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OCT 16 2015

JOAN P. WHITE  
SAN JUAN COUNTY, WASHINGTON

**SUPERIOR COURT OF WASHINGTON, COUNTY OF SAN JUAN**

CLARE LINN WELKER and ABIGAIL  
METZGER WELKER, Trustees of the Big  
Sky Trust UDT 11-14-2002,  
Plaintiffs,

v.

MOUNT DALLAS ASSOCIATION, a  
Washington non-profit corporation; PETER  
and KIMBERLY ALBERT; TIMOTHY  
and SUSAN ALLEN; DAVID and  
NANCY AUTH; ANITA BAILOR;  
PATRICK and JOANN BALENGER;  
MICAJAH BIENVENU and AMY  
ANDERSON; CONSTANCE  
BLACKMER; HENRY J. BORYS and  
KESHA EWERS; JOHN and SHARON  
BOYD; PATRICIA T. CASEY; KYLE  
CHAPMAN and LADD JOHNSON;  
WENDY CRAWFORD; PETER DAVIS  
and SUSAN CRAMPTON DAVIS;  
CYNTHIA and MARK DEARFIELD;  
DAVID DUGGINGS and MEGAN  
DETHIER; ROBERT T. EICHLER;  
ROBERT J. ERSKINE, JR. and PEGGY  
ERSKINE; JAMES L. and WENDY  
FRANCIS; JAMES FRITZ; GREG and  
JANE GERHARDSTEIN; GARY GERO;  
JAMES GIMLETT and MAGGIE  
GALLIVAN; CRAIG and JEAN  
GRAHAM; JAMES and MARY GUARD;

**NO. 15-2-05069-0**

**DECLARATION OF JOHN AND  
SHARON BOYD IN RESPONSE  
TO PLAINTIFFS' MOTION FOR  
SUMMARY DECLARATORY  
JUDGEMENT**

1 NASH R. GUBELMAN and LINDA  
2 SOFTING-GUBELMAN; STERLING  
3 TRUST COMPANY FBO; THOMAS and  
4 COLLEEN HAVERMAN; RONALD and  
5 ASHLEY HURST HENNEMAN;  
6 HENNEMAN IRREVOCABLE TRUST;  
7 LISA LYNN HILL; PAUL A. and  
8 JENNIFERHOHENLOHE; GLENN and  
9 DIANE KAUFMAN; FRED KEELER;  
10 JANE B. KROESCHE; GORDON  
11 LAGERQUIST; MAURICE and MOLLY  
12 LIEBMAN; MADRONA RIDGE, LLC;  
13 FLORENCE MCALARY; ROBERT and  
14 SARA MCCLELLAN; J. ROYCE  
15 MEYEROTT and LEE M. BRYAN;  
16 JEROME S. and ANN MOSS; MOSS  
17 TRUST; DIANNA PADILLA; MARK  
18 PRZYBYLSKI and MAUREEN KAY  
19 KOSHI; ROGER and JILL RATH;  
20 PATRICIA ROBERTS; BENJAMIN  
21 TROUTMAN and KARLA SABIN;  
22 THOMAS SCHILLING; FLORENT  
23 SCHOEBEL and JESSICA FARRER;  
24 ERIK and ELAINE SCHUMY; WILLIAM  
25 and LAURA SEVERSON; MARK  
26 SHEPPARD; FRED and ELEANOR  
27 SILVERSTEIN; SAN JUAN  
28 PRESERVATION TRUST; DONALD E.  
STRAUTON and MARIA SIKORSKI;  
GREGORY A. and JANE SWANSON;  
RIKKI SWIN; ROBERT TAUSCHER and  
SANDRA HAWLEY; JOHN TAYLOR;  
BRUCE D. TWOOMEY; CARTER and  
JENNIFER WHALEN; L. CURTIS  
WIDDOES; SILVERSTEIN-GERSTON  
MOUNT DALLAS LLC; SP  
INVESTMENTS II LLC;  
Defendants.

1 We, John Boyd and Sharon Boyd, declare as follows:

2 1. We are over the age of 18 and we are competent to be witnesses in this lawsuit.

3 We make the following statements based upon our personal knowledge. We own one parcel of  
4 land on San Juan Island, which we access via Mt Dallas Road and a side road named Kiya Way.

5 2. **Statement of Fact:** Our road, Kiya Way, was originally named Mount Dallas  
6 Road and was changed to Kiya Way in order to be in compliance with the Enhanced 911 phone  
7 service that went into effect in 1998-1999.

