire alarm calls. The citations were upheld.

***In the Matter of the Appeal of Novak, EDRA-23-016***

The Department of Construction and Inspections determined a tenant was eligible for assistance under the Economic Displacement and Relocation Assistance Ordinance, Chapter 22.212 SMC ("EDRA"). EDRA provides low-income tenants relocation assistance when they must relocate due to a 10% or more rent increase. The landlord appealed, arguing that while over the past year, there was an increase of over 10%, but if rents are averaged over a four-year period, the average increase was less than 4%, and the rental remains below market. These facts were not disputed. EDRA does not provide for balancing in these types of circumstances, so the Examiner upheld the Department. Most EDRA cases have not presented this unique issue where multi-year increases, if averaged, are below the 10% threshold and a landlord is purposefully keeping rents below market to retain good tenants.

## **ADMINISTRATIVE SECTION**

### **Accessibility**

An administrative hearing before the Hearing Examiner is a quasi-judicial process that involves the application of existing law and policy to the specific facts of a case. Constitutionally guaranteed due process requires procedural safeguards for those whose rights are affected by the outcome of the case. The hearing format resembles an informal court proceeding and is structured to provide a fair opportunity for each party to participate while also reflecting the seriousness of the matters appealed for those involved.

The Office of Hearing Examiner uses various tools to make the appeal and hearing processes understandable and more accessible while at the same time protecting the rights of parties and fulfilling legal requirements. Examples include: a "Public Guide," which is a booklet that explains the hearing process in a question and answer format; "fill-in-the-blanks" appeal forms; an explanatory letter that is sent along with the notice of hearing in each case; sample forms for use in cases before the Examiner, and two pocket-sized pamphlets that include basic information about the hearing process and are available from our website, and at the Office. In addition, the Office's pamphlet on code enforcement citation hearings is included with each citation issued by SDCI and SDOT. If appropriate, an information card in one of the City's seven core languages is also handed out with the citation. The card explains what basic hearing-related information is available from the Office of Hearing Examiner.

In 2019 the Office continued to expand access to the Office for individuals for whom English is not their first language. Language interpreters are provided for appeal hearings when requested. The form for filing Land Use and SEPA appeals has been translated into the City’s seven core languages, and appellants may file an appeal in the language of the form. Information pamphlets concerning Third-Party Utility Billing appeals were also translated into the City’s seven core languages. As funding is made available, the Office will continue to have materials translated until all primary office materials can be accessed in the City’s seven core languages. LanguageLine Solutions interpretation services are now provided to



individuals utilizing the Office.

Four assisted listening devices have been purchased and are made available for use by participants or audience members during hearings proceedings.

The Office accepts credit and debit cards for payment of filing fees and citation penalties, and we are the only hearing examiner office in the state to offer the option of electronic filing of appeals and subsequent documents in our cases. This is provided through a portal on the Office of Hearing Examiner website. We also provide 24-hour public access to our case files, including recordings of hearings, through the website. A Listserv on the website allows people to receive updates on proposed rule changes and other matters. We also solicit feedback from everyone who participates in a hearing. Our “Customer Satisfaction Survey” is available on-line as well as in the office and hearing rooms; it is also administered quarterly via SurveyMonkey and may be submitted anonymously through these forums.

Hearing Examiner decisions dating back to 1990 are available in a searchable database through a link on the Hearing Examiner’s website at [www.seattle.gov/examiner](http://www.seattle.gov/examiner). Although not searchable, decisions prior to 1990 are available by year on the website, which also includes the Hearing Examiner Rules, the “Public Guide,” appeal forms and fee and payment information, information on mediation of cases, public records request information, other information, and links to the Seattle Municipal Code and other resources relevant to matters that come before the Hearing Examiner.



