

COUNTY CLERKS OFFICE  
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JAN 30 2017

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; et  
al.,

Defendants.

NO. 15-2-05069-0

DECLARATION OF  
SANDRA J. HAWLEY

(1/27/17)

Main Road Joinders

We have now received signed Joinders from the owners of four additional properties, bringing the total signers to 58 (just under 70%) of the 84 Mount Dallas property owners. I have personally verified that each and every Joinder on the list has been signed and notarized in accordance with my previous declaration.

The additional signers are as follows:

452413005	Meyerott, Bryant, Widdoes	1/12/17
451414004	Gerhardstein	12/30/16
452442003	Schoebel/Farrer	1/4/17
452413004	Sibert (also signed for Stormridge Road)	12/28/16

DECLARATION OF SANDRA HAWLEY IN SUPPORT  
OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT 1/27/17 - 1

Law Offices of  
Stephanie Johnson O'Day  
Post Office Box 2112  
Friday Harbor, WA 98250  
Phone (360) 378-6278

1 Additional Owners who have signed Petition

2 In addition to the above, the owners of thirteen additional parcels have signed the  
3 Association's requested petition, which reads as follows:  
4

5 *"[Do you wish to] Authorize Mount Dallas Association, formed in 1989, to*  
6 *be the managing entity of Mount Dallas Road and all current and future*  
7 *side roads accessed via Mount Dallas Road. The Association will be*  
8 *managed by a Board of Directors elected each year by a majority vote of*  
9 *property owners."*

10 This petition was circulated by the MDA after the Welkers filed the lawsuit  
11 and it contains the lawsuit caption. (See Declaration of Hawley 1/27/17). The owners  
12 of the additional thirteen properties who signed the above petition are:

13 <u>TPN</u>	<u>Name</u>	<u>Signed</u>
14 451323001	Anita Bailor	7/21/15
15 451331001, 452442002	Gary Gero	8/31/15
16 451313002	Kyle/Ladd Johnson	7/23/15
17 451324002	Ronald R. Henneman	8/4/15
18 451334010, 451334011	Fred Keeler	8/5/15
19 451334009, 451334008		
20 451343001, 451331005 (Keeler owns six parcels).		
21 451332003	Jennifer Whalen	9/4/15
22 452413006	Robert Eichler	1/24/17

23  
24 This brings the total number of owners who support the MDA remaining as managing  
25 entity to 71, which is 84.5%.

26 ///  
27  
28

1 Side Road Joinders

2  
3 With the addition of Sibert, above, the signed, notarized and returned Joinders  
4 for the side roads stand as follows:

5  
6 Lower No Name Road: 66.67%  
7 Kiya Way 87.5%  
8 Tumac 100%  
9 Rascal: 100%  
10 Stormridge: 80%  
11 Rockledge: 60%  
12 Skylark Lane: 75%

13  
14  
15 Attached as Exhibit A is a true and correct list of the Mount Dallas property  
16 owners, indicating which owners have signed the Joinders, and which owners have  
17 signed the petition. The referenced petitions are attached as Exhibit B. Exhibit C is a  
18 true and correct copy of the April 8, 2015 letter sent to the property owners by the Board  
19 which does not include the word "lien".  
20

21  
22 I declare under penalty of perjury under the laws of the state of Washington that  
23 the foregoing is true and correct and that this Declaration was executed at Friday  
24 Harbor, Washington on January 27, 2017.

25  
26   
27 SANDRA J. HAWLEY

Mt Dallas Road Joinders signed

EXHIBIT A

1/25/2017

#	TPN	Name	Signed	Notarized	Petition Signed no RMA
1	451414002	Albert, Peter			
2	452411002	Allen (#1)	4/6/2016	1	
3	452414001	Allen (#2)	3/2/2016	1	
4	451331002	Auth	3/2/2016	1	
5	451323001	Bailor	3/30/2016	1	
6	452414002	Ballenger		x	1
7	451322003	Bienvenu/Anderson	3/9/2016	1	
8	451113005	Blackmer	3/10/2016	1	
9	451343006	Borys	3/10/2016	1	
10	451113007	Boyd	11/11/2016	1	
11	451313003	Casey	3/8/2016	1	
12	451313002	Chapman/Johnson		x	
13	451144002	Davis (#1)		x	1
14	451113001	Davis (#2)	3/11/2016	1	
15	451114001	Davis (#3) formerly Francis	3/11/2016	1	
16	451114004	Davis (#4) formerly Francis	12/7/2016	1	
17	451332002	Dearfield, Mark	12/7/2016	1	
18	451313001	Dethier / Duggins	3/10/2016	1	
19	452413006	Eichler	3/10/2016	1	
20	451343002	Erskine		x	1
21	451144001	Fritz	3/9/2016	1	
22	451414004	Gerhardstein	3/18/2016	1	
23	451331001	Gero	12/30/2016	1	
24	452442002	Gero		x	1
25	451332004	Gimlett/Gallivan		x	1
26	451324004	Graham	3/12/2016	1	
27	451323003	Graham (formerly Schumy)	3/10/2016	1	
28	452411001	Guard	12/7/2016	1	
29	452442004	Gubelman	3/2/2016	1	
30	451414005	Haberman (Sterling Tr)	3/29/2016	1	
31	451324002	Henneman	3/10/2016	1	
32	451343005	Hohenlohe (#1)		x	1
33	451343004	Hohenlohe (#2)	3/14/2016	1	
34	451323004	Kaufman	3/14/2016	1	
35	451331005	Keeler	3/2/2016	1	
36	451343001	Keeler		x	1
37	451334008	Keeler (#1)		x	1
38	451334009	Keeler (#2)		x	1
39	451334010	Keeler (#3)		x	1
40	451334011	Keeler (#4)		x	1
41	451142002	Kroesche		x	1
42	451141003	Lagerquist		x	
43	451342003	Liebman (#1)	3/19/2016	1	
			3/22/2016	1	

