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Moberly & Roberts, PLLC
Attorneys at Law

12040 98th Ave NE #101
Kirkland, WA 98034
(425) 284.2362 ♦ Fax (425) 284.1205

Date: 1.9.2015

**NOT FOR DISCOVERY
CASE DECLINE**

To: **Officer Valencia**
Cc: **Sgt. Rich**
Cc: **Cpl. Zablan**

Suspect's Name: [REDACTED]
Date of Violation: 9.15.14
KPD Case number: 14-43885
Violation: Vehicle/Pedestrian fatality

AT THIS TIME WE ARE DECLINING TO FILE THIS CASE FOR THE FOLLOWING REASON(S):

Ofc. Valencia,

Per our previous discussions, the City does not recommend citing Ms. [REDACTED] with Negligent Driving in the Second Degree, as we would not be able to prove that she was driving in a negligent manner on the afternoon of September 15, 2014.

RCW 46.61.525(2) defines "negligent" as "failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances..." Based on the police reports and our conversations regarding the investigation completed by you and the Kirkland Police Department, we would not be able to prove that Ms. [REDACTED] failed to exercise ordinary care.

Ms. [REDACTED] told you she came to a stop at the intersection of NE 144th St and 119th PI NE and wanted to turn left. She said there was another car stopped at the intersection to her left; the other car did not go, so she believed they were waiting for her to turn. She then turned left onto 119th PI NE. She indicated she never saw the pedestrian.

Witness statements from the women present at the scene and video from Mr. Lori-Amini's security system all indicate that Ms. [REDACTED] came to a stop at the stop sign located at the

intersection of NE 144th St and 119th Pl NE. After coming to a stop, witnesses observed Ms. [REDACTED] turn left onto 119th Pl NE. One witness indicated that Ms. [REDACTED] did not “appear to be going very fast...” Another told officers that she “did not see the Toyota driver speeding nor did she seem distracted.”

During the investigation, it was estimated by Officer Ouimet that Ms. [REDACTED] vehicle was travelling between 14 and 19 miles per hour when she struck the pedestrian; the speed limit on that road is 25MPH. In addition, when you and other officers borrowed a Toyota Prius with the same specifications as the one driven by Ms. [REDACTED] you indicate that during several passes when you accelerated moderately, your speed ranged from 5 miles an hour to 16 miles an hour; again well below the speed limit.

On October 1, 2014 at a time when the sun was in a similar position as it was the day of the accident, based on your research, you reenacted the accident. Officer Oskierko acted as a pedestrian in the same location where witnesses and the investigation place Mr. [REDACTED]. During multiple turns, you indicate that it was difficult to see the pedestrian due to the “A” pillar of the Toyota. In addition, Officer Oskierko indicates that he “could see very little of [your] head and face, due to the width of the “A” pillar of the Prius.” You confirmed with both Officer Oskierko at the time and with me later in conversations, that there was an issue seeing the pedestrian due to the “A” pillar in the vehicle.

Based on all of the above and the totality of your investigation, while a very tragic accident occurred, the City does not believe that we can prove Ms. [REDACTED] failed to exercise ordinary care or acted in a manner that a reasonably careful person would not have under the same or similar circumstances. Therefore, we cannot prove Negligent Driving in the second degree.

Please let me know if you have additional questions.

Thank you,



Blakeley Warbinton, WSBA# 36798
Assistant Prosecuting Attorney