## HEARING EXAMINER JURISDICTIONS

### LAND USE & ENVIRONMENTAL [Administered by Department of Construction and Inspections]

#### Appeals:

Downtown Housing Maintenance (SMC 22.220.140)  
Denial or Revocation of Rental Housing Registration (SMC 22.214.045)  
Environmental Determinations (SMC 25.05.680)[Admin. by any City dept. as lead agency]  
Environmentally Critical Areas  
    Conditional Use (SMC 25.09.260)  
    Reasonable Use Exception (SMC 25.09.300)  
    Variance (SMC 25.09.160.C, 25.09.280)  
Habitable Building Standards Variances (SMC 22.206.217)  
Housing & Building Maintenance Code Violations (SMC 22.208.050)  
Land Use Code Citations (SMC 23.91.006, 23.91.010, 23.91.012)  
Land Use Code Interpretations (SMC 23.88.020)  
Land Use Regulations (SMC 23.47A.004)  
Adult Cabarets (SMC 23.49.030)  
Land Use Regulations – Industrial (SMC23.50.012)  
Land Use Regulations – Affordable Housing Impact Mitigation Program for Commercial Development – (SMC 23.58B.030)  
Land Use Regulations – Mandatory Housing Affordability for Residential Development (SMC 23.58C.035)  
Land Use Regulations – Seattle Shoreline Master Program Regulations (SMC 23.60A.064, 23. A.202, 23.60A.203, 23.60A.204, 23.60A.214)  
Land Use Regulations – Station Area Overlay District (SMC 23.61.016)  
Land Use Regulations – Master Planned Communities (SMC 23.75.085, 23.75.120)  
Master Use Permit [Type II] decisions (SMC 23.76.06, SMC 23.76.022):  
    Administrative Conditional Uses  
    Consistency with Planned Action Ordinance and EIS  
    Design Review  
    Downtown Planned Community Developments  
    Establishing Light Rail Transit Facilities  
    Establishing Monorail Transit Facilities  
    Major Phased Developments  
    Short Subdivisions  
    Special Exceptions  
    Temporary Uses  
    Variances  
Noise Code Variances (SMC 25.08.590, 25.08.610, SMC 25.08.655)  
Noise Code Citations (SMC 25.08.900, 25.08.910, 25.08.920, 25.08.930, 25.08.940, 25.08.950)  
Pioneer Square Minimum Maintenance Violations (SMC 25.28.280, 25.28.300, 25,28.310)  
Relocation Assistance: (City action causes displacement) (SMC 20.84.225, SMC 20.84.640)  
Stop Work Orders (SMC 23.76.034)  
Stormwater, Grading & Drainage exceptions (SMC 22.800.040)  
Tenant Relocation Assistance Eligibility Determinations (SMC 22.210.100, 22.210.110, 22.210.120, 22.210.150, 22.210.160)  
Weed and Vegetation Citations (SMC 10.52.031, 10.52.032, 10.52.034, 10.52.035, 10.52.034, 10.52.036)  
[Admin. by SDCI]

Land use decisions on Type III applications

Subdivisions (SMC 23.76.024 and SMC 23.22.054)

Recommendations to City Council on Type IV applications (SMC 23.76.036, SMC 23.76.052, SMC 23.76.054):

Council Conditional Uses

Major Amendment to Property Use and Development Agreement (SMC 23.76.058)

Major Institution Master Plans (SMC 23.69.030)

Public Facilities (SMC 23.69.032)

Rezone Applications (SMC 23.34)

**SCHOOL REUSE & DEPARTURES** [Administered by Department of Neighborhoods]

School Development Standard Departures (SMC 23.79.012) within MUP decision

School Reuse/SUAC (SMC 23.78.014) within MUP decision

**CIVIL RIGHTS** [Administered by the Office for Civil Rights]

Employment Discrimination Complaints (SMC 14.04.150, 14.04.170, 14.04.180, 14.04.185)

Unfair Public Accommodations Practices (SMC 14.06.040, 14.06.110, 14.06.120, 14.06.130, 14.06.140)

All-Gender Single-Occupant Restrooms Requirements (SMC 14.07.040)

Fair Housing (SMC 14.08.170, 14.08.180, 14.08.200)

Use of Criminal Records in Housing (SMC 14.09.085, 14.09.090,

Fair Contracting Practices (SMC 14.10.120, 14.10.130, 14.10.140, 14.10.150)