8 3. **Statement of Fact:** That the Mount Dallas Association has been collecting dues,  
9 maintaining all the roadways for 26 years (since 1989.) As such, a precedence has been set for  
10 the Board to continue to collect dues on behalf of all property owners.

11 4. Contrary to the Motion for Summary Judgment issued by the Plaintiffs, a fair and  
12 equitable methodology for apportioning dues has indeed been in place for years. Originally the  
13 dues were apportioned equally amongst all property owners, regardless of location within the  
14 Mount Dallas road system. Later, this was amended to reflect location by allowing a portion of  
15 the dues for the non-paved portions of roadway to be allocated to repair and maintenance of  
16 gravel. In 2014, the Association instituted a truly proportional dues structure based on distance  
17 of road each property accessed, and took into account both the main road usage along Mount  
18 Dallas Road as well as side road traveled. Funds were maintained in separate accounts so that  
19 funds specifically earmarked for side roads were not used for Mount Dallas Road, and vice  
20 versa. It should also be noted by the Court that nearly 2/3 of all properties are located on side  
21 roads.  
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27 5. **Statement of Fact:** Participation of property owners paying dues stands  
28

1 approximately at 80-85% (varies slightly from year to year). The vast majority of our property  
2 owners have actively and continuously supported the efforts of our Association to maintain and  
3 improve our roadways. Furthermore, it is our belief that this level of participation also  
4 demonstrates our continued support of the Board of Directors and their efforts to act on behalf of  
5 the Association.

6  
7 6. Since its' inception, the Board has been responsible for:

8 A. Improving Mount Dallas Road: we have gone from a gravel, pot-holed mess  
9 to a vastly improved, safer paved road that has been well-maintained and managed by the  
10 Association.

11 B. Increased Security: Implementation of a Neighborhood Watch Program, as  
12 well as procurement and installation of 2 sets of locking mailboxes for the Association  
13 participants to use.

14 C. Firewise Rating: Mount Dallas is now and has been a Firewise Community  
15 since 2005.

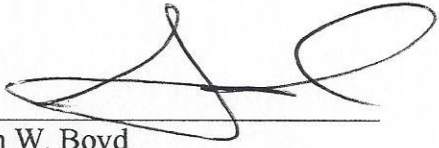
16 D. Improved Services: Mount Dallas Board helped to coordinate with  
17 CenturyTel (now CenturyLink) in improving our telecommunications services from 12 pair of  
18 phone line to 100 pair of phone line, allowing us to finally have access to DSL services. The  
19 Board is currently in the process of coordinating with other nearby subdivisions to review the  
20 viability of fiber optic service to our neighborhood.

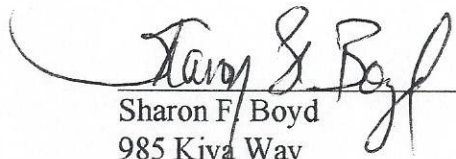
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24 7. In their filing, Plaintiff alleges that the Association sought to "address its lack of  
25 authority to maintain and upgrade the road" via a Notice to Lenders in 2006. This statement is  
26 false, as the home lenders required this documentation in order to complete loans for homes in  
27 this area.

1           8.       Since the filing of this lawsuit by Plaintiffs, the Board and Association have  
2 actively sought out the opinions of all the property owners through online surveys, and have had  
3 resounding support in favor of the current actions of the Board, as evidenced by the surveys done  
4 by the Board. A Super-Majority of property owners are in favor of our current Board and their  
5 maintenance of our roadways and the current methodology for collecting fees, and the inclusion  
6 of side roads as part of the MDRS.  
7

8  
9           For all the reasons listed above, we, John & Sharon Boyd request that the Court deny the  
10 Summary Judgment outlined by Plaintiffs and we ask the Court to (1) Grant the Association  
11 legal authority to manage the Mount Dallas Road System (herein referred to as the MDRS) on  
12 behalf of all Benefitted Properties; (2) Grant the Mount Dallas Association Board the authority to  
13 enter into contracts related to the management and/or maintenance of all roads within the MDRS;  
14 (3) Grant the Mount Dallas Association Board the legal authority to establish, assess, impose, or  
15 collect Road Maintenance fees (dues) against all Benefitted Properties, and (4) that the Court  
16 allow the Board to allocate maintenance fees through the Proportional Allocation Methodology  
17 currently in use.  
18  
19

20           Dated this 16<sup>th</sup> day of October, 2015.

21  
22  
23             
24           John W. Boyd  
25           985 Kiya Way  
26           (formerly Mount Dallas North)

27  
28             
29           Sharon F. Boyd  
30           985 Kiya Way  
31           (formerly Mount Dallas North)