

OCT 16 2015

JOAN P. WHITE  
SAN JUAN COUNTY, WASHINGTON

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**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,

NO. 15-2-05069-0

v.

Declaration of Maurice and Molly  
Liebman in Support of the MOUNT  
DALLAS ASSOCIATION'S Response  
to Summary Judgment Motion.

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;

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JW

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 We Maurice and Molly Liebman, declare:  
2

3 I. We are over 21 years of age, We are fully familiar with the facts stated in this  
4 declaration, and, if sworn as a witness, we are competent to testify thereto.  
5

6 1. We own two Mt. Dallas parcels of land accessed via a chain of San Juan Island  
7 private easements commonly known as the Mount Dallas Road (the "Road"), Our San  
8 Juan County Property tax accounts served by the Road are: 451342003 & 451342004.  
9

10 2. We do not reside on Mount Dallas nor do we reside within the boundaries of any  
11 Mount Dallas neighborhood.

12 3. Our properties are unimproved.

13 4. Maurice Liebman has lived on San Juan Island 46 years, Molly Liebman, though  
14 born in a Bellingham hospital, has lived on San Juan Island her entire life.  
15

16 5. Maurice Liebman has been an active Washington State Real Estate licensee since  
17 1977.

18 6. In 2003 Maurice Liebman established a San Juan Island based Real Estate firm.  
19

20 7. We were aware, in the early 1970's, of the Road's substandard condition. We  
21 watched as the mountain slowly developed. We spent considerable time therefor, prior to  
22 purchasing our properties in 2006, in investigating public records and in visiting with  
23 mountain residents to avail ourselves in all obtainable public records and for gaining  
24 local information pertinent to the area and more specifically to the properties we were  
25 purchasing. We were pleased to discover that, despite having confirmed (among other  
26 things) that there existed no recorded maintenance or Property Owner's Association  
27

28 *Declaration of Maurice and Molly Liebman in Support of the Mount Dallas Association's Response to Summary  
Judgment Motion.*

1 (henceforth "POA"), agreements, or covenants that, since 1989, there existed a local  
2 group of volunteer full-time mountain residents, a number of which were known to us,  
3 who had formed and registered themselves into a quasi, unrecorded, association (the  
4 "MDA") tasked with maintaining and improving the Road and its' tributaries. The MDA  
5 had sufficiently grown and matured over the subsequent 17 years that, by the time we  
6 appeared on scene as purchasers, the MDA had amply proven itself to be a capable and  
7 competent manager who, by 2006, had succeeded, year by year, to not only correct the  
8 tooth jarring, often un-passable, sorry excuse of a road but also in improving the Road to  
9 a point which had culminated in pavement for the Road's primary 2+ miles of private  
10 easement length and that pavement for the Roads tributaries was not desired by all. The  
11 mountain community had come together. We concluded then that our parcels, located  
12 more or less midway to the top of the Road, were reasonably assured of a safe and  
13 adequately maintained access. We closed on the purchase without further concern.  
14

15  
16 8. During discovery, prior to our purchase, We had learned that membership in and  
17 the payment of dues to the MDA were voluntary acts and that, then as now, a number of  
18 owners refused, for one reason or another, to pay assessments thus compelling those who  
19 did, intent on arriving safely home, to subsidize slackers by assessing higher amounts to  
20 themselves. Slackers continue to be subsidized in similar fashion to this day for lack of  
21 MDA authority to enforce rules and by-laws.  
22

23  
24 9. Wisely, in recent times, the majority of the MDA members voted in favor of  
25 spreading out the Road reserve assessments, those needed for the eventual re-paving of  
26 the Road, over the pavement's useful life and, to apportion all assessments based on each  
27 property's distance, from its' access intersection point with the Road, to the edge of the  
28

1 County Road's Right of Way.

2 10. We deemed at the time of our purchase and continue to deem now that our  
3 investment's access is secure and in good hands in terms of the Road's management and  
4 oversight.

5 11. Since purchasing we have received, without fail, ample and regular MDA  
6 communications and minutes of meetings, attended most annual and special meetings,  
7 paid invoiced dues and assessments, received annual reports and statements, and, we  
8 have participated in community work parties, from time to time, despite our not residing  
9 on the mountain.  
10

11 12. During the course of our brief ownership Maurice Liebman served 2 years as a  
12 director on the MDA board.  
13

14 13. We were disturbed to learn, earlier this year, of a threat by Plaintiffs to file a  
15 lawsuit against the MDA proper and individually against each and every owner of the 84  
16 properties managed by the MDA, ourselves and our property included. We were  
17 dismayed and shocked to receive a notice for such filing. We are compelled to now  
18 spend time, money and resource defending ourselves against Plaintiffs frivolous attack on  
19 our judgment, character and good names.  
20

21 14. We do not contest Plaintiff's assertion that the MDA has no legal authority to  
22 assess or to act on behalf of the mountain community's property or owners. On the  
23 contrary, we agree fully with Plaintiff and support Plaintiffs claim in that regard. We do,  
24 however, contest the despicable and vile community busting nature of their solution and  
25 action. We, and many others support the union of all property owners into a conforming,  
26 properly recorded, POA. Efforts to do so, has been admittedly weak. There was harmony  
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1 in the family and no compelling reason to create a hornet's nest. The efforts failed due to  
2 the frustration of dealing with the numbers involved. It only takes 1 to decline, a slacker  
3 perhaps, to kill any possibility for success. The number of interests are just too many to  
4 gain the requisite 100% participation without court intervention.

