The Honorable Donald Eaton
Hearing Date: March 4, 2016
Hearing Time: 1:30 p.m.

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR SAN JUAN COUNTY

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; et. al. Defendants.	NO. 15-2-05069-0 (PROPOSED) ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

THIS MATTER having come before the Court on March 4, 2016, with oral argument, on the Plaintiffs' Motion for Partial Summary Judgment and Plaintiff appeared through Christopher I. Brain of Tousley Brain Stephens PLLC. The Court heard the argument of counsel and reviewed the following pleadings;

1. Plaintiffs' Motion for Partial Summary Judgment;
2. Declaration of Robert Wilson, with attached exhibits;
3. Defendants' Oppositions, if any;
4. Plaintiffs' Reply, if any.

Based on the foregoing, the Court ORDERS AS FOLLOWS:

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1. The legal and equitable methodology for allocating Mt. Dallas Road maintenance expenses is the Legal Use Method presented in the Plaintiff's Motion. For purposes of defining and implementing the Legal Use Method for Mt. Dallas Road, the definition of the Legal Use Method as provided for in the Motion, and the accompanying Legal Use Method Survey (Exhibit B to the Motion) and the portion of the Spreadsheet (Exhibit C to the Motion) related to the Legal Use Method are incorporated herein.

2. Given that there is no current road maintenance agreement (or related road maintenance covenants) for Mt. Dallas Road, the Court finds that the Legal Use Method is the clearer, most reasonable and most equitable methodology for allocating the maintenance expenses for Mt. Dallas Road for the following reasons: *First*, for each Benefitted Parcel (i.e. each Parcel entitled to legally use Mt. Dallas Road), the Legal Use Method considers the actual easements that are legally part of that Benefitted Parcel's title and that define the Benefitted Parcel's right to use Mt. Dallas Road. *Second*, no Benefitted Parcel's Actual Use (as defined in the Motion) exceeds its Legal Use easement rights. *Third*, from a legal standpoint, the Benefitted Parcels must incur some obligation to share in the maintenance of the portion of Mt. Dallas Road that they are legally entitled to use. *Fourth*, no Benefitted Parcel should incur an obligation to pay for the maintenance of a portion of Mt. Dallas Road that such Benefitted Parcel is not legally entitled to use. *Finally*, from a practical, final and notice standpoint, the Legal Use Method will result in allocation percentages remaining legally fixed and static over time, whereas an allocation based on Actual Use will necessarily include potential variability in the future.

DATED this _____ day of March, 2016

_____
The Honorable Donald Eaton

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Presented By:

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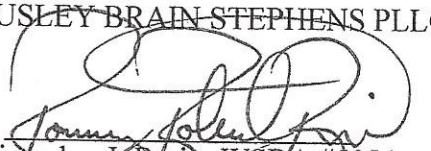

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