



200 SW Market Street, Suite 1777  
Portland, Oregon 97201-5771

T 503.225.0777

F 503.225.1257

www.hk-law.com

Michael E. Haglund  
Michael K. Kelley  
Michael G. Neff  
Julie A. Weis  
Christopher Lundberg  
Matt Malmshemer  
Joshua Stellmon  
Eric J. Brickenstein  
Christopher T. Griffith

LeRoy W. Wilder  
Retired

July 3, 2018

**VIA EMAIL**

City Council Members and the Honorable Denny Doyle  
c/o Anna Slatinsky, Planning Division Manager  
City of Beaverton  
12725 SW Millikan Way  
Beaverton, OR 97005

Re: Oregon Beverage Recycling Cooperative (Beaverton BottleDrop)  
APP 2018-0001 and APP 2018-0002 (Appeal of DI2017-0003)

Dear Council Members and Mayor Doyle:

This letter and attached materials represent the rebuttal argument and evidence submitted on behalf of Brendan and Holli Bridgens and their family, Michael Matschiner, Joseph Conrad, Trisha McPharren and her family, Jesuit High School, and Rick Skayhan and his family. The submitted evidence includes two video clips which I urge you download and review via ShareFile, which is a secure content file sharing service. Both of the video clips were taken from the Bridgens family's backyard. If the ShareFile download is not accessible to you, I can provide a flashdrive copy at your request. I also have provided several flashdrive copies to the Beaverton Community Development Department.

**A. INTRODUCTION.**

This is a straight-forward case about the Beaverton City Council's interpretation of its own development code – the Beaverton Development Code (“BDC”). City Council's decision will affect not just the neighbors of the Beaverton BottleDrop, but will establish a citywide precedent. If City Council adopts staff's recommendation, other BottleDrops or facilities “substantially similar” to the BottleDrop can be sited as of right in all of Beaverton Commercial Districts and many of Beaverton's Multiple Use Districts without notice to neighboring property owners.

Most of the arguments made by the BottleDrop owners in support of staff's determination are distractions. The fundamental question before City Council is whether the BottleDrop is a “Recycling Center” as that term is used in the BDC. Appellants submit there are multiple principled reasons which support this plain language interpretation, and if you do find the BottleDrop is a “Recycling Center” it is highly unlikely any appeal of that decision will be successful. As explained further below, City Council also can reject staff's determination even if it determines the word “Recycling Center” is ambiguous.

**B. ROADMAP FOR CITY COUNCIL AND SUMMARY OF KEY EVIDENCE AND ARGUMENT.**

This section sets out appellants' summary of these legal proceedings and provides a roadmap for how the City Council can best protect its citizens, schools, and businesses within the letter of the law.

The evidence and legal argument in the record for the two appeals before City Council establishes the following:

- (1) The interpretation and construction of the term "Recycling Centers" in the Beaverton Development Code ("BDC") is a question of first impression. See testimony of Anna Slatinsky (responding to Council Member Mark San Soucie during the June 19, 2018 Beaverton City Council hearing). So, too, is the question of whether the Beaverton BottleDrop is a use "substantially similar" to a use allowed in the Community Service District. If City Council determines the Beaverton BottleDrop is a "Recycling Center," as a matter of law it cannot be "substantially similar" to a use in the Community Service District. BDC 20.15.20 ("use not identified in the Development Code").
- (2) All of the occupants of the residences and business located on parcels adjacent to the BottleDrop testified that operation of the facility creates tangible negative externalities which are unlike and distinct from the externalities caused by other nearby operating businesses. See, e.g., Declaration of Brandon and Holli Bridgens, Attachment A. Owners and/or occupants of other nearby parcels provided similar testimony.
- (3) The notion that redemption centers like the Beaverton BottleDrop should be classified as a "Service Business" is a staff suggestion that need not be adopted by City Council. The BDC and caselaw clearly provides City Council has the authority to reject the argument offered by staff and the BottleDrop owners. Church v. Grant County, 187 Or. App. 518 (2003)(rules governing statutory construction apply to interpretation of local ordinances). This can be done by finding the BottleDrop is a "Recycling Center" as a matter of plain language. If City Council rejects appellants' argument and determines the term "Recycling Center" is ambiguous, it still can reject staff's proposal by adopting one of two possible approaches: (a) the BottleDrop is substantially similar to a "Recycling Center" and not substantially similar to a "Service Business" or another use allowed as of right in the Community Service District; or (b) by simply determining a Bottle Drop is not "substantially similar" to any of the commercial uses articulated by staff, the BottleDrop owners, or allowed in the Community Service District (without determining the BottleDrop is a "Recycling Center").
- (4) If City Council does adopt the staff suggestion, City Council's decision will set an unfortunate precedent which will allow siting of one or more other BottleDrops without land use review in Beaverton. This precedent will allow BottleDrop siting as of right

