

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 PATRICK J.  
BALLENGER 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.

26 I, PATRICK J. BALLENGER, declare under penalty of perjury under the laws of the State of  
27 Washington as follows: I am over the age of 21 and I am competent to be a witness in this  
28

1 lawsuit. I make the following statements based upon my personal knowledge.

2  
3 Why a lawsuit? Why didn't the Welkers raise their concerns with the Mt Dallas Association or  
4 the Mt Dallas Association Board of Directors? Both Abigail Welker and Clare Welker served  
5 briefly on the Mt Dallas Association Board of Directors (Abigail as Treasurer and Clare as a  
6 director), but chose to resign after a very brief tenure. Either could have requested that the Board  
7 address the issue raised in this lawsuit at that time. If the Mt Dallas Association Board was not  
8 responsive to their concerns, why was the subject not brought up at a general meeting of the Mt  
9 Dallas Association, either as an agenda item or as new business from the floor.  
10  
11

12  
13 This lawsuit is costing all of us in time, money and emotional distress. I have not met one  
14 person who understands why the Welkers jumped to the courts before exploring other available  
15 options.

16  
17 What is the problem? The lawsuit contends that the Mt Dallas Association is not empowered to  
18 collect funds and maintain the road. I was at the original meeting when the Mt Dallas  
19 Association was established and that was EXACTLY what the association was formed to do. If  
20 the wording of the founding documents are not precisely what is required for legal purposes, why  
21 wasn't this issue explained and the Mt Dallas Association presented with the proper procedure  
22 and language necessary to allow the Mt Dallas Association to do what it has done for the past 26  
23 years with no problems or disagreements by the membership.

24 The pending legislation and recent court decision speak only to allocation of financial  
25 responsibility for private road maintenance. It will remain with the benefiting property owners  
26 to determine collection and disbursement of road maintenance funds. The Mt Dallas  
27 Association, as a voluntary association, has performed these duties for 26 years. Many of the  
28 property owners have contributed time and money to the operation of the association. This  
lawsuit has dissuaded me from future involvement, and I suspect that I am not alone. The fact

1 that I personally have been sued because someone disagrees with a policy that was established  
2 by the majority of owners leaves me with little reason to believe that we can act together as a  
3 community going forward.

4  
5 I feel strongly that the Welkers owe their fellow property owners both the money that has been  
6 spent to defend themselves from a problem that never existed, and an apology, particularly to the  
7 members of the Mt Dallas Association Board of Directors who have devoted countless hours on  
8 the members behalf.

9  
10 I am unable to personally attend the October 30 hearing and request that the Court consider this  
11 Declaration without additional oral argument. In the event objections are raised hereto, I  
12 authorize Mount Dallas Association to respond to such objections.

13  
14 DATED THIS 15<sup>th</sup> day of October, 2015.

15  
16  
17 Patrick J. Ballenger  
Signed

18  
19 Patrick J. Ballenger  
Print Your Name

20  
21  
22 PO Box 2292  
Address  
Friday Harbor WA 98250

23  
24  
25 360-378-5441  
Phone Number