

BEFORE THE COMMISSION ON JUDICIAL CONDUCT

JUN 26 2020

OF THE STATE OF WASHINGTON

COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of)

The Honorable Eric Z. Lucas,)
Judge of the Snohomish County)
Superior Court)

CJC No. 9137-F-187

**STIPULATION, AGREEMENT
AND ORDER OF ADMONISHMENT**

The Commission on Judicial Conduct ("Commission") and Snohomish County Superior Court Judge Eric Lucas ("Respondent") stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

The Commission is represented in these proceedings by its Executive Director, J. Reiko Callner, and Respondent has represented himself.

I. STIPULATED FACTS

A. Respondent is now, and was at all times referred to in this document, a judge of the Snohomish County Superior Court. He has served in that capacity since 2004.

B. Respondent sent two emails – one dated May 6, 2019, and the other dated May 9, 2019, – to Everett city officials expressing his opposition to a building permit sought by one of Respondent's neighbors. In the signature block of both emails, Respondent identified himself as a Snohomish County Superior Court Judge, and both emails were sent from Respondent's official county work email address. These emails are attached hereto. The May 6th email was sent to the city planner in charge of reviewing Respondent's neighbor's building permit request, and in it Respondent objected to his neighbor's proposal and asserted that the city had a conflict of interest in reviewing his neighbor's permit since the neighbor was a city employee. The May 9th email was sent to an Everett City Council member and Respondent's wife, and argued further that the

city had a conflict of interest in reviewing his neighbor's permit. (This email was forwarded the following day from Respondent's wife's email account to the other members of the Everett City Council and "cc'd" to Everett's mayor, deputy mayor, chief of staff, city attorney, deputy city attorney, and city planner.) The Commission's investigation showed that Respondent did not, in fact, cause the city to withdraw from reviewing the permit nor did it affect the outcome of the review, although witnesses indicate Respondent's correspondence did get a heightened level of attention that they may not have otherwise received had they not identified him as a judge.

C. After conducting a confidential preliminary investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on July 29, 2019. The Statement of Allegations alleged that Respondent may have violated the Code of Judicial Conduct by abusing the prestige of office when he identified himself as a superior court judge in email correspondences with city officials regarding a private property matter.

D. Respondent timely answered the Statement of Allegations on August 19, 2019. In his answer, Respondent acknowledged responsibility for sending the emails, and acknowledged that the emails with his judicial title in the signature block could be viewed as violating the Code. He maintained, however, that including his judicial title in the signature block of the emails was done unwittingly, explaining that time pressure and a lack of familiarity with the auto-signature function caused him to overlook that his official signature had been included on the emails.

II. AGREEMENT

A. Respondent's Conduct Violated Canon 1 of the Code of Judicial Conduct

1. Respondent agrees his conduct described above violated Rules 1.1, 1.2 and 1.3 of Canon 1 of the Code of Judicial Conduct. Rules 1.1 and 1.2 state the overarching principles of the Code and require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary. Rule 1.3 provides, "A

judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”

2. It is improper for a judge to use or attempt to use his judicial status to gain personal advantage or deferential treatment of any kind. A reasonable person would perceive the emails at issue here, whereby Respondent wrote to city officials regarding a personal property matter and referenced his position as a Snohomish County Superior Court Judge, as an effort to exert pressure and/or gain preferential treatment from those city officials. While Respondent explained his use of official email containing his title was unintentional, it is very much the responsibility of a judge (and of any public servant) to be scrupulously attentive to avoid the misuse of the title and tools of their office.

B. Imposition of Sanction

1. The sanction imposed by the Commission must be commensurate to the level of Respondent’s culpability and must be sufficient to restore and maintain the dignity and honor of the judicial position. The sanction should also seek to protect the public by assuring that Respondent and other judges will refrain from similar acts of misconduct in the future.

2. In determining the appropriate level of discipline to impose, the Commission considers the factors set out in CJCRP 6(c).

a. Characteristics of Respondent’s Misconduct. Avoiding abuse of judicial office is a core value of judicial ethics. Because misuse of judicial office inevitably undermines public confidence in the integrity of the judiciary, the Commission views the nature of this type of misconduct to be serious. The remaining factors in this section tend to mitigate the misconduct. While the conduct at issue here involves separate communication days apart, it appears to have been isolated to this particular situation. The conduct occurred outside the courtroom in a nonjudicial setting. Respondent maintains that his actions were unintentional and merely the result of oversight. The conduct did not, in fact, result in preferential treatment for Respondent by the city employees contacted.

b. Service and Demeanor of Respondent. Respondent has been a judicial officer for approximately 16 years. He has had no prior public disciplinary history. He has cooperated in this proceeding. By entering into this stipulation, he has further demonstrated his commitment to refrain from similar acts in the future.

C. Based upon the stipulated facts, upon consideration and balancing of the factors set out in CJCRP 6(c), Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of "admonishment." An "admonishment" is a written action of the Commission of an advisory nature that cautions Respondent not to engage in certain proscribed behavior. An admonishment may include a requirement that the respondent follow a specified corrective course of action. Admonishment is the least severe disciplinary action the commission can issue.

D. Respondent agrees that he will participate in judicial ethics training approved in advance by the Commission Chair or Chair designate. Respondent agrees he will complete one hour of such training (not at Commission expense) and will certify successful completion of such training in writing within one year from the date this stipulation is accepted by the Commission.

