

February 8, 2016

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198
hearingexaminer@kingcounty.gov

**REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E15CT017**
Proposed ordinance no. **2016-0032**
Parcel no. **1920069006**

ABLE AIR LLC

Open Space Taxation Application (Public Benefit Rating System)

Location: 18300 SE 440th Street, Enumclaw

Applicant: Able Air LLC
represented by **Russ Trussell**
PO Box 1386
Enumclaw, WA 98022
Telephone: (360) 802-2253
Email: able_air@msn.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation:	Approve 9.30 acres for 50% of market value
Examiner's Recommendation:	Approve 9.30 acres for 50% of market value

PRELIMINARY REPORT:

On January 21, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT017 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a public hearing on the application on February 3, 2016, in the Horiuchi Conference Room 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

FINDINGS, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner:	Able Air LLC PO Box 1386 Enumclaw, WA 98022
Location:	18300 SE 440th Street, Enumclaw
STR:	NW 19-20-06
Zoning:	A-35
Parcel no.:	1920069006
Total acreage:	10.30 acres

2. The Applicant timely filed an application to King County for PBRS program current use valuation of the property to begin in 2017. As required by law, notification of the application occurred.

3. A summary of relevant PBRS categories follows below. (Plain text represents a category an applicant requested an award for and that DNRP agrees is warranted. Any ~~strikethrough~~ represents a category an applicant requested an award for but that DNRP disagrees is warranted. Any *italics* represents a category an applicant did not request an award for, but that DNRP nonetheless concludes is warranted. And any *asterisks* represent a category where DNRP finds an award is warranted, but only if certain contingencies or conditions are met.)

PBRS categories:	<u>Open Space Resources</u>	
	Farm and agricultural conservation land	*5*
	<u>Rural open space</u>	
		<hr/> *5*

The DNRP-recommended score of 5 points results in a current use valuation of 10% of market value for the enrolled portion of the property. Award under the farm and agricultural conservation land category is contingent upon submittal of a King Conservation District-approved farm management plan for the property by **October 31, 2016**. Because the property is not eligible under any other PBRS resource category, failure to qualify as farm and agricultural conservation land will preclude the property from enrollment in the PBRS program.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 1 acres and DNRP recommends 9.30 acres. (Enrollment acreage is the entire parcel less the excluded area, as calculated by DNRP. In the event the County Assessor’s official parcel size is revised, the PBRS acreage shall be administratively adjusted to reflect that change.)
5. Except as modified herein, the facts set forth in the DNRP preliminary report and testimony at the February 3, 2016, public hearing are correct and incorporated herein by reference. Copies of this report and the department report will be provided to the Metropolitan King County Council for final approval.

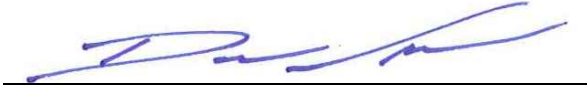
CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 5 points and a current use valuation of 50% of market value for 9.30 acres of the property, is consistent with the purposes and intent of King County to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of King County and its citizens.
2. The subject property is currently enrolled in the farm and agricultural land program. Any open space taxation participation agreement signed as a result of approval of this application should be worded to supersede any prior agreement for the parcel.

RECOMMENDATION:

1. APPROVE current use valuation of 50% of market value for the 9.30-acre enrolled portion of the property, CONTINGENT on submittal of a King Conservation District-approved farm management plan by no later than **October 31, 2016**.

DATED February 8, 2016.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Hearing Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250 (check payable to King County Office of Finance) on or before ***February 22, 2016***. If a notice of appeal is filed, the original and two copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before ***February 29, 2016***.

Filing requires actual delivery to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30) p.m. on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance that implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting the Council may adopt the Examiner's recommendation, defer action, refer the matter to a Council committee, or remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from Superior Court for the purpose of review of the action taken.

MINUTES OF THE FEBRUARY 3, 2016, HEARING ON THE APPLICATION OF ABLE AIR LLC, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT017.

David Spohr was the Hearing Examiner in this matter. Bill Bernstein and Megan Kim both participated in the hearing on behalf of the department.

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

Exhibit no. 1	<i>Not submitted</i>
Exhibit no. 2	<i>Not submitted</i>
Exhibit no. 3	<i>Not submitted</i>
Exhibit no. 4	DNRP report to the Hearing Examiner
Exhibit no. 5	Affidavit of publication
Exhibit no. 6	Notice of hearing from the Hearing Examiner's Office
Exhibit no. 7	Notice of hearing from the PBRs program
Exhibit no. 8	Legal notice and introductory ordinance to the King County Council
Exhibit no. 9	Application signed/notarized
Exhibit no. 10	Legal description of area to be enrolled
Exhibit no. 11	Email to applicant regarding received application and approval schedule
Exhibit no. 12	Arcview and orthophoto/aerial map
Exhibit no. 13	<i>Reserved for future submission of farm management plan</i>

DS/vsm

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CERTIFICATE OF SERVICE

SUBJECT: Department of Natural Resources and Parks file no. **E15CT017**
Proposed ordinance no. **2016-0032**
Parcel no. **1920069006**

ABLE AIR LLC

Open Space Taxation Application (Public Benefit Rating System)

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties of record/interested persons and primary parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties of record/interested persons at the addresses indicated on the list attached to the original Certificate of Service.

DATED February 8, 2016.



Vonetta S. Mangaoang
Clerk/Manager

All Parties of Record

Able Air LLC

PO Box 1386
Enumclaw

WA 98022
mailed paper copy

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