

MARY L. STONE, INC., P.S.

Attorney at Law
P.O. Box 623
Friday Harbor, WA 98250
(360) 378-6778
(866) 309-2611 (fax)
mlstone@rockisland.com

**COUNTY CLERKS OFFICE
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JUL 18 2017

**JOAN P. WHITE
SAN JUAN COUNTY, WASHINGTON**

July 18, 2017

Honorable Donald E. Eaton
San Juan County Superior Court Judge
350 Court St., No. 7
Friday Harbor, WA 98250

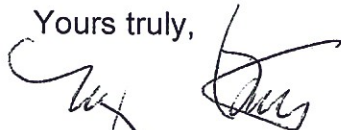
Re: Welker v. Mount Dallas Association, et al.
San Juan County Cause No. 15-2-05069-0

Dear Judge Eaton:

Enclosed is a copy of the Decree Affecting Title to Real Property and Judgment filed in Snohomish County Superior Court that was cited in Defendants Mount Dallas Association/Widdoes' Brief in Support of Motion for Summary Judgment and its Responsive Brief.

If you have any questions or concerns, please contact me.

Yours truly,



Mary L. Stone

MLS:plh

Encl.

cc: Mt. Dallas Association (without encl.)

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SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.



CL13776120

IN THE SUPERIOR COURT OF WASHINGTON FOR SNOHOMISH COUNTY

MT. INDEX RIVERSITES COMMUNITY CLUB, INC., a Washington Corporation,

No. 07-2-07884-1

DECREE AFFECTING TITLE TO REAL PROPERTY AND JUDGMENT

Plaintiff,
vs.

ELEANOR ANDERSON, a single person, GARY D GRABER, a single person, and All Others Similarly Situated,

Defendants.

THIS MATTER having come on regularly for trial before the Honorable Thomas J. Wynne on June 8th and 9th, 2009, and the Plaintiff Mt. Index Riversites Community Club, Inc., a Washington Corporation, appearing with its attorney, Brice E. Howard, of Adams, Duncan & Howard, Inc., P.S., and the Defendant Class appearing through its attorney, Drew Nielsen, Defendant Gary Graber appearing *pro se*, and Defendants Bailey and Bollman appearing through their attorney, Thom H. Graafstra, the Court having heard the testimony of witnesses, examined the items admitted into evidence, and having heard the argument of counsel, NOW, THEREFORE,

DECREE AFFECTING TITLE TO REAL PROPERTY AND JUDGMENT - 1

ADAMS, DUNCAN & HOWARD, INC., P.S.

Lawyers
3128 Colby Avenue
Everett, WA 98201
(425) 339-8556

ORIGINAL

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1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that all property
2 owners who access their property over the private roads owned by the Mt. Index
3 Riversites Community Club, Inc. (MIRCC), have an implied easement to access their
4 real property over said roads.

5
6 Each property owner also has an obligation to contribute towards the
7 maintenance of said roads. MIRCC may collect road maintenance contributions from
8 all property owners under the following provisions.

9 1. Definitions. The following definitions shall apply within this decree:

- 10 a. *Administrative costs* - Expenses related exclusively to the maintenance and
11 operation of the roads, including but not limited to insurance, balloting
12 and election expense of members of the Board; bookkeeping and billing,
13 and postage.
- 14 b. *Assessed Valuation* - The total value, including land, building and other
15 improvements, as carried on the roles of the Snohomish County Assessor
16 as of January 1 for either the year for which the road maintenance
17 assessment is applied, or the previous year.
- 18 c. *Distance Formula* - A mathematical formula generally described as being a
19 pro rata share of maintenance costs of the main road through the Mt.
20 Index Riversites based on the length of the main road a property owner
21 must travel versus the overall length of the road, and incorporating the
22 costs of maintaining that length of road. The formula is attached as
23
24
25

1 Exhibit C.

- 2 d. *Roads* - All of those roads located within Mt. Index Riversites.
- 3 e. *Side Roads* - All of those roads located within Mt. Index Riversites other
- 4 than the main road through the community.
- 5
- 6 f. *Mt. Index Riversites* - the following plats Assessor's Plat of Mount Index
- 7 Riversites, and plats of Block "A," Block "B," Block "C," Block "D," Block
- 8 "E," and Block "H" -Assessor's Plats of Mount Index Riversites Division
- 9 Number 2.
- 10
- 11 g. *Owner* - Those persons who own real property for which the access to a
- 12 public road is provided by the roads located within Mt. Index Riversites,
- 13 excluding the Burlington Northern Santa Fe Railway Co., Blanch M.
- 14 Adams, Cecil Bottis, Lyle Evans, Willard D. Griffith, Mary Sue Griffith-
- 15 Mercer, Gordon D. and Ellen Roff, Lavelle Thresher, and Victor P. Weith.
- 16
- 17 h. *Valuation Formula* - A mathematical formula whereby an amount is
- 18 allocated among owners in direct proportion to the assessed valuation of
- 19 such owner's property as compared to the assessed valuation of all
- 20 ^{owners'} properties served by the roads.
- 21 i. *Per-Owner Formula* - A mathematical formula whereby an amount is
- 22 allocated equally among all owners.