44	451342004	Liebman (#2)				
45	451342001	McAlary (#1)	3/22/2016		1	
46	451342002	McAlary (#2)	3/15/2016		1	
47	451331003	Meyerott (#1)	3/15/2016		1	
48	452413002	Meyerott (#2)	3/16/2016		1	
49	452413005	Meyerott/Widdoes (formerly Crawford)	3/16/2016		1	
50	451344002	Moss Trust	1/12/2007		1	
51	451142001	Navratil			x	
52	451141002	Padilla			x	
53	451323002	Pryzbylski	4/11/2016		1	
54	451334002	Rath (#1)	3/11/2016		1	
55	452421002	Rath (#2)	3/29/2016		1	
56	452421004	Rath (#3)	3/29/2016		1	
57	451322001	Roberts (#1)	3/29/2016		1	
58	451322004	Roberts (#2)	3/29/2016		1	
59	452442001	Schilling	3/29/2016		1	
60	452442003	Schoebel/Farrer			x	
61	451332001	Security Properties II LLC			1	
62	451113002	Severson	4/6/2016		1	
63	451141001	Sheppard	3/2/2016		1	
64	452413004	Sibert (formerly McClellan)	3/10/2016		1	
65	451411001	Silverstein	12/28/2016		1	
66	451414003	SJ Preservation Tr	3/4/2016		1	
67	452412001	Smith (#1)			x	
68	452412002	Smith (#2)			x	
69	452414004	Staunton			x	
70	451343003	Swanson			x	
71	451414001	Swin (#1)	3/21/2016		1	
72	451411002	Swin (#2)			x	
73	451411003	Swin (#3)			x	
74	451144004	Tauscher			x	
75	452431002	Taylor	3/2/2016		1	
76	451144003	Troutman/Sabin	3/10/2016		1	
77	451322002	Twoomey	3/8/2016		1	
78	451324005	Welker merged lot	3/8/2016		1	
79	451332003	Whalen			x	
80	452424004	Widdoes (#1)			x	1
81	452424002	Widdoes (#2)	3/4/2016		1	
82	452424001	Widdoes (#2)	3/4/2016		1	
83	452431004	Widdoes (#4)	3/4/2016		1	
84	452431003	Widdoes (#5) (formerly Sec Prop)	3/4/2016		1	
			10/25/2016		1	
					58	12

Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust UDT 11-14-2002 Plaintiffs,

v.

Mount Dallas Association, et. al  
State of Washington, San Juan County No. 15-2-05069-0

I, Anita Bailor, defendant and property owner on Mount Dallas, request the following in the above referenced lawsuit:

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

Dated this ~~July~~<sup>21<sup>st</sup></sup> day of July, 2015.

By: Anita A Bailor  
Anita Bailor

Property Owner of Tax Parcel(s): 451323001

EXHIBIT

B

Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust UDT 11-14-2002 Plaintiffs,

v.


Mount Dallas Association, et. al  
State of Washington, San Juan County No. 15-2-05069-0

Gary Gero, defendant and property owner on Mount Dallas, request the following in the above referenced lawsuit:

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

Dated this 31 day of Aug, 2015.

By:

  
\_\_\_\_\_  
Gary Gero

Property Owner of Tax Parcel(s): 451331001, 452442002




Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust UDT 11-14-2002 Plaintiffs,  
v.  
Mount Dallas Association, et. al  
State of Washington, San Juan County No. 15-2-05069-0

Ronald Riley Henneman, defendant and property owner on Mount Dallas, request the following in the above referenced lawsuit:

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

Dated this 4<sup>th</sup> day of August, 2015.

By:   
\_\_\_\_\_  
Ronald Riley Henneman

Property Owner of Tax Parcel(s): 451324002

Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust UDT 11-14-2002 Plaintiffs,


v.