without conditions in all of Beaverton's Commercial Districts and many of its Multiple Use Districts. Ratifying staff's interpretation would be an acknowledgement by City Council that the plain language of the BDC does not protect Beaverton citizens, schools, and businesses.

- (5) The evidence before City Council demonstrates several mistakes made by staff in determining the BottleDrop is a "Service Business." Staff made factual mistakes, procedural legal mistakes and mistakes in judgment. Most important was the initial evaluation of the use by a Beaverton planner. Not only did the planner fail to consider the possibility that the BottleDrop could be a Recycling Center, but he also erroneously believed no processing would occur on site. See Minutes of the Denney Whitford/Raleigh West NAC Meeting of March 9, 2017 (Attachment E to June 15, 2018 Memorandum of Michael G. Neff to City Council). These mistakes resulted in the BottleDrop being sited without the knowledge of nearby property owners and occupants or input from these property owners and occupants.
- (6) City Council has an opportunity to correct these mistakes while minimizing any difficulty for the BottleDrop owners and its customers. This follows from the fact that all appellants to both appeals before City Council are willing to agree to a reasonable amount of time for the BottleDrop owners to relocate their facility to a location in Beaverton where it legally can be sited under the BDC. None of the appellants I represent are insistent that the BottleDrop close its doors, but they do not believe the BDC contemplates the Community Service District is an appropriate and legal zone for this use.
- (7) If current existing sites zoned Industrial in Beaverton are not practical locations for the BottleDrop owners and convenient for their customers, this reasonable time of additional operation at the Beaverton-Hillsdale Highway site can be used to effect a legislative amendment to the BDC. If necessary, this legislative amendment process can identify locations in the Commercial, Multiple Use, and Office Industrial zones, where the BottleDrop would be compatible with both existing and future uses. This legislative amendment process also could define any appropriate conditioning authority necessary to ensure compatibility with existing and future uses in areas deemed appropriate for BottleDrops and similar uses.
- (8) If City Council follows staff's suggestion it will validate an approach to land use review that greatly discounts public notice and involvement and a plain language reading of the BDC.

**C. SPECIFIC RESPONSES AND REBUTTAL TO THE BOTTLEDROP OWNERS' POST-HEARING EVIDENTIARY SUBMISSION**

- (1) BottleDrop Owners' Suggestion That "Backroom Operations" are no Different Than What is Conducted at Grocery Stores is Incorrect

The proposition that a stand-alone facility nearly 11,000 square feet in size, which is specifically designed to collect, sort, and process for transport more than 100,000 beverage containers a day, is no different than the accessory-use reverse vending machines historically found at grocery stores defies common sense, logic, and the fundamental reasons local governments regulate land use through zoning codes. That BottleDrops are fundamentally different from grocery store reverse vending machines is illustrated by the legal and factual differences that distinguish these concepts.

- (a) BottleDrops are a Principal Use and Grocery Store-Based Reverse Vending Machines are an Accessory Use

The reverse vending machines at grocery stores are customarily associated with grocery stores and incidental to the commercial retail sales use under which Beaverton grocery stores are categorized for land use purposes. The City of Beaverton's land use approvals for a conversion of the Ashley Furniture building to a Walmart grocery store in the Five Oaks area provides no discussion or evaluation of the three reverse vending machines which are part of the Walmart operation. See Discussion of and Attachments E-G in June 26, 2018 Correspondence of Michael G. Neff). The machines simply are allowed without review because they are a customarily associated accessory use which is incidental and subordinate to the principal use of grocery stores as retail sales. BDC 60.50.05(4) and BDC Chapter 90.

BottleDrops, on the other hand, must be analyzed as a principal use which has characteristics fundamentally different from the reverse vending machine accessory uses found at grocery stores. To suggest that there are no differences between grocery store reverse vending machines and BottleDrops ignores the functional reality of why BottleDrops are being used to replace grocery store reverse vending machines.

