

November 16, 2023

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2743**
Proposed ordinance no. **2023-0353**
Adjacent parcel no. **722980-0505**

LUONG THE DANG AND GUO ZHEN HUANG
Road Vacation Petition

Location: a portion of 172nd Ave SE, Renton

Applicants: **Luong The Dang and Guo Zhen Huang**
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Renton, WA 98059
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King County: Department of Local Services, Road Services Division
represented by **Leslie Drake**
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FINDINGS AND CONCLUSIONS:

Overview

1. Luong The Dang and Guo Zhen Huang petition the County to vacate a stretch of public right-of-way at a portion of 172nd Ave SE, Renton. Road Services Division (Roads), urges vacation. We conducted a remote public hearing yesterday on behalf of the Council. After hearing witness testimony and observing their demeanor, studying the exhibits entered into evidence, and considering the parties' arguments and the relevant law, we recommend that Council vacate the right-of-way, contingent on receipt of \$2767.

Background

2. Except as provided below, we incorporate the facts set forth in Roads’ report and in proposed ordinance no. 2023-0353. That report, and a map showing the area to be vacated and the vicinity of the proposed vacation, are in the hearing record and will be attached to the copies of our recommendation submitted to Council. Exs. D1 at 1-5, D7.
3. Chapter RCW 36.87 sets the general framework for county road vacations, augmented by KCC chapter 14.40. There are at least four somewhat interrelated inquiries. The first two relate to whether vacation is warranted: is the [1] road useless to the road system and [2] would vacation benefit the public? If the answers to these are both yes, the third and fourth relate to compensation: [3] what is the appraised (or perhaps assessed) value of the right-of-way, and [4] how should this number be adjusted to capture avoided County costs? We analyze each of those below.

Is Vacation Warranted?

4. A petitioner has the burden to show that the “road is [1] useless as part of the county road system and [2] that the public will be benefitted by its vacation and abandonment.” RCW 36.87.020. “A county right of way may be considered useless if it is not necessary to serve an essential role in the public road network or if it would better serve the public interest in private ownership.” KCC 14.40.0102.B. While denial is mandatory (“*shall* not” vacate) where a petitioner fails to make that showing, approval is discretionary where a petitioner shows uselessness and public benefit (“*may* vacate”). RCW 36.87.060(1) (emphasis added).
5. The subject right-of-way segment is not currently opened, constructed, or maintained for public use, and it is not known to be used informally for access to any property. Vacation would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area. The right-of-way is not necessary for the present or future public transportation system (including trails) or for utility purposes.
6. We find that the right-of-way is useless. We also find that the public will benefit from its vacation, with the savings in expected, avoided management and maintenance costs and increased property taxes discussed below. We conclude that vacation here is warranted.

What Compensation is Due?

7. Where vacation is appropriate, we calculate compensation by [3] starting with the increase in property values the receiving parcel will garner from the extra square footage the (formerly) public right-of-way area adds to the parcel; this figure is generated by the Assessor. Here, adding the 3073 square-foot, to-be vacated stretch to the Dang/Huang parcel would increase the value of their parcel by approximately \$7000. Ex. D12.
8. However, that is only the starting point, because [4] State and County law allow local legislative branches to adjust the appraised value to reflect the expected value to the public from avoided liability risk, eliminated management costs, and jettisoned

maintenance costs, along with increased property taxes. RCW 36.87.070; KCC 14.40.020.A.1. Performance, Strategy, and Budget created a model for calculating these adjustments, updated annually. Roads then applies those figures to a given parcel. Here, jettisoning the right-of-way would be expected to benefit the County to the tune of \$4087. That leaves \$2767 as fair compensation from the owners. Ex. D12

RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2023-0353 to vacate the subject road right-of-way abutting parcel 722980-0505, CONTINGENT on petitioner paying \$2767 to King County within 90 days of the date Council takes final action on this ordinance.
2. If King County does not receive \$2767 by that date, there is no vacation and the associated right-of-way remains King County's. If payment is timely received, the Clerk shall record an ordinance against parcel 722980-0505. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 722980-0505 is vacated.

DATED November 16, 2023.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A party may appeal an Examiner report and recommendation by following the steps described in KCC 20.22.230. By **4:30 p.m.** on **December 11, 2023**, an electronic appeal statement must be sent to Clerk.Council@kingcounty.gov, to hearingexaminer@kingcounty.gov, and to the party email addresses on the front page of this report and recommendation. Please consult KCC 20.22.230 for the exact filing requirements.

If a party fails to timely file an appeal, the Council does not have jurisdiction to consider that appeal. Conversely, if the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about next steps in the appeal process.

**MINUTES OF THE NOVEMBER 15, 2023, HEARING ON THE ROAD VACATION
PETITION OF LUONG THE DANG AND GUO ZHEN HUANG, DEPARTMENT
OF TRANSPORTATION FILE NO. V-2743**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake and Luong The Dang.

The following exhibits were offered and entered into the hearing record:

Exhibit no. D1	Roads Services report to the Hearing Examiner, sent October 30, 2023
Exhibit no. D2	Letter from Clerk of the Council to Road Engineer, transmitting petition, dated January 27, 2021
Exhibit no. D3	Petition for vacation of a county road, received January 27, 2021
Exhibit no. D4	Letter to Petitioner acknowledging receipt of petition and explaining road vacation process, dated March 3, 2021
Exhibit no. D5	Plat Renton Suburban Tracts Division no. 2
Exhibit no. D6	Assessor's information for property APN 7229800505
Exhibit no. D7	Vacation area map
Exhibit no. D8	Final stakeholder notification, sent July 20, 2021, with comment deadline of August 23, 2021
Exhibit no. D9	Email from Assessor's Office on valuation
Exhibit no. D10	Compensation calculation model for APN 722980-0505
Exhibit no. D11	Letter to Petitioner recommending approval, dated November 16, 2021
Exhibit no. D12	Road Engineer report
Exhibit no. D13	Letter from Petitioner to Clerk of the Council, dated February 9, 2022
Exhibit no. D14	Revised petition
Exhibit no. D15	Letter to Chair, recommending approval and transmitting proposed ordinance, dated October 5, 2022
Exhibit no. D16	Proposed ordinance
Exhibit no. D17	Declaration of posting, noting posting date of October 23, 2023
Exhibit no. D18	Letter to abutting property owner, Brian Kelderman, dated October 23, 2023
Exhibit no. D19	Publication
Exhibit no. D20	Affidavit of publication – to be supplied by Clerk of Council