Paid Sick/Safe Leave Appeals (SMC 14.16.050, 14.16.070, 14.16.085, 14.16.090, 14.16.100, 14.16.105)

Fair Chance Employment Appeals (SMC 14.17.045, 14.17.060, 14.17.065, 14.17.075, 14.17.080)

Minimum Wage Appeals (SMC 14.19.050, 14.19.070, 14.19.085, 14.19.090, 14.19.100, 14.19.105)

Wage Theft Appeals (SMC 14.20.030, 14.20.050, 14.20.065, 14.20.070, 14.20.080, 14.20.085)

The Use of Conversion Therapy on Minors (SMC 14.21.050)

Secure Scheduling (SMC 14.22.065, 14.22.085, 14.22.100, 14.22.105, 14.22.115, 14.22.120)

Domestic Workers (SMC 14.23.095, 14.23.095, 14.23.100, 14.23.105, 14.23.115, 14.23.120)

Protecting Hotel Employees from Violent or Harassing Conduct (SMC 14.26.150, 14.26.170, 14.26.180, 14.26.210, 14.26.220)

Protecting Hotel Employees from Injury (SMC 14.27.150, 14.27.170, 14.27.180, 14.27.190, 14.27.210, 14.27.220)

Improving Access to Medical Care for Hotel Employees (SMC 14.28.150, 14.28.170, 14.28.180, 14.28.210, 14.28.220)

Hotel Employees Job Retention (SMC 14.29.170, 14.29.180, 14.29.190, 14.29.210, 14.29.220)

**LANDMARKS AND SPECIAL DISTRICTS** [Administered by the Dept. of Neighborhoods]

Certificates of Approval for Designated Landmarks (SMC 25.12.740)

Factors to be considered by Board or Hearing Examiner (SMC 25.12.750)

Hearing Examiner procedure (SMC 25.12.760)

Landmark Controls & Incentives (SMC 25.12.530) [Recommendations to City Council]

Owner's objections to Board's recommendation (SMC 25.12.535)

Scheduling of hearing (SMC 25.12.540)

Hearing Examiner procedure (SMC 25.12.560)

Basis for Hearing Examiner's recommendations. (SMC 25.12.570)

Hearing Examiner recommendations – Referral to Council (SMC 25.12.610)

Service of notices (SMC 25.12.840)

Landmarks Code Interpretations (SMC 25.12.845)

Conformance with general development (SMC 25.12.980)



Special Review Districts' Certificate of Approval and Code Interpretations  
Certificate of Approval – Application, review and appeals (23.66.030)  
Ballard Avenue Landmark District (SMC 25.16.110 & SMC 25.16.115)  
Columbia City Landmark District (SMC 25.20.110 & SMC 25.20.115)  
Fort Lawton Landmark District (SMC 25.21.110, 25.21.130 & 25.21.135)  
Harvard Belmont Landmark District (SMC 25.21.110, 25.22.130 & SMC 25.22.135)  
International District (25.24.080 & 25.24.085)  
Pike Place Market Historical District (SMC 25.24.080 & SMC 25.24.085)  
Pioneer Square Historical District (SMC 25.28.280, 25.28.300, 25.28.310)  
Sand Point Naval Air Station Landmark District (SMC 25.30.090, 25.30.110, 25.30.120)

## **HEALTH AND PUBLIC SAFETY CODE VIOLATIONS**

Graffiti Nuisance Violations (SMC 10.07.050) [Administered by Seattle Public Utilities]  
Health Code Permit Actions (SMC 10.01.220) [Admin. by Seattle-King County Public Health]  
Infectious Waste Management Ordinance Violations (SMC 211431090) [Admin. by Seattle-King County Public Health]  
Public Nuisance Abatements (SMC 10.09.100) [Administered by Seattle Police Department]  
Frozen Dairy Food Products (SMC 10.18.140) [Administered by Seattle-King County Public Health]  
Noise Variance (SMC25.08.610)  
Radiofrequency Radiation Ordinance Violations (SMC 25.10.540) [Admin. by Seattle-King County Public Health]  
Corrosion Prevention (SMC21.08.350, 21.08.360) [Admin. By Seattle-King County Public Health]

