

HEARING EXAMINER DAVID SPOHR

BEFORE THE OFFICE OF THE  
KING COUNTY HEARING EXAMINER

In re the matter of the Appeal by Tenhulzen  
Construction, LLC, Tenhulzen Design, LLC,  
Tenhulzen Remodeling, Tenhulzen Residential  
LLC, and TM Squared LLC,

**CODE ENFORCEMENT APPEAL  
NO. ENFR21-0765**

and

**PETITION FOR INTERVENTION**

Good Brewing, and Kevin King,  
Appellants

vs.

KING COUNTY,  
Respondent

Serena Glover on behalf of Friends of Sammamish Valley (FoSV), a Washington nonprofit corporation, and Michael Tanksley individually and on behalf of the Hollywood Hill Association (HHA), a Washington nonprofit corporation (hereinafter collectively referred to as Petitioners), hereby petition the Hearing Examiner for the entry of an order granting intervention by the Petitioners in all issues raised in the above-captioned appeals.

**I. PETITIONERS**

1           **A. Friends of Sammamish Valley (FoSV).** FoSV was formed in 2018 for the  
2 purposes of protecting the Sammamish Valley Agricultural Production District (APD) and  
3 the Sammamish River watershed, preserving the surrounding Rural Area (RA) that buffers  
4 the APD, and protecting the environment in accordance with the goals of the Growth  
5 Management Act and coordinate laws and regulations. FoSV has been endorsed by hundreds  
6 of individuals, farmers, businesses, environmental organizations, and homeowner  
7 associations. *See* Declaration of Serena Glover in Support of Petition for Intervention  
8 (“Glover Declaration”) Para. 3. Petitioner FoSV together with its intervention co- Petitioner  
9 HHA, as well as Futurewise, farmers, and others successfully appealed King County  
10 Ordinance 19030 (Adult Beverage Ordinance) on State Environmental Policy Act (SEPA) and  
11 Growth Management Act (GMA) grounds to the Growth Management Hearings Board  
12 (GMHB), which invalidated it. Glover Dec. Paras. 7, 8. Additional information regarding  
13 FoSV and its interests is provided in the Glover Declaration, attached and incorporated here  
14 by reference in its entirety.

15           **B. Hollywood Hill Association (HHA).** HHA was formed in 1976 for the  
16 purposes of preserving the rural character of Hollywood Hill, which abuts the Sammamish  
17 Valley, and the agricultural lands of the Sammamish Valley. HHA members live on  
18 Hollywood Hill, a residential area located in the RA that includes approximately 1350  
19 households. In addition to the current GMA litigation with King County, HHA was also one  
20 of the petitioners to the GMHB successfully challenging King County zoning code and  
21 comprehensive plan amendments that would have allowed conversion of designated and  
22 protected Sammamish Valley agricultural land to development for active recreation in  
23 violation of the GMA. The Washington Supreme Court upheld the GMHB decision  
24 invalidating the amendments. *See, King County v Central Puget Sound Growth Management*  
25 *Hearings Board*, 142 Wn.2d 543;14 P.3d 133 (2000). Additional information regarding HHA  
26

1 and its interests is provided in the Declaration of Michael Tanksley in Support of Petition for  
2 Intervention (“Tanksley Declaration”), attached and incorporated here in its entirety by  
3 reference.

4 **C. Michael Tanksley.** Michael Tanksley is the former president and now vice  
5 president of the HHA. He also serves as a member of the board of directors of FoSV. He has  
6 been involved in issues affecting the Rural Area and the agricultural lands of the Sammamish  
7 Valley for the last quarter century, including in code enforcement issues. Additional  
8 information regarding Mr. Tanksley and his interests is provided in the Tanksley Declaration.

9 **D. Contact Information for Petitioners.**

10 **Friends of Sammamish Valley**

11  
12 Mailing Address: 14241 NE Woodinville Duvall Rd, #428  
Woodinville, WA 98072  
13 Email Address: serena@friendsofsammamishvalley.org  
14 Telephone Number: (425) 985-2992

15 **Hollywood Hill Association**

16 Mailing Address: PO Box 404  
Woodinville, WA 98072  
17 Email Address: c/o wmtanksley@comcast.net  
18 Telephone Number: N/A

19 **Michael Tanksley**

20 Mailing Address: 14551 166<sup>th</sup> Ave NE  
Woodinville, WA 98072  
21 Email Address: wmtanksley@comcast.net  
22 Telephone Number: (425) 483-2529