5 15. To safeguard ourselves and the access to our properties we have, until such time  
6 as a formalized POA is established, designated and authorized, and we will continue to  
7 designate and authorize, the MDA, and each and every sitting MDA board member  
8 individually, to act as our personal representative(s) and our agent(s) for all matters  
9 pertaining to the Road's maintenance, repair and improvements for which we are or may  
10 become responsible. We are prepared to formalize these designations and authorizations,  
11 in writing, should that need arise.  
12

13  
14 16. Earlier this year MDA forwarded to us, as also to the other property owners, 2  
15 survey questionnaires requesting our opinions over the issues raised by the Plaintiffs.

16 17. The MDA compiled survey responses and reported their findings. We fully  
17 concur with the majority of respondents on each and every issue addressed in the  
18 questionnaires.  
19

20 18. The MDA followed up their findings by forwarding petitions for our  
21 consideration. We concurred with petition statements, signed them and returned them to  
22 the MDA for submittal to the court.

23 19. We choose to be managed, until such time as a POA is recorded, by the existing,  
24 tested and trusted MDA whose underpinnings were established, through the school of  
25 hard knocks, going on its 3<sup>rd</sup> decade of existence.  
26

27 20. At this juncture of the mountain's development we do not favor or support  
28

1 retention of any fee based overseer or scheme for managing the Road's affairs nor are we  
2 in favor of any local management scheme which is not self-directed and self-managed  
3 unless the scheme is voted on and approved by a super majority of owners.

4 21. We observe that the MDA is not broken; it is however in need of a recorded POA.

5 22. We note that Plaintiffs are also recent arrivals to the Mt. Dallas community, just  
6 as are we and, as such, cannot but lack the foundation of mountain experience and  
7 intimacies derived from many years of association. Without such benefit it is difficult to  
8 cohesively administer to the affairs of a rural, private, island community such as the  
9 MDA and to the development of trust. We wonder, therefore, as to the real motives  
10 behind Plaintiff's mean spirited, community destroying, lawsuit.

11 23. We also note that Plaintiffs are curiously silent at putting forth their vision for an  
12 alternative Mount Dallas governing framework. Plaintiff should concurrently present  
13 their solution for peer review and approval.

14 24. We are alarmed at the prospect of MDA affairs being placed, even temporarily, in  
15 the hands of a relatively new and untried entity or, worse yet, at the prospect of the  
16 community being left altogether high and dry, without benefit of a community supported  
17 overseeing and trusted entity while awaiting further developments.

18 25. Nature waits for no man, her reclamation of the narrow ribbon of hard won  
19 roadway cannot be put on hold. With the approaching winter season the community  
20 should not be made to suffer for lack of a maintained Road or recorded POA.

21 26. Without timely community response to mountain emergencies, long-term power  
22 outages and fire or weather events, residents, particularly those residing toward the higher  
23 elevations of the mountain, Plaintiffs included, may become stranded and be left without  
24

1 means, for escape or assistance particularly if caused by lack of Road maintenance. The  
2 MDA should be permitted to continue maintaining the Road for the benefit and security  
3 of the community.

4 27. We support Defendant's request that Plaintiff be denied a Summary Judgment.

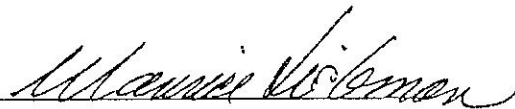
5 28. We request that, until such time as the MDA forms and records a POA, the MDA  
6 be appointed stewards for the Road and incidental MDA business.

7 29. We request that, until such time as the MDA forms and records a POA, the MDA  
8 be granted authority to enforce its' rules and by-laws.

9 30. We request that, until such time as the MDA forms and records a POA, the MDA  
10 be granted authority to assess dues according to its guidelines.

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13 II. We request that the Court have Plaintiffs, Abigail and Clare Welker, reimburse the  
14 Mount Dallas Association for the legal costs incurred in defending itself against this ill-  
15 conceived action.

16 DATED THIS 16<sup>TH</sup> day of October, 2015.

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20 Maurice Liebman

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23 Molly Liebman  
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