

1 City's motion for summary judgment and the City's reply; the pleadings on file; and the
2 argument of counsel and now enters this Order:

3 **ORDER**

4 **The building, housing, and zoning claims must have been brought under LUPA.**

- 5 1. The Land Use Petition Act (LUPA) is the exclusive remedy to challenge a land use
6 decision. A land use decision is the final decision of a local government with jurisdiction
7 on an application for a project permit to improve or use real property. RCW
8 36.70C.020(2)(a). The City's issuance of a temporary use permit authorizing the
9 continuing operation of the Aloha Tiny House Village is a land use decision.
- 10 2. Plaintiff did not file a petition under LUPA. Instead, Plaintiff filed a complaint claiming
11 the City and LIHI are operating an encampment without complying with the City's
12 building code, housing code, and a zoning code provision addressing encampments under
13 Seattle Municipal Code (SMC) 23.42.056. These claims are challenges to the land use
14 decision authorizing the encampment and, therefore, must be initiated in accordance with
15 LUPA.
- 16 3. Further, to maintain an action under the Uniform Declaratory Judgment Act (UDJA),
17 Plaintiff must have no other adequate remedy at law. The claims made by Plaintiff
18 challenge the City's land use decision for which LUPA provides an adequate remedy at
19 law. Plaintiff's failure to file a timely petition under LUPA does not alter this
20 conclusion. To hold otherwise would allow a party to use the UDJA to avoid the statutory
21 requirements of LUPA.
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1 **Plaintiff failed to demonstrate standing.**

- 2 1. To have standing, Safe Seattle must represent members who fall within the zone of
3 interest the challenged regulations are intended to protect and demonstrate immediate,
4 concrete, and specific injury. A conjectural or hypothetical injury does ^{not} support standing. - SRP
- 5 2. The Seattle building and housing codes are intended to protect the general public and not
6 individuals or groups, such as Safe Seattle.
- 7 3. Chapter 18.20 RCW, the state law governing operation of assisted living facilities, is
8 intended to protect individuals living in state-licensed boarding facilities. Safe Seattle is
9 not within the statute's zone of interest.
- 10 4. ~~Further, Safe Seattle has not demonstrated any immediate, concrete and specific injury~~
11 ~~arising from the encampment.~~ - SRP
- 12 5. Safe Seattle does not have standing to support any claim.

13 **The zoning code complaint does not apply to a temporary use permit.**

- 14 6. The Plaintiff complains the City and LIHI violated SMC 23.42.056.
- 15 7. The City authorized the Aloha Encampment through a temporary use permit issued
16 pursuant to SMC 23.42.040, not SMC 23.42.056. Plaintiff's claim is misplaced.

17 **The encampment is not an assisted care facility under Chapter 18.20 RCW.**

- 18 1. The Plaintiff claims the encampment is an assisted care facility under state law.
- 19 2. City code identifies this encampment as a "transitional encampment" that provides
20 shelters for individuals experiencing homelessness.
- 21 3. RCW 35.21.915 recognizes that homeless encampments are a distinct use from an
22 assisted care facility.
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1 4. A transitional encampment is not an assisted living facility subject to Chapter 18.20
2 RCW.

3 As demonstrated by the foregoing findings and conclusions, there are no material facts in
4 dispute and Respondents are entitled to judgment as a matter of law.

5 Accordingly, it is ORDERED that Respondent City of Seattle's Motion for Summary
6 Judgment is granted; and it is further ORDERED that Plaintiff's complaint is dismissed
7 with prejudice.

8 ENTERED this 5th day of September 2019.

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10 
The Honorable Suzanne Parisien

11 Presented by:

12 Pete Holmes
13 Seattle City Attorney

14 *s/ Patrick Downs*
15 Patrick Downs, WSBA #25276
16 Attorney for the City of Seattle
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