

COUNTY CLERKS OFFICE  
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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 FLORENCE  
MCALARY IN RESPONSE TO  
PLAINTIFFS' MOTION FOR  
SUMMARY DECLARATORY  
JUDGMENT**

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 I, Florence McAlary, declare to the best of personal knowledge under penalty of perjury under  
2 the laws of the State of Washington as follows:

3 1. I am over the age of 18 and I am competent to be a witness in this lawsuit. I make the  
4 following statements based upon my personal knowledge. I have resided at 234 Tumac Road  
5 (historically addressed as 728 Mt. Dallas Road) since 1996. I am a defendant in this lawsuit and I  
6 am a member of the Mt Dallas Road Association and a recently elected Director. I am a retired  
7 college professor. I am familiar with voluntary organizations. I have been a 4-H leader since ~  
8 1998 and served on the San Juan County 4-H Leaders Council as treasurer from 2000 to 2012  
9 and was recently re-elected as treasurer in 2014. As treasurer, I oversee approximately  
10 \$40,000.00 in current and endowment funds. Since 1998, I have also served on the Advancement  
11 Board for Friday Harbor Laboratories (FHL) University of Washington, a board that strives to  
12 obtain support for FHL to promote excellence in marine science, education, and research.

13 2. During my almost 20 years living in the Mt Dallas neighborhood, the Association has  
14 always responded to maintain and improve the Mt Dallas Road and encourage a fire safety  
15 program to my great satisfaction. While I agree there is no legal basis for the Association to  
16 manage the Mt Dallas Road system per se, to my knowledge, I have no evidence that the  
17 Association has ever acted in any way other than as allowed by current law. What is true is that  
18 Association has assumed responsibility for managing the road system since 1989, some 26 years,  
19 with appreciation and without legal interference until now from benefitted property owners. I  
20 have enjoyed the sense of community, democracy, economy, and safety that the Association  
21 provides and support its bylaws.

22 3. After this lawsuit was filed, the Association sent out two surveys that gave me an  
23 opportunity to voice my opinions about the issues set forth in lawsuit by the Plaintiffs to which I  
24 responded. From preferences of the majority of benefitted property owners that responded a  
25 series of petitions were offered. I signed all of those six petitions in the affirmative as follows:

26 (a) to "Authorize Mount Dallas Association, formed in 1989, to be the managing  
27 entity of Mount Dallas Road and all current and future side roads accessed via Mount Dallas  
28 Road. The Association will be managed by a Board of Directors elected each year by a majority  
vote of property owners."

(b) to "Authorize each tax parcel owner, whether developed or undeveloped, a  
vote that is equal to every other tax parcels' vote. When a decision pertains only to one of the



1 side roads, only those parcels that have access on that particular side road will have their vote  
2 counted.”

3 (c) “To include all roads, current and future, that provide access to property via  
4 Mount Dallas Road to be bound by the court’s adjudication ruling in this case.”

5 (d) “Authorize the assessment for annual expenses that benefit all parcels equally  
6 such as liability insurance, mailers, postage, website hosting and possibly accounting expenses to  
7 be the same flat rate for each tax parcel.”

8 (e) “Authorize the assessment for annual expenses that are performed to prevent a  
9 neighborhood fire, such as weed whacking, brush clearing and tree branch removal to be the  
10 same flat rate for each tax parcel. When the work performed is for a side road, only those  
11 parcels that have access on that particular side road will be assessed.”

12 (f) “Authorize an annual assessment for a reserve fund to pay for major road  
13 repairs, ditch work and/or repaving of Mount Dallas Road based upon the area of Mount Dallas  
14 Road I traverse to get to my parcel and whether my parcel is developed or undeveloped.”

15 4. I have read the Plaintiffs’ motion for Summary Judgment and find the introduction and  
16 background information contains material that admittedly is not relevant to the motion and some  
17 of which I find misleading with interpretations of events or circumstances that I feel could be  
18 prejudicial to the hearing. The Plaintiffs’ presentation ignores the fact that the Association is a  
19 representative body whose actions and bylaws are the result of democratic processes open to all  
20 benefitted properties for last 26 years.

21 5. I understand that in 2014 approximately 91% of the benefitted owners contributed to the  
22 Association. To me, this is strong evidence of a healthy community support for the actions of the  
23 Association.

24 6. Whenever I have had a question regarding an Association decision or action I have  
25 always received an answer and explanation from the appropriate officer or Board of Directors.  
26 Minutes and financial reports are kept and are available for review for most, if not for all the  
27 earliest years, since inception.

#### 28 SUMMARY AND REQUEST FOR RELIEF

In summary, I am grateful for the Plaintiffs’ interest in having everyone pay their fare  
share of road maintenance expenses if that is the focus of their legal action; however, I am  
deeply troubled by the Plaintiffs’ misdirected alienation of the volunteer Association as the first



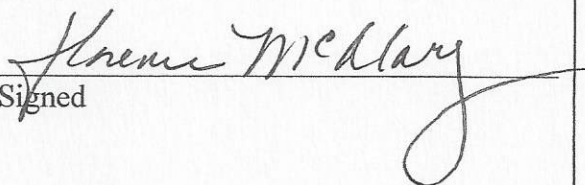
1 step. The tenor and requests by the Plaintiffs in the lawsuit make me ask why, as opposed to  
2 working with the Association and the community, one family (two parcels) sets out to depose an  
3 effective organization that is supported by the majority of property owners, an organization that  
4 has successfully and economically managed our roads for 26 years? If this motion is granted, it  
5 leaves our community without an effective, organized means to maintain the roads. This worries  
6 me with the potentially hazardous consequences of winter coming on.

7 Whatever the Plaintiffs' motivation, this lawsuit creates an unnecessary alienation and  
8 legal expenses for all property owners with regard to the status of the Association, but especially  
9 is unfair for those property owners who have participated in the Association, contributed  
10 countless hours cleaning ditches, clearing brush, removing fallen trees and other measures to  
11 keep the road accessible and fire safe, and donated financially to maintain serviceable roads and  
12 preserve the Association for the benefit of all our residents.

13 Therefore, in relief for this motion, I request that the court honor the precedence of the  
14 Association's long standing, 26 year history of effectively maintaining the Mt Dallas Road  
15 system, and, due to the Association's support by a super majority of benefitted property owners,  
16 grant the Association's request to be the managing entity for the Mt Dallas Road system going  
17 forward.

18 Finally, I request the Court dismiss the Plaintiffs' claims and requests for financial relief  
19 against all Defendants who have in good faith contributed monies for the maintenance of the Mt  
20 Dallas Road system through the Association. I respectfully ask the Court require the Plaintiffs,  
21 Abigail and Clare Welker, to reimburse all legal fees incurred by the Association in defense of  
22 what appears to be a frivolous, unnecessary, and counterproductive motion.

23  
24 DATED THIS 15 day of October, 2015.

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27 Signed  
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FLORENCE McALARY  
Print Your Name

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