

Judge Paris K. Kallas, ret.
Arbitrator

IN ARBITRATION AT
JUDICIAL DISPUTE RESOLUTION, LLC

CITY HEIGHTS HOLDINGS, LLC

Claimant,

v.

CITY OF CLE ELUM

Respondent.

ORDER GRANTING CLAIMANT'S
MOTION AND DENYING
RESPONDENT'S MOTION

This matter comes before the Arbitrator on cross-motions from the parties. The Arbitrator has considered the following:

1. Claimant City Heights Holdings, LLC's Motion in Support of Administrative Permit Process ("Trailside's Motion");
2. Respondent City of Cle Elum's Motion for Summary and Declaratory Judgment Regarding Permit Processing ("City's Motion");
3. Claimant's Response to City of Cle Elum's Motion for Summary and Declaratory Judgment Regarding Permit Processing;
4. Respondent's Response to City Heights' Motion in Support of Administrative

1 Permit Process;

2 5. Claimant's Reply Supporting Motion in Support of Administrative Permit Process;

3 6. Respondent City of Cle Elum's Reply In Support of Motion for Summary Judgment
4 and Declaratory Judgment Regarding Permit Process;

5 7. Declaration of Nancy Bainbridge Rogers in Support of Motion in Support of
6 Administrative Permit Process, and the exhibits attached thereto;

7 8. Second Declaration of Nancy Bainbridge Rogers Regarding Motions, and the exhibits
8 attached thereto;

9 9. Declaration of Gregg Dohrn in Support of City of Cle Elum's Motion for Summary
10 and Declaratory Judgment Regarding Permit Processing, and the exhibits attached
11 thereto;

12 10. Declaration of Kathi Swanson in Support Motion for Summary and Declaratory
13 Judgment Regarding Permit Processing, and the exhibits attached thereto;

14 11. Declaration of Alexandra Kenyon in Support of City's Reply in Support of Summary
15 and Declaratory Judgment Regarding Permit Processing; and,

16 12. Oral argument on October 20, 2020.

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19 Having considered the written submissions, governing case law, and oral argument, it is
20 hereby ORDERED:

21 A. Trailside's Motion, and the relief it requests, is granted in its entirety.

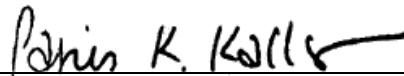
22 B. The City's Motion is denied in its entirety. Accordingly, the City's request that the
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1 administrative interpretation (Interpretation)¹ be adopted is denied.

2 C. The Development Agreement is a final land use decision subject to the twenty-
3 one-day limitations period of the Land Use Petition Act, Ch. 36.70C RCW. Thus, the City is
4 time-barred from challenging the validity of the Development Agreement, including any alleged
5 noncompliance with RCW 58.17.095.
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7 D. Claimant seeks an award of reasonable attorney's fees, pursuant to Section 12.7.2
8 of the Development Agreement. Whether Claimant is entitled to attorney's fees shall be briefed
9 by the parties. Counsel is directed to promptly meet and confer regarding a briefing scheduling.
10 Upon agreement, or if unable to agree to a schedule, counsel shall notify JdR.

11 DATED this 16th day of November, 2020.
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16 Judge Paris K. Kallas, ret.
17 Arbitrator
18 Judicial Dispute Resolution, LLC
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26 ¹ The Interpretation is attached as Exhibit D to the Declaration of Gregg Dohrn, attached to the City's Motion for Summary Judgment and Declaratory Judgment Regarding Permit Processing.