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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

NO. 15-2-05069-0

Plaintiffs,

DECLARATION OF ABIGAIL WELKER
IN SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT

v.

MOUNT DALLAS ASSOCIATION, a
Washington non-profit corporation; et al.

Defendants.

I, Abigail M. Welker, 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. My husband, Clare Welker, and I are trustees of the Big Sky Trust UDT 11-14-2002 (the "Trust"), the Plaintiffs in this matter. The Trust owns two contiguous parcels of land on San Juan Island, both of which we access via the Mt. Dallas Road (the "Road").

2. In the course of our due diligence regarding the Road, and in conjunction with the filing of the subject litigation, we ordered from First American Title Company (First American Title, PO Box 29, Eastsound, WA 98245) a copy of all recorded easements and documents that establish Mt. Dallas Road (the "Road Easements") for use by all of the parcels of real property that are beneficiaries of such Road Easements (the "Benefitted Properties").

3. Upon receipt of the Road Easements from the title company, and as part of our own due diligence, I personally reviewed all of the Road Easements. Based upon my review, I

1 did not find any provisions which: (1) established any association or entity to manage or main^{tain}
2 the Road; (2) authorized the creation of any association or entity to manage or maintain the
3 Road; (3) authorized any association, entity or any party whatsoever to (a) determine Road
4 maintenance requirements, (b) assess Road maintenance expenses against the Benefitted
5 Properties, or (c) collect Road maintenance assessments from the Benefitted Properties; and (4)
6 most importantly, there was no mention of, authorization, appointment, or designation of
7 Defendant Mt. Dallas Association (the "Association") to act in any such capacity, or grant the
8 Association any rights in or to the Road whatsoever.) In addition, there were no provisions
9 which addressed or separately established any (a) basis or procedure for maintaining the Road,
10 determining Road maintenance requirements, or making decisions related to the maintenance of
11 the Road, or (b) any basis, procedure or methodology for assessing or collecting Road
12 maintenance expenses.

13 4. From my review of the Road documents and our own title policy, I noted that
14 the Road Easement we use to access our properties was originally created as an easement in the
15 "Real Estate Contract" recorded in 1964 under San Juan County Auditor's File No. 58558. A
16 true and correct copy of this document is attached hereto as **Exhibit 1**.

17 5. From my review of the Road documents and our own title policy, I noted that on
18 March 26, 1987, an "Extinguishment and Grant of Substitute Easement," recorded under File
19 No. 87144952, amended the above original easement. A true and correct copy of this
20 document is attached hereto as **Exhibit 2**.

21 6. Over the years since its formation, I am personally aware that the Association
22 has used a number of methods for calculating and seeking assessments for maintenance of the
23 Road. In 2014, the Association began to prorate maintenance expenses by grouping certain
24 Benefitted Properties within various stretches of the Road, while still seeking assessments for
25 other expenses equally among Benefitted Owners. The Association began seeking and
26 managing assessments for maintenance expenses for the Side Roads, seemingly without the

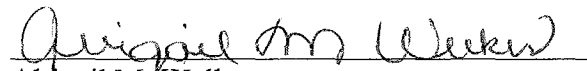
1 knowledge or input of all of the Benefitted Owners. Since the particular methods used from
2 time to time by the Association are not of record, we had no knowledge of what the obligation
3 or assessment system was being used at the time we purchased our property, as it was not in
4 any way reflected in our title report.

5 7. In 2014, the Association's board of directors amended the By Laws to include a
6 provision for assessments for maintenance of the Side Roads. I reviewed the recorded Articles
7 and I did not find a provision which addresses authorization for the Association to manage or
8 seek assessments for Side Roads. A true and correct copy of the Articles is attached hereto as
9 **Exhibit 3.**

10 8. I have personal knowledge that some Benefitted Owners are simply not members
11 of the Association; some who are members do not agree with the Association's methodology
12 and procedures for seeking assessments; and some do not pay all or a portion of the
13 assessments sought by the Association. The Association continues to seek such assessments
14 from the Benefitted Owners and has threatened to sue those that do not pay. A true and correct
15 copy of the Association's April 8, 2015, letter, which I received from the Association, is
16 attached as **Exhibit 4.**

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

19
20 DATED this 21 day of August, 2015., at Friday Harbor (city), WA (state).

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23 Abigail M. Welker
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