E. Respondent agrees that he will not repeat such conduct in the future, mindful of the potential threat any repetition of his conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.

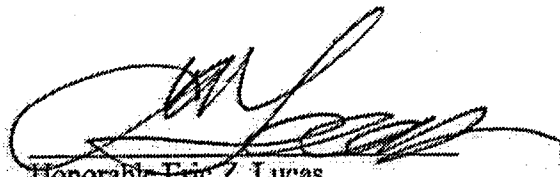
F. Respondent agrees that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within one month of the date this stipulation is accepted.

G. Respondent has represented himself in these proceedings. He affirms that he enters into this agreement sincerely and in good faith, after having had an opportunity to consult with his attorney.

H. Standard Additional Terms and Conditions

1. By entering into this stipulation and agreement, Respondent waives his procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.

2. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.



Honorable Eric Z. Lucas
Respondent

Date

6/11/20



J. Reiko Callner
Executive Director
Commission on Judicial Conduct


Date

6/12/20

ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Judge Eric Z. Lucas admonished for violating Canon 1, Rules 1.1, 1.2 and 1.3 of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill the terms of the agreement as set forth above.

DATED this 26th day of June, 2020.



Robert Alsdorf, Vice-Chair
Commission on Judicial Conduct

From: Lucas, Eric <Eric.Lucas@snoco.org>
Sent: Monday, May 6, 2019 4:44 PM
To: Teresa Weldon <TWeldon@everettwa.gov>
Cc: Beth Lucas <[REDACTED]>; Dad AOL [REDACTED]
Subject: Project Number: REV119-006: Public Comment

Project Number: REV119-006: Bradley A. Martin, Owner

Public Comment on ADU proposal

We oppose this project for many reasons. The principle problem is what constitutes the "rear" of the dwelling. It is a corner lot abutting two access streets: Mukilteo Blvd and Bayview Rd. From our point of view the "rear" is that portion behind the main dwelling. The project is not being built in the rear by that definition. It is being built on the side of the main home. If you gave it a street address people would think it was a new house being constructed. No new house has been built that close to the road.

It is being built on Mukilteo Blvd. That is the main street. The original home has access on Mukilteo Blvd and Bayview. The proposed project will obstruct driving views on Mukilteo Blvd – a street where we have had problems with traffic, and ingress and egress for two decades. The Mukilteo Blvd setbacks are for safety reasons and should not be violated or otherwise adjusted. As far as we know, no home has been built at 24 feet in height 6'3" from the road. This sets an illegal "spot" zoning precedence and we will appeal any approval on that basis.

In addition, Mr. Martin is a city employee in the land use department. We feel that it is improper for his supervisors to be reviewing his permits for approval. It is a conflict of interest. The review taking place should be performed by a neutral party to maintain the "appearance of fairness." Particularly with this potential spot zoning issue.

Variances, in spirit, are to adjust for features of the property that the owner cannot reasonably account for. No such condition exists on this property. An ADU could be built directly behind the current residence. Instead he threatens to block view corridors for the road, a clear threat to public safety. Thank you.

Eric Z. Lucas
Judge
Snohomish County Superior Court
3000 Rockefeller M/S 502
Everett, WA 98201

From: Beth Lucas <[REDACTED]>

Sent: Friday, May 10, 2019 11:37 AM

To: Scott Murphy <ScMurphy@everettwa.gov>; Scott Bader <SBader@everettwa.gov>; Jeffrey Moore <jmoore@everettwa.gov>; Paul Roberts <PRoberts@everettwa.gov>; Brenda Stonecipher <BStonecipher@everettwa.gov>; Judy Tuohy <JTuhy@everettwa.gov>; Elizabeth Vogeli <EVogeli@everettwa.gov>
Cc: Teresa Weldon <TWeldon@everettwa.gov>; Jim Iles <JIles@everettwa.gov>; Cassie Franklin <CFranklin@everettwa.gov>; Nick Harper <NHarper@everettwa.gov>; Lyle Ryan <LRyan@everettwa.gov>; David Hall <DHall@everettwa.gov>

Subject: Re: CONFLICT OF INTEREST - Project Number: REVII19-006: Public Comment

Mr. Murphy:

In terms of the conflict of interest analysis, we can see that there may be no "formal conflict" as described by the city attorney. However, it is our view that further investigation will reveal **an actual conflict**. Why do we assert this?

We assert this because Mr. Martin has been excavating and doing other construction work on his property without a permit for some time. We then sent in a formal inquiry asking if he needed a permit. Then, "magically," within a few hours after the filing of our inquiry, he filed for a permit.

That cannot be a co-incidence. We believe this sort of coordination is proof of a conflict of interest. If there are secret communications going on in the city between city employees warning one employee informally with another about inquiries or challenges to legal status – how could we protect ourselves from this? It would be impossible. And it is a violation of our right to due process.

As such, under this factual scenario, we believe there is a conflict of interest in having city employees review this project and we reject the analysis of the City Attorney based on these facts. The far safer course of action is to avoid the conflict and have review done by an outside entity. Thank you.

Eric Z. Lucas
Judge
Snohomish County Superior Court
3000 Rockefeller M/S 502
Everett, WA 98201
(425) 388-3215