Mount Dallas Association, et. al  
State of Washington, San Juan County No. 15-2-05069-0

I, Fred Keeler, defendant and property owner on Mount Dallas, request the following in the above referenced lawsuit:

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

Dated this 8<sup>th</sup> day of Aug, 2015.

By:   
Fred Keeler

Property Owner of Tax Parcel(s): 45133401, 451334011, 451334009, 451334008,  
451331005, 451343001

Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust UDT 11-14-2002 Plaintiffs,

v.

Mount Dallas Association, et. al  
State of Washington, San Juan County No. 15-2-05069-0

We, Carter Whalen and Jennifer Whalen, defendants and property owners on Mount Dallas, request the following in the above referenced lawsuit:

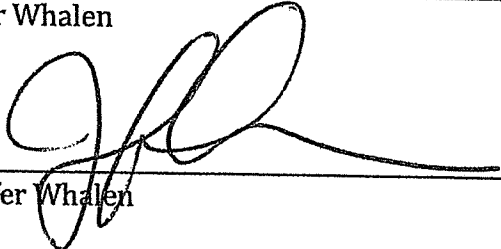
Authorize Mount Dallas Association, formed in 1989, to be the managing entity of Mount Dallas Road and all current and future side roads accessed via Mount Dallas Road. The Association will be managed by a Board of Directors elected each year by a majority vote of property owners.

Dated this 4<sup>th</sup> day of September, 2015.

By:

\_\_\_\_\_  
Carter Whalen

By:

  
\_\_\_\_\_  
Jennifer Whalen

Property Owner of Tax Parcel(s): 451332003

Clare Linn Welker and Abigail Metzger Welker,  
Trustees of the Big Sky Trust U/D/T 11-14-2001, Plaintiffs,  
v.  
Mount Dallas Association, et al., Defendants

State of Washington, San Juan County Case No. 15-2-05069-0

Robert W. Eichler, defendant and property owner on Mount Dallas, requests that the court affirm the following in the above-referenced lawsuit:

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

Dated this 26<sup>th</sup> day of January, 2017

By:   
Robert W. Eichler

Property tax owner of Tax Parcel 452413006

Mount Dallas Road Association  
P.O. Box 2481  
Friday Harbor, WA 98250

EXHIBIT 

April 8, 2015

Dear Mount Dallas Road Association Property Owner,

The Board of Directors of Mount Dallas Road Association has numerous responsibilities including road maintenance, invoicing and collecting funds, and keeping abreast of current relevant law. We recently learned about a Washington ruling relating to voluntary road associations like ours and the obligation of all home and landowners to share in the cost of private road maintenance.

In 2013, the Court of Appeals in Washington heard an appeal from the San Juan County trial court brought by the Buck Mountain Owners' Association. Once the Court of Appeals issued its ruling, the losing party had 30 days to try to appeal that to the Washington State Supreme Court. The Supreme Court does not have to accept an appeal from a ruling of the appellate court, but if they do, then their ruling is the law of the State. The 30 days passed with no appeal, so the Buck Mountain Owners' Association ruling from the Court of Appeals stands and it is now common law. See Buck Mountain Owners' Association v. Prestwich, 174 Wash. App. 702 (2013). The Court of Appeals upheld the trial court's determination that the neighbors must ALL share the cost of the private road maintenance, but overturned the trial court's order that required everyone to sign a road maintenance agreement.

This Washington State law says that all owners of property on a private road for which they have easement access must pay an equitable/fair share of the road maintenance whether or not a road maintenance agreement exists. Fair share is to be based on the length of the road that the owner uses. This is how Mount Dallas Road Association has calculated its assessments using this proportional use method since 2014 based on a majority vote by members at the annual meeting in September 2013.

Buck Mountain Association (located on Orcas Island) was in the same situation as Mount Dallas Road Association in that the road was constructed, easements granted, but no road maintenance obligations were imposed upon the parties who benefited from the use of the road. So just like us, Buck Mountain had owners who refused to pay their fair share. The law also states that it is not mandatory that property owner's put a road maintenance agreement in their deed.

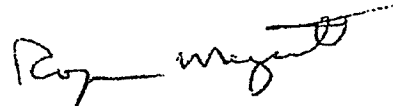
There will be no retroactive enforcement of this law, but going forward, you will be billed and expected to pay per the terms of this law. If no payment is received, then we will have no recourse, but to follow the letter of the law and pursue legal action. 2015 invoices are expected to be mailed later this month.

If you have any questions about this new law, please feel free to contact any Board Member. We appreciate your contribution to maintaining the road, which is a very valuable asset to all of us.

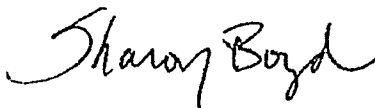
Sincerely,



Susie Allen, President



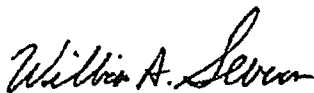
Royce Meyerott, Vice President



Sharon Boyd, Secretary



Sandra Hawley, Treasurer



William Severson, Director



James Fritz, Director