

JUN 26 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,

DECLARATION OF  
MAURICE LIEBMAN  
RE ALLOCATION OF  
ROAD-MAINTENANCE COSTS

v.

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

I, MAURICE LIEBMAN state as follows:

1. I am over the age of 18 and I am competent to be a witness in this lawsuit. I make the following statements based upon my personal knowledge.
2. I have previously filed a declaration in this case dated October 16, 2015. I hereby restate everything in that previous declaration.
3. I am a licensed professional Real Estate Broker in the State of Washington. I have practiced my profession for 40 years. I own my own Real Estate firm. I have been a member of the Northwest Multiple Listing Service since 1977. I serve as a member of the San Juan County Board of Equalization. I am familiar

DECLARATION OF  
MAURICE LIEBMAN  
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ROAD-MAINTENANCE COSTS

- 1

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360-376-3299

1 with San Juan Island and San Juan County market values and conditions. I have  
2 the necessary experience and qualifications to accurately estimate the Fair  
3 Market Values (FMVs) of Mount Dallas parcels.  
4

5 4. I have resided on San Juan Island since 1969. I have resided on Westside Road,  
6 two miles from its junction with the Mount Dallas Road, since 1989. In 2006 my  
7 wife and I purchased two undeveloped parcels on Mount Dallas. Both parcels are  
8 still undeveloped. My wife and I own no developed parcels on Mount Dallas  
9

10 5. Since 2006, when my wife and I purchased our undeveloped parcels, we have  
11 attended Mount Dallas Association (MDA) meetings, reviewed annual MDA  
12 reports and budgets, and voted in all MDA elections. We have promptly paid all  
13 MDA dues and assessments for our parcels. We have signed Joinders to the  
14 MDA's RMA for Mount Dallas Road for both of our parcels. I currently serve as a  
15 member of the MDA Board. I previously served as a member of the MDA Board  
16 in 2012 and 2013.  
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18 6. I believe that the MDA has done an exceptional job in managing and maintaining  
19 Mount Dallas Road. I prefer that the MDA continue to manage Mount Dallas  
20 Road and the seven Side Roads that are the subject of this litigation.  
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22  
23 7. As a professional Real Estate Broker and a member of the SJC Board of  
24 Equalization, I have extensive experience in determining the FMVs of San Juan  
25 Island properties and those factors contributing to or detracting from those  
26 values. In 2005, when Mount Dallas Road was first chip-sealed, all Mount Dallas  
27 parcels enjoyed an increase in FMV due to the availability of a good road.  
28

1 However, *normal maintenance of the road, i.e., periodically restoring the road to*  
2 *its initial baseline state, does not further increase the FMV of benefited parcels.*

- 3  
4 8. Exhibit A, attached hereto, is a letter dated June 15, 2017, sent to the MDA by  
5 Mr. Russ Harvey, Interim Public Works Director, San Juan County. Mr. Harvey  
6 oversees the San Juan County Public Works Department, which is responsible  
7 for maintaining all the county's roads. The Department maintains 73 miles of seal  
8 coated roads on San Juan Island, and 60 miles of seal coated roads on Orcas  
9 Island. Mr. Harvey writes, in part:

10 *"Any road, when constructed, is considered a capital investment*  
11 *and is assigned a value equal to its cost. This value depreciates*  
12 *with age, as does any capital asset. Maintenance of this road,*  
13 *including resurfacing of any kind, does not add to its original value.*  
14 *It only helps to maintain the original value and function of the*  
15 *roadway."* [Emphasis added]

- 16 9. In particular, I observed the condition of Mount Dallas Road in October of 2005,  
17 shortly after it was initially chip-sealed, and in 2011, immediately after the road  
18 was resurfaced. Periodic resurfacing similar to that performed in 2011 amounts  
19 to normal road maintenance. Such periodic resurfacing is simply responsible for  
20 returning the road to a well-maintained baseline state. Restoring Mount Dallas  
21 Road to a well-maintained baseline state does not result in any durable increase  
22 in the FMVs of Mount Dallas parcels. *It is therefore not fair and not equitable to*  
23 *assess any parcels (including undeveloped parcels) based on any increased*  
24 *value due to resurfacing.*

- 25 10. I access my undeveloped parcels only approximately once or twice per year. In  
26 addition, once each year I have a small crew weed-whack my driveway and its  
27 immediate vicinity. I cause negligible wear-and-tear to Mount Dallas Road.