- (b) The Sole Function of a BottleDrop is the Recycling of Beverage Containers and the Redemption of Containers

BottleDrops are a central repository for redeemable beverage containers where these containers are sorted, counted, processed, and stored prior to being hauled away. Consumers returning beverage containers to the central repository may redeem the container deposits paid at the time the beverage was purchased. Unlike grocery stores, where commercial retail is the primary function of the business, BottleDrops serve no other function than the recycling and redemption of beverage containers.

- (c) A Primary Purpose of BottleDrops is to Consolidate and Centralize Beverage Container Returns and Create a Primary Stand-Alone Use Separate and Apart from Grocery Stores

As the ORBC has conceded, one important benefit BottleDrops provide for grocery stores is consolidation of beverage container recycling at stand-alone centers that are physically separated from the grocery stores themselves. OBRC Stewardship Officer Jules Bailey's comment to appellant Richard Skayhan at paragraph 4 to Exhibit K submitted with the June 26, 2018 letter of Michael G. Neff. (Beaverton and Southwest Portland grocery stores were clamoring for the Beaverton BottleDrop to open so that they could solve their "vagranacy problem")

- (d) BottleDrops are Substantial Compared to Grocery Store Reverse Vending Machines

The most recent quarterly report filed by the BottleDrop owners with the Oregon Liquor Control Commission relates that in the first three months of 2018 the Beaverton BottleDrop collected, sorted, and processed an average of 104,608 beverage containers a day. See <https://www.obrc.com/Content/Reports/OBRC%20Quarterly%20Report%20Q1%202018.pdf>. Evidence submitted by the Beaverton BottleDrop owners established the size of the building is nearly 11,000 square feet *see* Ex. I to Dec. 21, 2017 Application for Director's Interpretation for Oregon Beverage Recycling Cooperative. The substantial nature of the Beaverton BottleDrop is easy to grasp when it is compared to the three reverse vending machines and container storage area at the Walmart grocery store on NW Cornell in the Five Oaks area (Attachment F and G to June 26, 2018 correspondence of Michael G. Neff) or the 360-square-foot area that formerly house the reverse vending machines at the Raleigh Hills Fred Meyer on Beaverton Hillsdale Highway (Attachment B to this letter). This substantial nature also is evidenced when one compares grocery store reverse vending machines to the description of a BottleDrops' backend operation. See the Declaration of former BottleDrop employee Gabe Bergeron submitted with material filed by Michael G. Neff on June 15, 2018 (describing the backend operations at the Bend and Redmond BottleDrops).

There simply is no comparison between these incidental and subordinate accessory uses connected to grocery stores and the central recycling and redemption facility operated under the BottleDrop brand. That there is a significant difference between BottleDrops and grocery store reverse vending machines is not a surprise when one considers that the Beaverton BottleDrop is designed to consolidate consumer recycling of redeemable beverage containers for a 25-store area at a single location. The BottleDrop concept specifically is intended to replace grocery store collection of containers with central high-volume collection centers.

- (2) The BottleDrop Owners Ignore the BDC's Requirement that Ambiguity Be Resolved Prior to or Concurrent with Applications for Development

The BottleDrop owners argue that "Recycling Center" is an ambiguous term and that the BDC provides for the Director's Interpretation process where ambiguity . . . has been

identified.” Even assuming the term is ambiguous, the BottleDrop owners still completely ignore and fail to explain why they did not abide by BDC 40.25, which provides all requests for Director’s Interpretations should be made “in advance of, or concurrent with, applying for approval of an application, development, permit, or other action.” BDC 40.25.05. By ignoring this provision of the BDC, the BottleDrop owners were able to obtain approval of the BottleDrop as a use allowed in the Community Service District without notice to neighboring and nearby property owners. See the Declarations of Declaration of Brandon and Holli Bridgens and Tom Arndorfer, Attachments A and C.

(3) The BottleDrop Owners at No Time Have Been Willing to Engage in a Genuine Discussion About Voluntarily Relocating the Beaverton BottleDrop

The BottleDrop owners spend a great deal of effort describing their efforts to reach out to nearby property owners who have been negatively impacted by operation of the BottleDrop. The neighbors view this narrative as an attempt by the BottleDrop owners to divert attention from the fact that all efforts to reach out to the neighbors occurred after the BottleDrop was illegally approved, established, and began operating. The BottleDrop owners’ narrative also ignores the fact that at no time have the BottleDrop owners told any of their neighbors or appellants in this matter that they are willing to engage in any serious discussion about relocation of the BottleDrop to a more suitable location.