23 **II. PROCEDURE & LEGAL FRAMEWORK**

24 **A. Intervention rules and legal standard**

1 This Petition for Intervention is made pursuant to Rule X.B.1.a. of the Rules of  
2 Procedure and Mediation for the Office of the Hearing Examiner (Hearing Examiner Rules)  
3 which provides for intervention as a matter of right, and Rule X.B.1.b. which provides for  
4 intervention pursuant to the discretion of the Hearing Examiner. Specifically, Rule X.B.1  
5 provides:

6 B. Intervention

7 1. Purpose

8 a. Intervention as a Matter of Right

9 The examiner shall allow intervention where the law confers an unconditional  
10 right to intervene or when a non-party demonstrates a substantial interest in  
11 the proceeding's subject matter, that such interest is likely to be directly  
12 affected by the proceeding's result and will not be adequately represented by  
13 existing parties, and that intervention will not impair the orderly and prompt  
14 conduct of proceedings.

15 b. Discretionary Intervention

16 The examiner may allow intervention where the law confers a conditional  
17 right to intervene or when the intervenor's participation as a party would  
18 advance the public interest, and where intervention will not impair the orderly  
19 and prompt conduct of proceedings.

20 Rule X.B.1 is closely analogous to Civil Rule (CR) 24 which governs intervention of  
21 right and permissive intervention in Washington courts. Accordingly, case law interpreting and  
22 applying CR 24 is instructive. CR 24 is to be "liberally construed to favor intervention." *Fritz*  
23 *v. Gorton*, 8 Wn. App. 658, 660, 509 P.2d 83 (Div. II 1973); *see Crosby v. County of Spokane*,  
24 137 Wn.2d 296, 304, 971 P.2d 32 (1999); *Loveless v. Yantis*, 82 Wn.2d 754, 758, 513 P.2d  
25 1023 (1973) (granting neighboring landowners' association intervenor status as a matter of  
26 right); *cf. Nelson v. Pacific County*, 36 Wn. App. 17 (Div. II 1983), *rev. denied*, 100 Wn.2d 1037

1 (1984) (affirming intervention of group of neighboring property owners in action to quiet title to  
2 nearby property).

3 “CR 24(a) allows intervention as of right unless it would work a hardship on one of the  
4 original parties.” *Columbia Gorge Audubon Society v. Klickitat County, et al.*, 98 Wn. App.  
5 618, 623, 989 P.2d 1260 (Div. III 1999).  
6

7 Washington courts have always held that a motion to intervene is timely if it is filed  
8 before the commencement of trial. *Columbia Gorge, supra*, 98 Wn. App. at 623; *American*  
9 *Discount Corp. v. Saratoga West, Inc.*, 81 Wn.2d 34, 43, 499 P.2d 869 (1972).

10 The term “interest” must be broadly rather than narrowly construed in determining whether  
11 intervention is appropriate. *Vashon Island Committee for Self Government v. Washington State*  
12 *Boundary Review Board for King County*, 127 Wn.2d 759, 765, 903 P.2d 953 (1995). In keeping  
13 with this principle, the Court of Appeals in *Columbia Gorge, supra*, reversed the trial court and  
14 ordered grant of intervention for the Yakama Nation, even though the Tribe was “simply  
15 another voice asking for the same result as the Audubon Society, only for different reasons.”  
16 *Columbia Gorge, supra*, 98 Wn. App. at 628. As the *Columbia Gorge* Court said: “Not much  
17 of a showing is required, however, to establish an interest. And insufficient interest should not  
18 be used as a factor for denying intervention.” *Id.* at 629.  
19

20 As the Washington Supreme Court held in *Loveless v. Yantis*:

21 [w]ith the members of the association here all residents of the area affected, the  
22 association has a direct enough interest ...

23 82 Wn.2d at 758; see *Crosby v. County of Spokane, supra*, at n.4; cf. *Nelson v. Pacific County*,  
24 36 Wn. App. 17 (1983), *rev. denied*, 100 Wn.2d 1037 (1984).

25 Further, a difference of interests between named parties and an intervenor is not a  
26 prerequisite to intervention:

1 It is not necessary that the intervenor’s interests be in direct conflict with those  
2 of the existing parties. It is only necessary that the interests may not be  
3 adequately articulated and addressed [citation omitted]. When in doubt,  
4 intervention should be granted.

5 *Columbia Gorge, supra*, 98 Wn. App. at 630. As the court stated, “the intervenor need make  
6 only a minimal showing that its interests may not be adequately represented.” *Id.* at 629-30  
7 (citations omitted); *see also Fritz, supra*, 8 Wn. App. at 662 (burden on petitioner to show that  
8 its interest will not be adequately represented “should be treated as minimal”).