1 Based on my own use of the road, and based on my discussions with other  
2 owners of undeveloped parcels, I believe that *undeveloped parcels in general*  
3 *are responsible for a negligible amount of wear-and-tear to the road.*

4  
5 11. According to Plaintiffs' pleadings, Plaintiffs propose to assess undeveloped  
6 parcels for the costs of routine general maintenance and/or periodic resurfacing  
7 at the same rate as developed parcels (i.e., a 100% rate). The purpose of  
8 routine general maintenance and periodic resurfacing is to repair the wear-and-  
9 tear to the road caused by owners' vehicles. By proposing to assess  
10 undeveloped parcels at a 100% rate, Plaintiffs assume that owners of  
11 undeveloped parcels are responsible for causing the same amount of wear-and-  
12 tear to the road as owners of developed parcels. They offer no evidence to  
13 support their assumption. Their assumption is similar to the assumption that the  
14 annual maintenance cost for a vehicle in daily use is the same as that for the  
15 same vehicle placed in storage and seldom used. Both assumptions are false.  
16

17  
18 12. Owners of developed parcels cause essentially all of the wear-and-tear to the  
19 road. Owners of undeveloped parcels cause a negligible amount of wear-and-  
20 tear to the road. *I believe that it is not fair and not equitable to assess owners of*  
21 *undeveloped parcels for costs associated with repairing wear-and-tear caused*  
22 *by owners of developed parcels.*  
23

24  
25 13. Notwithstanding the fact that undeveloped parcels should not be assessed for  
26 the costs of repairing wear-and-tear to the road caused by other owners'  
27 vehicles, I believe that *an assessment rate of 25% for undeveloped parcels is*

1 fair and equitable to account for the costs of repairing damage to the road due to  
2 weathering alone.

3  
4 14. Mount Dallas Road has always been managed as a single road. Plaintiffs may  
5 propose managing the multiple segments of the road separately in order to  
6 accurately account for the maintenance costs of each segment. On the basis of  
7 my experience as a member of the MDA Board, I believe that *it would be*  
8 *completely impractical to separately manage the road's multiple segments.*

9  
10 15. Based on my many years of experience dealing with accounting practices for  
11 Federally subsidized businesses, my many years of real estate experience, and  
12 my experience as a member of the MDA Board, I attest to the fact that certain  
13 operating expenses, including typical administrative expenses, insurance costs,  
14 and professional fees, are necessary in order to manage and administer  
15 maintenance of the road. *Since all parcels benefit equally from the MDA's*  
16 *management of the road, it is fair and equitable for all parcels to be assessed*  
17 *equal shares of such operating expenses.*

18  
19  
20 16. I believe that the Court should order all owners to (i) pay road-maintenance  
21 costs, including the costs of both routine general maintenance and periodic  
22 resurfacing, exactly according to the allocation method described in the MDA's  
23 RMA for Mount Dallas Road (i.e., in strict proportion to the area actually  
24 traversed in accessing owners' parcels), but with undeveloped parcels assessed  
25 at a 25% rate; and (ii) equally share other reasonable expenses incurred by the  
26 MDA in managing and administering maintenance of Mount Dallas Road.  
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DECLARATION OF  
MAURICE LIEBMAN  
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ROAD-MAINTENANCE COSTS

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I declare under penalty of perjury under the laws of the state of  
Washington that the foregoing is true and correct and that this Declaration was  
executed at Friday Harbor, Washington on 6/20/, 2017.

Maurice Liebman  
Maurice Liebman

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# Exhibit A

## Russ Harvey Letter to MDA June 15, 2017

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ROAD-MAINTENANCE COSTS

- 7

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## San Juan County Public Works Department

Location:  
915 Spring Street  
Friday Harbor, WA 98250  
[www.sanjuanco.com](http://www.sanjuanco.com)

Mail:  
P. O. Box 729  
Friday Harbor, WA 98250  
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Contact:  
P: (360) 370-0500  
F: (360) 378-6405

June 15, 2017

Mt. Dallas Association  
C/O Maurice Liebman  
4907A Westside Rd  
Friday Harbor, WA 98250

Dear Mr. Liebman,

Thank you for coming by the other day. Here is my answer to your question regarding how a roadway is valued throughout its lifetime.

Any road, when constructed, is considered a capital investment and is assigned a value equal to its cost. This value depreciates with age, as does any capital asset. Maintenance of this road, including resurfacing of any kind, does not add to its original value. It only helps to maintain the original value and function of the roadway.

Sincerely,

Russ Harvey  
Interim Public Works Director  
San Juan County