Jesuit High School on multiple occasions asked the BottleDrop owners to engage in a serious discussion about voluntary relocation of the Beaverton BottleDrop. As set out in the attached Declaration of Tom Arndorfer, all attempts to engage the Oregon Beverage Recycling Cooperative in a meaningful discussion about relocation to a more suitable spot have been unsuccessful. Attachment C.

In their declaration, Brandon and Holli Bridgens speak to the BottleDrop owners’ ineffectiveness in addressing their concerns. Declaration of Brandon and Holli Bridgens, Attachment A. The fact that efforts by the BottleDrop owners to address the Bridgens concerns have been ineffective is corroborated by the two video clips submitted contemporaneous with this letter. One video was taken on July 1, 2018, at approximately 6 am. The men in this video can be seen sitting in the Beaverton BottleDrop parking lot near the loading dock roughly 40 feet from the Bridgens’ backyard. Toward the end of the video, one of the men pulls out a syringe. The second video, taken at 6:35 pm on June 30, 2018, also from the Bridgen family’s backyard, captures noise created by the BottleDrop. Both of these video recordings are submitted for the record with this letter.<sup>1</sup>

---

<sup>1</sup> These two video clips taken by Branden Bridgens from his backyard during the last several days are further described in the Declaration of Michael G. Neff which is Attachment D. These video clips can be accessed via ShareFile, which is a secure content file sharing service. Copies of the video clips also have been provided to the

Lastly, Joseph Conrad, the owner of the house directly across SW Club Meadow from the Bridgens, relates in his declaration that at no time has anyone associated with the Beaverton BottleDrop contacted him to inquire if he experienced any problems with the location of the BottleDrop. Declaration of Joseph Conrad, Attachment E.

(4) The Beaverton BottleDrop Operation is Fundamentally Different from EcoBinary Electronics Recycling, Play It Again Sports, or Goodwill

The BottleDrop owners identify three retailers of used products which they argue will need to move to the Industrial District if City Council determines the BottleDrop is a Recycling Center. The BottleDrop owners' argument fails to account for the differences between operations at the BottleDrop and these retail establishments.

Importantly, each of the businesses identified by the BottleDrop owners have a significant or predominant retail sales component that is not part of the Beaverton BottleDrop's operation. Members of the City Council no doubt are familiar with the fact that Goodwill stores and Play It Again Sports rely heavily upon retail sales and maintain large retail display areas. This also is true for EcoBinary Electronics Recycling. See e-mail from Ecobinary owner Ryker Bax at Attachment F and images of retail display area at Attachment G.

Second, none of these businesses engage in the large-scale processing of discarded material like the Beaverton BottleDrop, which every day processes more than 100,000 beverage containers by using industrial machines to pulverize or crush these containers. In fact, no processing of recycled electronics takes place at EcoBinary Electronics Recycling. See email from Ecobinary owner Ryker Bax at Attachment F. As for Goodwill and Play It Again Sports, there is no evidence in the record that either of these businesses engage in the large-scale processing of waste products similar to the Beaverton BottleDrop.

(5) Honest Mistakes By Staff Should be Rectified by City Council

It is clear the planner who determined the BottleDrop is a commercial use believed no processing would occur at the facility. See Minutes of the Denney Whitford/Raleigh West NAC Meeting of March 9, 2017 (Attachment E to June 15, 2018 Memorandum of Michael G. Neff to City Council). As the Declaration of former OBRC employee Gabe Bergeron establishes, this conclusion is a mistake of fact.

It also is true that the BDC specifically provides that Recycling Centers must be sited in the Industrial District if they are to be established in Beaverton. As the Land Use Board of Appeals has made clear, Beaverton's Community Development staff at a minimum should have determined through a Director's Decision whether the BottleDrop is or is not similar to a Community Service District permitted use. Glenwood 2006, LCC vs. City of Beaverton, LUBA

---

Beaverton Community Development Department. I also can provide a copy of the video clips to any Council Member or Mayor Doyle upon request.



No. 2017-027 at p. 10. The decision by staff not to require a Director's Decision prior to allowing the BottleDrop owners to push the design review process forward was an error in judgment and law that prevented meaningful public input on the BottleDrop proposal.