9 The facts and circumstances set out in the Glover and Tanksley Declarations,  
10 incorporated here by reference, far exceed the showing required for intervention.

11 **B. Petition for Intervention is Timely**

12 Rule X.B.2.a.1 of the Hearing Examiner Rules requires that a petition to intervene as  
13 a matter of right be submitted orally or in writing before or at the pre-hearing conference. The  
14 pre-hearing conference is scheduled for July 6, 2022. This Petition therefore complies with  
15 Rule X.B.2.a.1. The Hearing Examiner may also grant a petition for discretionary intervention  
16 as provided in Rule X.B.2.a.3, which is not subject to a specific time limit.

17 **III. BASES FOR INTERVENTION<sup>1</sup>**

18 **A. Petitioner’s Interests (Intervention as a Matter of Right)**

19 The issues raised by Appellants in this appeal have a direct impact on the interests of  
20 Petitioners. As explained in the Tanksley Declaration:

21 5. HHA has a long history of actively participating in formation of King County  
22 land use policies and regulations to address these issues, including participation in the  
23 King County Sammamish Valley Winery and Beverage Study and the legislative  
24 process which culminated in adoption by King County of Ordinance 19030. HHA joined  
with other petitioners, including FoSV, Futurewise, local farmers, and others in

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25 <sup>1</sup> To avoid needless repetition, Petitioners have not included in the arguments below all of the information set out  
26 in the detailed Declarations of Serena Glover and Michael Tanksley. Accordingly, Petitioners respectfully request  
that the Hearing Examiner closely review the Declarations in their entirety.

1 challenging the County's adoption of Ordinance 19030 as violative of the Growth  
2 Management Act. GMHB invalidation of Ordinance 19030 affirmed the critical  
3 interests of the HHA in protection of the Sammamish Valley farmland and the character  
4 and environment of the Rural Area. HHA continues as a co-petitioner party during the  
5 GMHB's compliance process, and as a co-Respondent in King County's appeal of the  
6 GMHB decision currently pending in the Court of Appeals Division 1.

7  
8 6. Throughout these processes, HHA and I have advocated vigorously to uphold  
9 and rigorously enforce policies and regulations, including SEPA, GMA, Countywide  
10 Planning Policies, King County Comprehensive Plan Policies, and zoning regulations  
11 that prohibit or restrict the operation of commercial businesses such as winery tasting  
12 rooms on Agriculture and Rural zoned land. If Appellants succeed in their apparent  
13 arguments that King County has no legal authority to enforce zoning laws that conflict  
14 with a lease of real property entered into between private parties, or because of a  
15 purported "settlement agreement" issued by King County in violation of its obligations  
16 to enforce law, the interests that HHA and I have worked for decades to defend will be  
17 adversely affected.

18  
19 7. The outcome of the appeals here is important to our local residents and to legally  
20 sited businesses located nearby within the City of Woodinville that operate within the  
21 law, including the GMA. The degree to which local land use regulations are or are not  
22 enforced will influence actions by landowners, investors and business operators in the  
23 Sammamish Valley and surrounding Rural Area.

24  
25 Through intervention Petitioners seek a decision rejecting Appellants' claims that  
26 existing illegal adult beverage businesses should be allowed because of a tenant lease(s) and/or  
"Settlement Agreement", that the existing adult beverage businesses should be  
"grandfathered" despite the fact that such uses were never legal, that the existing commercial  
uses should be allowed as a home occupation and other claims not supported by law.

As noted above, Washington courts have held that an intervention petitioner need not  
establish a direct conflict with, or an actual inadequacy in, a potentially aligned party's (here,  
the County's) approach. Nonetheless, Petitioners' request for intervention as a matter of right  
is supported by their ongoing, deep, and substantial interests that are likely to be directly  
affected by the result of this proceeding and on which the County's and Petitioners'  
approaches could diverge as the proceeding progresses. In light of the history of litigation

1 between the County<sup>2</sup>, which is subject to various pushes and pulls, and Petitioners<sup>3</sup>, the County  
2 will neither adequately represent Petitioners' positions nor, as further explained below, the  
3 greater public interest.

4 **B. Public Interest (Discretionary Intervention).**

5 In the event that Petitioners are not granted intervention as a matter of right, Petitioners  
6 request discretionary intervention on all issues because Petitioner's participation would  
7 advance the public interest as demonstrated in Petitioners' Declarations. *See, e.g.*, Glover Dec.  
8 paras. 9, 10, 11, 12, 13; Tanksley Dec. paras. 5,6,7,8. Conversely, denial of intervention would  
9 deprive the proceeding of an important public interest perspective that is not always aligned  
10 with the County's calculations.

