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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;

Defendants.

NO. 15-2-05069-0

DECLARATION OF ROBERT J.  
WILSON, PLS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR SUMMARY  
JUDGMENT

I, Robert Wilson, declare as follows:

1. I am over the age of 18 and am competent to be a witness in this lawsuit. I make the following statements based upon my personal knowledge of the matters testified to herein.

2. I am a certified land surveyor and employed by San Juan Surveying, LLC, P.O. Box 611, Friday Harbor, Washington 98250.

3. On behalf of the above Plaintiffs, San Juan Surveying, LLC prepared the following documents: (a) a Survey attached hereto as **Exhibit A** showing the location of Mt. Dallas Road and the access points for the various parcels of property (the "Benefitted Parcels") accessed by Mt. Dallas Road (for reference purposes, the "Actual Use Method Survey"), (b) a Survey attached hereto as **Exhibit B** showing the easements that establish the Mt. Dallas Road legal use rights of the Benefitted Parcels (for reference purposes, the "Legal Use Method Survey"), and a Spreadsheet attached hereto as **Exhibit C** comparing the results of the two Surveys.

1           4. For certain reference purposes, the Actual Use Method Survey and the Legal Use  
2 Method Survey are collectively referred to as the "Surveys", and Mt. Dallas Road is also  
3 referred to as the "Road".

4           5. The methodologies and procedures used to complete each of the Surveys are set  
5 forth in the respective Notes to each of the Surveys.

6           6. As reflected on the Surveys, the Mt. Dallas Road easement and paved roadway  
7 commences at the location where Mt. Dallas Road connects to West Side Road (the "Road  
8 Beginning Point").

9           7. The Actual Use Method Survey shows the (a) total length in feet, and (b) total square  
10 footage in regard to the paved Road surface, from the Road Beginning Point to each Benefitted  
11 Parcel's respective point of access to the Road, and to the end of the Road (i.e. the total length  
12 and square footage).

13           8. The Legal Use Method Survey shows the main Road easement identified as AFN  
14 58585 that was recorded on February 7, 1964 under AFN 58585 pursuant to a Real Estate  
15 Contract (the "58585 Easement"). The 58585 Easement is shown on the Legal Use Method  
16 Survey in cross-hatching from its point of beginning at West Side Road to its end point,  
17 referenced at the lower right of the Legal Use Method Survey as "End of Easement AFN  
18 58585". The Legal Use Method Survey also shows multiple easements as calculated along the  
19 Road and overlaying the 58585 Easement, as further identified in Section 9 below. A copy of  
20 the 58585 Easement is attached hereto as **Exhibit D**. The 58585 Easement calculations are  
21 shown on the Legal Use Method Survey. The 58585 Easement, however, only benefitted the  
22 Southwest Quarter of the Northeast Quarter of Section 24. The property benefitted by the  
23 58585 Easement is outlined in cross hatched red at the lower right hand corner of the Legal Use  
24 Method Survey.

25           9. There are additional easements that, by their respective metes and bounds legal  
26 descriptions, overlay portions of the 58585 Easement. The end points along the Road and AFN

1 for each of these separate additional easements are set forth on the Legal Use Survey. Starting  
2 at the Road Beginning Point at West Side Road and moving up the Road, these 6 individual  
3 easements are governed by (in order) AFN 58425, AFN 58888, AFN 58558, AFN 58559, AFN  
4 58694 and AFN 59472. Copies of these 6 additional easements are attached hereto as **Exhibits**  
5 **E-1 through E-6**. These easements, are exclusive to the extent that they provide legal use and  
6 access to the Road for those Benefitted Parcels covered by the particular easement, but do not  
7 provide any right to use or access the Road beyond the respective end point of each easement.  
8 For example, some of the first several Benefitted Parcels at the beginning of the Road have  
9 legal use and access to the Road under easement AFN 58425, but have no right to use the Road  
10 beyond the AFN 58425 end of easement point.

11 Except as otherwise noted where recorded easements could not be located, the recorded  
12 legal right of the Benefitted Parcels to use the Road is governed (a) by one of the above 7  
13 specifically referenced easements, or (b) by separate easements that overlap and/or incorporate  
14 a portion or all of the metes and bounds legal descriptions for the Road set forth in the 58585  
15 Easement or one of the other above 6 referenced easements.