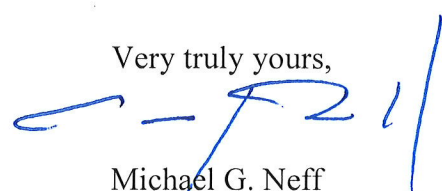
Closely related to this mistake was staff's erroneous decision to ignore BDC 40.25.05, which states that all requests for Director's Interpretations should be made "in advance of, or concurrent with, applying for approval of an application, development, permit, or other action." This also was a mistake in judgment and law. City staff had a last chance to correct the error of failing to require a Director's Interpretation before design review when Scott Whyte recognized the need to amend the OLCC Local Government Notification Form by adding the note that the "Beaverton Municipal code does not address such facilities directly" on Dec. 6, 2016. This amendment of the OLCC form demonstrates Mr. Whyte's recognition that the BDC did not directly address BottleDrops. Given the language of BDC 40.25.05, this recognition by Mr. Whyte also should have caused him to recognize the need to utilize the Director's Decision process. (6)

Lastly, it appears Mr. Whyte did not understand that as a principal use a BottleDrop is fundamentally and legally different than accessory use "stand-alone" bottle return areas at Fred Meyer stores. See Minutes of the Denney Whitford/Raleigh West NAC Meeting of March 9, 2017 (Attachment E to June 15, 2018 Memorandum of Michael G. Neff to City Council)("Scott noted that this usage is already done in commercial areas").

#### **D. CONCLUSION**

Appellants respectfully request the City Council enforce the plain language of the Beaverton Development Code to protect those who live, learn, educate, and conduct business in the areas adjacent to or near the Beaverton BottleDrop. The plain language of the BDC clearly provides City Council a principled basis to reject the conclusions in the Director's Decision and correct the mistakes made early in the development process. City Council's affirmation of the BDC's plain language not only will protect your citizens who are directly impacted by the Beaverton BottleDrop, but also will protect citizens in other parts of Beaverton through the precedent your decision will set. Given that all appellants are willing to allow a reasonable amount of time for owners of the BottleDrop to identify a new location for the BottleDrop, protection of Beaverton's citizens can be effected with a minimum of disruption to the BottleDrop's owners and patrons.

Very truly yours,



Michael G. Neff

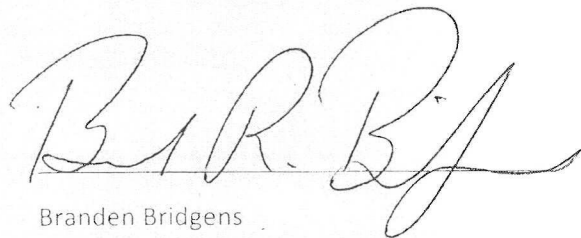


# Attachment A

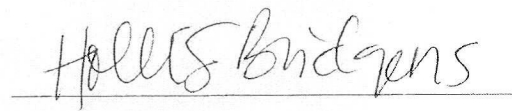
Declaration of Branden Bridgens and Holli Bridgens

1. We reside at 9240 SW Club Meadow Road. We have lived at this address for 17 years.
2. We reviewed the June 26 submission by the BottleDrop owners' attorneys.
3. Efforts by the BottleDrop owners to address our concerns have been ineffective, and communication from the BottleDrop owners has been sporadic. Our concerns about the BottleDrop have been well-documented in both oral and written testimony to the City Council and the Beaverton Department of Community Development.
4. At our present address, our family has lived in close proximity for many years to many commercial business, including a tattoo parlor, a 24-hour convenience store, a gasoline service station, and national-chain fast food restaurants.
5. Living close to the BottleDrop is far different than living close to these other businesses. After the BottleDrop opened last year, the impact from odor, noise, trash, trespassing, and unwanted nearby loitering by individuals attracted to the BottleDrop all have become severely pronounced. What once had been a light to medium impact from the cumulative effect of nearby commercial businesses is now is best described as a severe impact. To call the difference between the neighborhood before and after the arrival of the BottleDrop the difference between night and day is not an exaggeration.
6. Given the problems and externalities caused by the BottleDrop for us and our neighbors, we have no confidence that if the BottleDrop continues to operate in its present location that the owners can effect enough change that our neighborhood would again become a decent place to live and raise a family. This is based on the nature of the BottleDrop owners' business model and operations. If the nature of problems created by BottleDrop operations could be effectively mitigated, we believe the BottleDrop owners already would have effected this mitigation. It has been nearly a year since we initially contact the BottleDrop owners with our concerns.
7. We would not want what we have experienced to be experienced by other families in other parts of Beaverton if other BottleDrops are inappropriately sited next to residential neighborhoods.

