

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON**

In Re the Matter of

The Honorable John Fairgrieve  
Judge of the Clark County Superior Court

NO. 11231-F-205

**STIPULATION, AGREEMENT  
AND ORDER OF  
ADMONISHMENT**

The Commission on Judicial Conduct and Clark County Superior Court Judge John Fairgrieve enter into this stipulation and agreement pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure.

The Commission has been represented in these proceedings by its Executive Director, J. Reiko Callner, and Judge Fairgrieve has represented himself.

**I. STIPULATED FACTS**

A. Judge John Fairgrieve (“Respondent”) is a judge of the Clark County Superior Court. He has served in that capacity since 2015.

B. Respondent presided over a Land Use Petition Act case filed in the Clark County Superior Court on June 7, 2021. (Cause No. 21-2-01040-06.) The case sought judicial review of a Clark County hearing examiner’s decision regarding the applicability of fee waivers relating to five commercial development projects. The parties timely filed their respective briefs and oral argument occurred on January 7, 2022. Following oral argument, Respondent took the matter under advisement. Approximately one year later, on January 12, 2023, Respondent issued the court’s decision denying the appeal. There were no intervening motions, hearings, or judicial

actions taken in the case from January 7, 2022, when it was submitted for a decision, to when the decision was entered on January 12, 2023.<sup>1</sup>

C. The Commission received a complaint concerning this matter shortly before the decision was filed, conducted a confidential preliminary investigation into the matter, and initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on May 1, 2023. The Statement of Allegations alleged Respondent failed to issue a decision in the case identified above in a timely manner, and thus failed to dispose promptly of the business of the court in violation of Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct.

D. Respondent answered the Statement of Allegations by letter dated May 18, 2023. In his answer, Respondent admitted that his failure to issue a decision within ninety days of oral argument was a violation of the Code as alleged. In his response, Respondent accepted responsibility for the delayed decision and expressed regret for his actions. He noted the appeal was relatively complex and further identified additional factors which contributed to the delay, including a backlog of cases and added burdens of maintaining court operations caused by the pandemic.

## **II. AGREEMENT**

### **A. Respondent's Conduct Violated the Code of Judicial Conduct.**

1. Based upon the above stipulated facts, Respondent agrees his conduct described above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct.

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<sup>1/</sup> By letter dated October 24, 2022, more than nine and a half months after the hearing, Respondent was reminded by the parties that they were awaiting his decision. No response was provided, but the decision, as noted above, was rendered on January 7, 2023.

2. Under the Washington State Constitution and by statutory provision, superior court judges are required to decide each case within 90 days after it is submitted for a decision. (Wash. Const. art IV, § 20 and RCW 2.08.240.)

3. Rules 1.1 and 1.2 require judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 2.5(A) requires that “A judge shall perform judicial and administrative duties competently and diligently.” Comment 3 to Rule 2.5(A) states that “Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission....”

#### B. Imposition of Sanction.

1. In accepting this stipulation, the Commission takes into account those factors listed in CJCRP 6(c). As noted in prior Commission cases, the nature of this type of misconduct – decisional delay – is inherently problematic because it deprives litigants of timely justice, which often cannot be remedied through the appellate process. Issuing timely decisions is a core function for any judicial officer. Although this disciplinary matter involves a single instance of delay, the delay was excessive, particularly since the statutory objective of land use petition cases is to provide expedited judicial review of local land use decisions.<sup>2</sup> In mitigation, Respondent has no history of discipline and was fully cooperative with the Commission investigation and proceeding. The Commission is mindful of the difficulty and stresses caused by

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2/ See RCW 36.70C.010 (“The purpose of this chapter is to reform the process for judicial review of land use decisions made by local jurisdictions by establishing . . . expedited appeal procedures . . . in order to provide . . . timely judicial review.”).


the pandemic and other court disruptions and notes that Respondent has a reputation as a very careful and thoughtful jurist.

2. Weighing and balancing the above factors, Respondent and the Commission agree that an admonishment is the appropriate level of sanction to impose in this matter. An “admonishment” is a written action of the Commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior. Admonishment is the least severe disciplinary action available to the Commission. This result is consistent with prior Commission disciplinary cases of a similar nature. (See, e.g., *In re Sheldon*, CJC No. 3654-F-97 (2002).)


3. Respondent agrees that he will read and familiarize himself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within 30 days of entry of this stipulation.

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

5. Respondent has represented himself in these proceedings. He affirms he has had an opportunity to consult with an attorney and voluntarily chooses to represent himself in this matter and enter into this agreement.

  
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Honorable John Fairgrieve  
Clark County Superior Court

June 12, 2023  
Date

  
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J. Reiko Callner  
Executive Director  
Commission on Judicial Conduct


June 20, 2023

\_\_\_\_\_  
Date

## ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent John Fairgrieve Admonished for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) 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 23 day of June, 2023.

  
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Robert Alsdorf, Chair  
Commission on Judicial Conduct