## **CITY TAXES AND LICENSES [Admin. by Financial and Admin. Serv., Revenue & Consumer Affairs]:**

Admission Tax Exemptions (SMC 5.40.028, SMC 5.40.085)  
All Ages Dance and Venues (SMC 6.295.180)  
Bond Claims (SMC 6.202.290)  
Business and Occupation and other Tax Assessments (SMC 5.55.140, 5.55.150, 5.55.230)  
Income Tax on High-Income residents (SMC 5.65.160, 5.65.170, 5.65.230)  
Multifamily Housing Property Tax Exemption (SMC 5.72.110)  
2004 Multifamily Housing Property Tax Exemption Program (SMC 5.73.110)  
Horse Drawn Carriage Licenses (SMC 6.315.430)  
License Denials, Suspensions & revocations (SMC 5.55.230, SMC 6.02.080, SMC 6.02.285, SMC 6.214.320, SMC 6.02.290, SMC 6.202.240, SMC 6.202.270, Chap. 6.500 SMC, SMC 6.10.120, SMC 6.10.130, 6.208.020, 6.214.320, 6.295.160, 6.295.180)  
Animal Control:  
    Animal License Denials (SMC 9.25.120)  
    Determinations of Viciousness/Order of Humane Disposal (SMC 9.25.036)  
Adult Entertainment (SMC 6.270)  
For-Hire Vehicles & Drivers (SMC 6.310.635, 6.310.735)  
Gas Piping (SMC 6.430.210)  
Panorama and Peepshows (SMC 6.42.080)  
Refrigeration Systems (SMC 6.410.210)  
Steam Engineers and Boiler Fireman (SMC 6.420.210)  
Unit Pricing (SMC 7.12.090)  
Marijuana Business License Citations (SMC 6.500.147, 6.500.150, 6.500.170)  
Short-Term Rentals 6.600.120)

**CABLE COMMUNICATIONS** – [Administered by the Office of Cable Communications]  
Franchise Termination (SMC 21.60.120)

**MISCELLANEOUS JURISDICTIONS**

Civil Service Appeals (SMC 4.04.250) [Delegation from Civil Service Commission]  
Commuter Benefit (SMC 14.30.150)  
Energy Benchmarking Appeals (SMC 22.920.155) [Admin. by Office of Sustainability and Environment]  
Ethics Code Violations (SMC 3.70.100) [Delegation from Ethics & Elections Commission]  
Improvement District Assessment Appeals as provided by Ordinance  
LID Assessment Rolls (SMC 20.04.090) [Admin. by SDOT]  
Rental Agreement (7.24.130) [admin. By DCI]  
Restricted Parking Zone Appeal (SMC 11.16.317) [Admin. by SDOT]  
Review of Floating Home Moorage Fees (SMC 7.20.080, SMC 7.20.090, SMC 7.20.110)  
Property Tax Exemption Elimination (SMC 5.72.110, SMC 5.73.100) [Admin. by Office of Housing]  
SDOT Citation Appeals (SMC 15.91.006) [Admin. by SDOT]  
Street Use Appeals (SMC 15.90) [Admin. by SDOT]  
Third Party Utility Billing Complaints (SMC 7.25.050)  
Whistleblower Retaliation Complaints (SMC 4.20.865) [Filed by the Ethics and Elections Commission]  
Compensation and Working Conditions Generally (SMC 4.20.225, 4.20.860, 4.20.870)  
Documentation of Eligibility for certain uses of Sick Leave and Funeral Leave (SMC 4.30.865)  
Floating Home Moorages (SMC 7.20.080, 7.20.090, 7.20.100, 7.20.110)  
Refund Anticipation Loan Regulation (SMC 7.26.070)

Please note that the list is provided only for the public's convenience and may not reflect recent ordinances adopted by the City Council. The Seattle Municipal Code and those ordinances are the ultimate authorities on the extent of the Examiner's jurisdiction.