

FILED
SUPREME COURT
STATE OF WASHINGTON
6/2/2023 11:14 AM
BY ERIN L. LENNON
CLERK

No. 101924-6

SUPREME COURT
OF THE STATE OF WASHINGTON

TONY VARNEY and GERALYN VARNEY

Petitioners,

V.

CITY OF TACOMA,

Respondents.

PETITIONERS' REPLY TO CITY OF TACOMA'S
ANSWER TO PLAINTIFFS' MOTION FOR
DISCRETIONARY FOR REVIEW

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I. REPLY TO CITY OF TACOMA'S ANSWER

The City of Tacoma's answer to the Varneys' Motion for Discretionary Review revolves around the City's incorrect assertions that (1) the factors in RAP 13.4(b) govern this motion and (2) that the Varney's motion was based on RAP 2.3(b).

Because the City's answer focused on the wrong RAP (i.e. RAP 13.4(b)), instead of the correct RAP (i.e. RAP 13.5), the Court should give no consideration to the City's answer.

RAP 13.5(a) and (b) state:

(a) **How To Seek Review.** A party seeking review by the Supreme Court of an interlocutory decision of the Court of Appeals must file a motion for discretionary review in the Supreme Court and a copy in the Court of Appeals within 30 days after the decision is filed.

(b) **Considerations Governing Acceptance of Review.** Discretionary review of an interlocutory decision of the Court of Appeals will be accepted by the Supreme Court only:

(1) If the Court of Appeals has committed an obvious error which would render further proceedings useless; or

(2) If the Court of Appeals has committed probable error and the decision of the Court of Appeals substantially alters the status quo or

substantially limits the freedom of a party to act;
or

(3) If the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a trial court or administrative agency, as to call for the exercise of revisory jurisdiction by the Supreme Court.

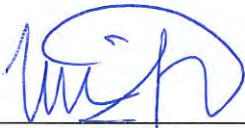
II. CONCLUSION

The City focused on the wrong RAP, and its answer should therefore be stricken.

Word certification – pursuant to RAP 18.17 this Reply contains 269 words, exclusive of words contained in the title sheet, table of contents, table of authorities, certificate of compliance, certificate of service, signature blocks and pectoral images – if any.

Dated this 2nd day of June, 2023.

RON MEYERS & ASSOCIATES PLLC

By: 

Ron Meyers, WSBA No. 13169
Matthew Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Attorneys for Petitioners

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CITY OF TACOMA,

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DECLARATION OF SERVICE OF PETITIONERS'
REPLY TO CITY OF TACOMA'S ANSWER TO
PETITIONERS' MOTION FOR DISCRETIONARY
REVIEW

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I declare under penalty of perjury under the laws of the State of Washington that on the date set forth below, I served the Petitioners' Reply to City of Tacoma's Answer to Petitioners' Motion for Discretionary Review on the following parties in each manner set forth:

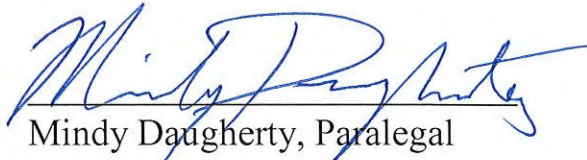
Originals: Washington State Supreme Court

Via e-filing

Copies
To: William C. Fosbre, City Attorney
City of Tacoma
747 Market St., Rm 1120
Tacoma, WA 98402-3767

Via Court of Appeals portal and Email:
bill.fosbre@ci.tacoma.wa.us

DATED this 2nd day of June, 2023, at Hartsville,
South Carolina.


Mindy Daugherty, Paralegal

RON MEYERS & ASSOCIATES PLLC

June 02, 2023 - 11:14 AM

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Appellate Court Case Title: Tony Varney, et al. v. City of Tacoma
Superior Court Case Number: 19-2-04316-0

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RON MEYERS & ASSOCIATES PLLC

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