Date: 7-1-18

  
Branden Bridgens

Date: 7/1/18

  
Holli Bridgens

# Attachment B

Bottle Return Area at Raleigh  
Hills Fred Meyer



# Attachment C

## DECLARATION OF TOM ARNDORFER

1. I am the President of Jesuit High School. Together with Jesuit's Senior Leadership Team and the faculty and staff, I am responsible for the safety of nearly 1,300 students who receive their secondary education at Jesuit High School.
2. Given what the Jesuit High School security staff has observed and documented over the past 13 months, which roughly is the period of time the BottleDrop at 9307 SW Beaverton Hillsdale Highway has been operating, the Jesuit High School Senior Leadership Team believes the safety and security of our students is significantly compromised by the close proximity of the BottleDrop to our campus.
3. Student security is a point of emphasis for the Jesuit Senior Leadership Team and our faculty and our staff. As educators, we understand that our foremost priority and responsibility is to keep our students safe. As a staff, we think about and talk about student safety every day we are on campus. We have invested significantly in physical improvements that enhance student safety (*e.g.*, a perimeter fence) and a well-trained security staff that is led by a 25-year veteran of the Portland Police Department.
4. I am extremely disappointed that the owners of the Beaverton BottleDrop—the beverage distributors who comprise the Oregon Beverage Recycling Cooperative (“OBRC”)—failed to reach out to anyone at Jesuit High School before deciding to locate the BottleDrop across the street from our school. It would have been extremely helpful to our Senior Leadership Team and our Board of Trustees to have understood what the BottleDrop owners proposed for the site before the property was purchased and the BottleDrop began operating. A proactive outreach by the BottleDrop owners early in their evaluation process would have allowed for the possibility of a serious discussion about location and its impact on student safety before the BottleDrop owners made a significant investment in this site.
5. No public notice of the City of Beaverton planning staff's decision to allow the Beaverton BottleDrop to open and operate at this location was provided to Jesuit High School, and to the best of my knowledge, no one on the Senior Leadership Team knew of this decision until after Beaverton planning staff approved this location for the Beaverton BottleDrop.
6. On several occasions during the last six months, either directly, through my staff, through our attorneys, or at our neighborhood meeting, Jesuit High School has asked representatives of the OBRC to engage in a serious discussion about relocation of the Beaverton BottleDrop. Each time this request has been made, the OBRC's managers have

been willing to talk about mitigation but are not willing to consider seriously the idea of relocation. During my meeting with John Andersen on June 7, 2018, our request that the BottleDrop owners consider voluntarily relocating the BottleDrop within a reasonable amount of time was rebuffed by Mr. Andersen.

7. I have never asked OBRC to close its doors. Our position has always been that the location of the BottleDrop needs to be moved given the serious safety and security concerns created by its presence so close to our campus.
8. I believe the Oregon Legislature has vested the OBRC with a fiduciary responsibility to manage the beverage container recycling program in a manner that encourages recycling but also protects the public's safety and well-being while mitigating adverse impacts on those using surrounding property. I also believe that by choosing to locate the Beaverton BottleDrop at its current location—without making any attempt to first engage Jesuit High School or any of the immediate neighbors—the OBRC breached this fiduciary duty and violated the trust vested in it by the Legislature.

**THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE,  
RECOLLECTION, AND BELIEF.**

Date: 7/2/18

Erica K. Tuenge for

Thomas D. Arndorfer  
President, Jesuit High School

# Attachment D

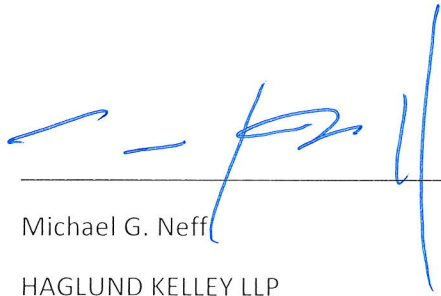


DECLARATION OF MICHAEL G. NEFF

1. I am an attorney representing Brandon and Holli Bridgens in APP 2018-001 and APP 2018-002. This is an appeal of the Beaverton BottleDrop use determination in DI2017-0003.
2. I submit this declaration to provide detail on images and videos Brandon Bridgens has captured in recent days with his phone camera.
3. Two video clips are included on a flashdrive submitted with this Declaration. One clip includes audio of noise emanating from the BottleDrop on June 30, 2018 at approximately 6:35 pm. The second video clip was taken at 6:15 am on July 1, 2018, and speaks for itself.
4. These video clips are available via ShareFile, a secure content file sharing service, for those who received by June 2, 2018 correspondence by email. I also have provided copies of these video clips to the Beaverton Community Development Department, and can provide copies of these files to any Beaverton City Council Member on request.