16 Subject to a few exceptions, (a) most of the Benefitted Parcels that are located on Side  
17 Roads (such as Kiya Way, Larkspur Lane, etc.) access Mt. Dallas Road at the access points  
18 indicated on both the Actual Use Method Survey and the Legal Use Method Survey, and (b) the  
19 legal easement rights of the Parcels on the Side Roads to use Mt. Dallas Road only run to the  
20 point of access to Mt. Dallas Road. In other words, even though a Side Road may access Mt.  
21 Dallas Road within a certain easement segment (for example, both Kiya Way and Larkspur  
22 Lane access Mt. Dallas Road within the AFN 58888 easement segment), most of the Parcels on  
23 those Side Roads are not legally entitled by easement to use Mt. Dallas Road beyond the access  
24 point (i.e. they are not entitled to use the Road to the end of easement point for AFN 58888,  
25 which is past the access point for these Side Roads). As a result, the length of use and square  
26 footage of use for most of the Benefitted Parcels on the Side Roads is the same as length of

1 legal access and square footage of legal access, and the measurements and calculations (as  
2 reflected on the Spreadsheet) are mostly the same for Benefitted Parcels on the Side Roads  
3 under either the Actual Use Method or the Legal Use Method. An example of a Benefitted  
4 Parcel on a Side Road that does not follow this general rule is the Hill Parcel (452412001).  
5 The Hill Parcel accesses the Road via Skylark Lane, but the easement for the Hill Parcel  
6 includes the AFN 58585 description.

7 10. To summarize again, except for the Benefitted Parcels located on the Side Roads as  
8 described above, each Benefitted Parcel has the legal right to use Mt. Dallas Road to the end  
9 point of the specific easement that grants that Benefitted Parcel access to Mt. Dallas Road, but  
10 not beyond. Stated another way, each Benefitted Parcel has the legal right to use Mt. Dallas  
11 Road from the end point of their respective easement back to West Side Road. What this means  
12 is that in many cases, a Benefitted Parcel has the right to use Mt. Dallas Road beyond that  
13 Parcel's access point to Mt. Dallas Road (the access points being reflected on the Actual Use  
14 Method Survey) and beyond where the particular Parcel's boundary line intersects Mt. Dallas  
15 Road. For example, some of the first Benefitted Parcels on the Road are entitled to use the  
16 Road from the Road Beginning Point at West Side Road to the AFN 58425 easement end point,  
17 which is beyond the property line/Road intersection for these Benefitted Parcels. To pick a  
18 further Parcel up the Road as a specific example, the Auth Parcel (451331002) is benefitted by  
19 easement AFN 58559, whose easement end point (per the Legal Use Method Survey) is 661  
20 feet beyond the access point (per the Actual Use Method Survey) for the Auth Parcel, thereby  
21 giving Auth legal use and access to the Road to that easement end point.


22 11. Using the respective easement end point for each Benefitted Parcel (whether that  
23 Parcel adjoins the Road or is on a Side Road), the Legal Use Method Survey shows the (a) total  
24 length in feet, and (b) total square footage in regard to the paved Road surface, from the Road  
25 Beginning Point to each Benefitted Parcel's legal use end point corresponding with the  
26 easement that created the legal use of the Road for that Parcel.

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12. Using both the length and square footage calculations under both Surveys, the Spreadsheet attached hereto as **Exhibit C** calculates and shows the following: (a) with regard to the Actual Use Method Survey and each Benefitted Parcel, the (i) actual square footage of the paved Road used for access, (ii) the actual length of the paved Road used for access, (iii) the percentage of the total paved area of the Road used, and (iv) the percentage of total usage of the Road (the "Actual Use Method"), and (b) with regard to the Legal Use Method and each Benefitted Parcel (whether adjoining the Road or on a Side Road), (i) the total square footage of the paved Road to the end point of their respective easement, (ii) the total length of the paved Road to the end point of their respective easement, (iii) the specific easement benefitting such Parcel, (iv) the percentage of the total paved area of the Road that such Parcel is legally entitled to use, and (v) the percentage of total legal right to use the Road (the "Legal Use Method").

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

DATED this 2<sup>ND</sup> day of FEBRUARY, 2016

  
Robert Wilson