11 Petitioners represent the positions of a broad spectrum of individuals, farmers,  
12 businesses, environmental organizations, and homeowner associations. They oppose the  
13 location of urban commercial development, including Appellants' various remodeling,  
14 design and related businesses, and tasting rooms that sell alcohol and function as bars in the  
15 Rural Area because such uses violate the GMA. The importance of having broad public  
16 participation in support of these positions in these Appeals cannot be overstated. It will  
17 promote public confidence in the openness and fairness of these proceedings.

18 Moreover, although decisions by the King County Hearing Examiner may not at the  
19 outset constitute binding legal precedent, rulings by the Examiner may have implications  
20 beyond the pending appeals. Whatever ruling the Hearing Examiner makes, the ultimate  
21 decisions may be taken up in subsequent judicial review, resulting in legal precedent affecting  
22 similar businesses throughout King County. When such stakes are present, it is in the public  
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25 <sup>2</sup> *See, e.g.*, Glover Dec. paras. 7,8.

26 <sup>3</sup> *See, e.g.* Glover Dec. at para. 11.



1 interest to allow discretionary intervention by knowledgeable parties to ensure as complete  
2 and informed a record as possible for subsequent review.

3 Finally, Petitioners' participation will not impair the orderly and prompt conduct of  
4 the proceedings in this matter and will be governed by the Hearing Examiner's Rules, the Pre-  
5 Hearing Conference Order to be issued by the Hearing Examiner, and any subsequent orders  
6 or rulings entered by the Hearing Examiner.

7 **IV. CONCLUSION: OUTCOME AND RELIEF REQUESTED**

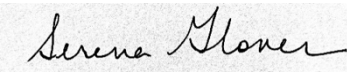
8 Petitioners request that the Hearing Examiner issue an order granting Petitioners'  
9 request to intervene in all issues raised by Appellants' appeals as a matter of right, or  
10 alternatively, as a matter of discretion, with full procedural rights. Petitioners ultimately seek  
11 denial and rejection of the appeals.

12 The Petitioners have read the Petition for Intervention and believe the contents to be  
13 true.


14 Dated this 5<sup>th</sup> day of July 2022.

15 Respectfully submitted,

16 Friends of Sammamish Valley

17 By   
18 \_\_\_\_\_  
19 Serena Glover

20 Hollywood Hill Association and Michael Tansley

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24 Michael Tansley  
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**CERTIFICATE OF SERVICE**

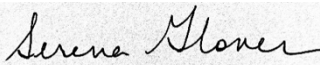
The undersigned certifies that on this 5<sup>th</sup> day of July, 2022, the undersigned caused the following documents to be served on the persons listed below in the manner shown: **(1) PETITION FOR INTERVENTION, (2) DECLARATION OF SERENA GLOVER IN SUPPORT OF PETITION FOR INTERVENTION, and (3) DECLARATION OF MICHAEL TANKSLEY IN SUPPORT OF PETITION FOR INTERVENTION**

<input type="checkbox"/>	By United States Mail, postage prepaid and properly addressed
<input type="checkbox"/>	By Legal Messenger or Hand Delivery
<input type="checkbox"/>	By Facsimile
<input type="checkbox"/>	By Federal Express or Overnight Mail prepaid
<input checked="" type="checkbox"/>	By Email: Tenhulzen, et al, and TM Squared LLC <a href="mailto:mike@tenhulzen.com">mike@tenhulzen.com</a>

<input type="checkbox"/>	By United States Mail, postage prepaid and properly addressed
<input type="checkbox"/>	By Legal Messenger or Hand Delivery
<input type="checkbox"/>	By Facsimile
<input type="checkbox"/>	By Federal Express or Overnight Mail prepaid
<input checked="" type="checkbox"/>	By Email: Good Brewing <a href="mailto:kevin@goodbrewing.com">kevin@goodbrewing.com</a>

<input type="checkbox"/>	By United States Mail, postage prepaid and properly addressed
<input type="checkbox"/>	By Legal Messenger or Hand Delivery
<input type="checkbox"/>	By Facsimile
<input type="checkbox"/>	By Federal Express or Overnight Mail prepaid
<input checked="" type="checkbox"/>	By Email: King County- Jeri Breazeal <a href="mailto:jeri.breazeal@kingcounty.gov">jeri.breazeal@kingcounty.gov</a>

Signed and certified on July 5, 2022,



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Serena Glover