I swear under penalty of perjury that the information in this declaration is true to the best of my knowledge and belief.

Date: July 2, 2018

  
\_\_\_\_\_

Michael G. Neff  
HAGLUND KELLEY LLP  
200 SW Market, Ste. 1777  
Portland, OR 97201

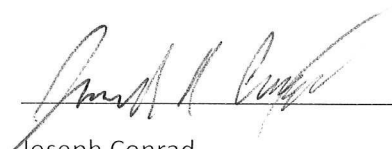
# Attachment E

Declaration of Joseph Conrad

1. I reside at 9207 SW Club Meadow Road.
2. I reviewed the June 26 submission by the BottleDrop owners' attorneys.
3. At no time has anyone associated with the Beaverton BottleDrop called me, sent me an e-mail, or attempted to contact me in person and request that we talk about Beaverton BottleDrop operations.
4. I swear under penalty of perjury that the statements made in this declaration are true to the best of my knowledge, recollection, and belief.

Dated: \_\_\_\_\_

JULY 2 2010

  
\_\_\_\_\_  
Joseph Conrad

# Attachment F

**From:** EcoBinary - [mailto:recycle@ecobinary.com]

**Sent:** Monday, July 2, 2018 12:36 PM

**To:** Michael Neff <MNeff@hk-law.com>

**Subject:** Re: FW: City of Beaverton File Nos. DI2017-0003 and APP 2018-0002; Applicant's First Open Record Period Submittal

Hi Mike,

Dave has taken a step back from the business and has not been an active part of EcoBinary for close to two years, however as an owner I feel like I can address this.

As far as how they described our operations at the Beaverton location, its accurate. We accept electronic recycling from the public, sort, package and ship it back to our warehouse in Tualatin. The extent of processing that happens at the store is cutting some cords. As an Oregon E-cycles collection site we do not dismantle any of the recycling that comes through our store from consumers at all, even at our warehouse in Tualatin. It is shipped out from there to a facility that does the actual processing. We just collect it.

When they say it includes a "small retail component" that is not accurate. Retail sales are very much a large part of our business and also physically a large part of our Beaverton location. We have maybe a quarter of our square footage dedicated to the collection of recycling, most of our space is retail.

And they must have included Bi-Mart and Round Table in the square footage because the space we lease is only about 3000 square feet.

I'm not sure if it matters but the quote they used from our website is only half of the paragraph. That paragraph is advertising our corporate recycling service.

Thanks,  
Ryker Bax

On Mon, Jul 2, 2018 at 10:32 AM, Michael Neff <MNeff@hk-law.com> wrote:

Ryker:

Nice to talk with you. Please say hello to you mom and dad. I'd really like to talk with your dad if he has a minute today.

I've attached what I told you about. This was written by the BottleDrop's attorneys. Take a look at page 11. The BottleDrop is owned by the Oregon Beverage Recycling Cooperative, which in turn is owned by the beverage distributors.

What I'd like to do is have someone clarify what you told me -- that what Ecobinary does is serve as a collection point for the equipment but does no processing. It would be helpful to confirm that all breaking down of the equipment (ie -- processing) takes place off-site if this is accurate. In other words, is it true you serve only as a "drop-box" for the Oregon E-Cycles program.

It also would be helpful if someone confirm whether your retail sales are a significant part of your business.

I'm filing tomorrow at about noon with the City. Can I follow up with you later today?

Michael G. Neff

HAGLUND KELLEY LLP

200 SW Market, Ste. 1777

Portland, OR 97201-5771

503.225.0777

--

**EcoBinary** - Electronic Recyclers

10120 SW Beaverton-Hillsdale Hwy

Beaverton, OR 97005

PH: 503-352-4991

# Attachment G

EcoBinary- Electronics  
Recycling Retail Display