23 2. MIRCC shall establish an annual budget for anticipated road maintenance

24 expenses and for road-maintenance reserves. Each owner shall contribute

25

1 towards such road maintenance expenses according to the following
2 calculations:

3 a. The annual budget for anticipated road maintenance expenses shall be
4 multiplied by 0.2 (that is, 20%). The resulting amount shall be allocated
5 among all owners using the valuation formula.
6

7 b. The annual budget for anticipated road maintenance expenses shall be
8 multiplied by 0.8 (that is, 80%). The resulting amount shall be allocated
9 among all owners according to the distance formula.

10 3. MIRCC shall establish an annual budget for the maintenance of side roads and
11 shall collect this amount from all owners of property along the side road using
12 the per-owner formula.
13

14 4. MIRCC shall collect from all owners its reasonable administrative costs using the
15 per owner formula. Extraordinary expenses incurred in connection with this
16 class action litigation, including attorneys fees and costs for Plaintiffs and those
17 for the Defendant Class shall be assessed among owners using the per-owner
18 formula.
19

20 5. MIRCC may collect a reasonable sum from all property owners based on the
21 road maintenance assessments outlined above to establish a reserve fund.

22 6. MIRCC may collect special assessments for work related to a particular event or
23 section of road above and beyond the normal maintenance and repair, and may
24 collect such special assessments from any owner who must access their property
25

1 over such section of road on which such work is necessary.

2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that MIRCC may
3 record an equitable lien against any of the real property served by the private roads of
4 MIRCC if the property owner is more than 90 days delinquent in the payment of any
5 assessment of MIRCC authorized by this court ruling. MIRCC is hereby authorized to
6 collect its reasonable costs and attorneys fees associated with the filing of such lien;
7 provided, however, that in the event a lien is disputed, the substantially prevailing
8 party shall be entitled to recover attorneys fees.
9

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED this decree and
11 judgment, which incorporates herein by this reference the Findings of Fact and
12 Conclusions of Law entered on this matter, shall be binding on all property owners who
13 are members of the Defendant Class, as listed on Exhibit B, and against the real
14 property of the Defendant Class which falls within the legal description attached to this
15 Decree as Exhibit A, and the heirs, successors, or assigns, of the Defendant Class. This
16 Decree applies to the roads of MIRCC, said roads legally described as:
17

18
19 All private roads as shown on recorded plats, records of Snohomish County
20 Auditor, State of Washington, Assessor's Plat of Mount Index Riversites, and
21 plats of Block "A," Block "B," Block "C," Block "D," Block "E," and Block "H" -
22 Assessor's Plats of Mount Index Riversites Division Number 2.

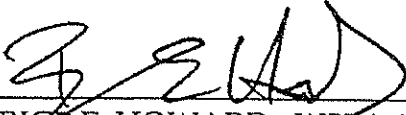
23 Dated this 10th day of August, 2009.

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HON. THOMAS L. WYNNE, JUDGE

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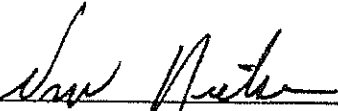
Presented by:

ADAMS, DUNCAN & HOWARD, INC., P.S.



BRICE E. HOWARD, WSBA #34326
Attorneys for Plaintiffs

Approved for Entry:



DREW NIELSEN, WSBA #18689
Attorney for Defendants



THOM H. GRAAFSTRA #7099
Attorney for Defendants Bailey &
Bollman

(Approved by court)

GARY GRABER
pro se

MIRCC Inc. Implied Easement Formula

The Implied Easement Formula is comprised of the following equations. Each equation is used in subsequent equations:

$$\text{New Base IE}(\$) = [\text{Total Spent Prior Year}(\$)] + 10\%$$

$$\text{Prior Sectional Percentage}(\%) = \left[\frac{\text{Amount Spent on Section Last Year}(\$)}{\text{Total Spent Prior Year}(\$)} \right]$$

$$\text{New Sectional Amount}(\$) = [\text{New Base IE}(\$)] \times [\text{Prior Sectional Percentage}(\%)]$$

$$\text{Cost Per Mile of Use} \left(\frac{\$}{\text{mile}} \right) = \frac{\text{New Sectional Amount}(\$)}{\text{Total Year Incurred From Every Owner Accessing Their Property}(\text{miles})}$$

$$\text{IE for Each Section}(\$) = \left[\text{Cost Per Mile of Use} \left(\frac{\$}{\text{mile}} \right) \right] \times [\text{Distance Driven}(\text{miles})]$$

When all parts are combined into one formula we get:

$$\text{IE for Each Section}(\$) = \left[\frac{\{ [\text{Total Spent Prior Year}(\$)] + 10\% \} \times \left\{ \frac{\text{Amount Spent on Section Last Year}(\$)}{\text{Total Spent Prior Year}(\$)} \right\}}{\text{Total Year Incurred For Section From Every Owner Accessing Their Property}(\text{miles})} \right] \times \left[\text{Distance Driven In Section}(\text{miles}) \right]$$