

Supreme Court No. 90636-0

Court of Appeals No. 70329-3-I

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CLERK OF THE SUPREME COURT
STATE OF WASHINGTON

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SUDDEN VALLEY COMMUNITY ASSOCIATION, a Washington
Non-Profit Corporation,

Respondent

v.

FILED
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CURT CASEY, DAVE SCOTT & BARBARA VOLKOV,

Petitioners.

CLERK OF THE SUPREME COURT
STATE OF WASHINGTON
CRF

PETITION FOR REVIEW

Marlyn Hawkins, WSBA# 26639
Dean Martin, WSBA #21970
Attorneys for Petitioners

BARKER • MARTIN, P.S.
719 Second Avenue, Suite 1200
Seattle, WA 98104
Telephone: 206-381-9806

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I. IDENTITY OF PETITIONER

Petitioners Curt Casey, Dave Scott and Barbara Volkov (hereinafter “Homeowners”) are individuals and members of Respondent Sudden Valley Community Association (“SVCA” or “Association”).

II. COURT OF APPEALS DECISION

Homeowners seek review of the court of appeals’ decision in *Casey v. Sudden Valley Community Ass’n*, --- Wn. App. ---, 329 P.3d 919 (July 10, 2014) (“the Opinion”), attached hereto as Appendix A.

III. ISSUES PRESENTED FOR REVIEW

1. Did the Court of Appeals err in holding that the Association was required to obtain owner approval of assessments in accordance with its Bylaws even though the HOA Act provides a mandatory method for approving budgets that necessarily include assessments?

2. Did the Court of Appeals err in holding that the Association need not follow the mandatory budget procedures of the HOA Act to adopt and approve “spending plans,” which are budgets in all but name?

IV. STATEMENT OF THE CASE

Created in 1969, the Sudden Valley Community Association is a large homeowners’ association in Whatcom County that is currently comprised of owners of 3,204 lots. CP 216, 217. With a population of 6,441 residents,¹ Sudden Valley (or “the Community”) would be the

¹ 2010 Census Data. Wikipedia, the Free Encyclopedia, Sudden Valley, Washington, at http://en.wikipedia.org/wiki/Sudden_Valley,_Washington (last visited August 11, 2014). The relevant pages are attached hereto as Appendix B.

fourth largest city in Whatcom County if it were a municipality.²

The restrictive covenants (“Covenants”) establishing Sudden Valley as a community association in 1969 provided for the infrastructure to run an expansive community. The Covenants provide for an “Architectural Control Committee,” easements for roads and utilities,³ establish community beaches, park areas and reserve areas and require services such as security. *Id.* The Covenants charge the SVCA with maintaining these services and facilities, along with “such additional recreational or other facilities as Declarant may convey. . . .” *Id.* These other recreational facilities now include a community center, marina, health club, an Olympic-size pool, full-service restaurant, snack bar, library, 55 miles of private roads, parks and trails and its own 24/7 security. CP 312-13; 365-373; 385-87.

To balance the maintenance obligation, the Covenants grant to the Association the corresponding power to assess the members “on an equitable basis” to maintain and operate the facilities provided by the original declarant and those later added to the Community. CP 254. The Covenants provide no further restrictions on the board’s ability to levy assessments. The Community’s Bylaws provide additional necessary governance including an Executive Committee, committees for

² Based on Census data from 2010, the top four populous cities are as follows: Bellingham (82,234); Lynden (12,605); Ferndale (11,998) and Blaine (4,891). Wikipedia, the Free Encyclopedia, Whatcom County, Washington at http://en.wikipedia.org/wiki/Whatcom_County,_Washington. (last visited August 11, 2014). The relevant pages are attached hereto as Appendix C.

³ CP 252-54.

Nominations and Elections, Appeals and Finance. CP 243-45, 249. The Finance Committee provisions are rigorous and detailed, including rigorous membership requirements and duties, including preparation of budgets. CP 244-45.

Since 2008, the Community's proposed budgets have exceeded \$2.7 million. CP 312-13; 365-373; 385-87. Each lot is charged with paying its share of that overall budget in per-lot assessments, which has generally been between \$600 and \$800 annually since 2008. CP 218-220, 222. The 2009 Proposed Operations Budget, like all of the prior and successive years' budgets, included separate sections for revenues and expenditures, resulting in a balanced budget. CP 312-13. Specifically, the budget referenced revenue of \$2,191,547 from assessments. CP 312. The expenses ranged from \$1.9 million in employee salaries, taxes and benefits (for the 46.3 full-time employees), to \$82,450 for repairs and maintenance to a few thousand dollars for meeting expenses. *Id.*

For 2010, the Board proposed a budget that included \$1,471,390 in operating assessment revenue (total assessment revenue minus amounts allocated to reserves), compared to \$1,401,547 in 2008. CP 220, 348. Collection of that assessment revenue would require assessments for developed lots of \$766.52, around one third of which was intended to fund certain reserves for repairs and replacements of aging components of the Association, which was then 41 years old. CP 220, 317, 345. The proposal represented an annual increase in operations dues of only \$24 for developed lots. CP 345. The Board explained the need for the nominal

increase was to cover minor increases in actual costs, citing an actual reduction in work force, and a “frugal” budget. *Id.*

Procedurally, the Community had previously approved budgets by the owners in accordance with the HOA Act, which states that a budget is ratified by the members unless a majority of the members appear at a meeting and vote against passage of the budget. CP 218; RCW 64.38.025(3). Prior to 2012, the Community believed that it also needed to obtain a *separate vote* to approve assessments in accordance with a conflicting Bylaws provision. CP 218. Article III, Section 19 of the Sudden Valley Bylaws requires 60% of the votes of owners appearing at a meeting to vote *in favor* of an assessment for it to be approved. CP 217-18, 240. The attempt to apply both the HOA Act provision *and* the Bylaw assessment vote created the untenable position in which the Community found itself in 2010 and 2011 where the budget passed, but the assessments were voted down by a minority of owners. CP 220-23. In fact, in 2011, the board noted that for the past several years “20% of the membership can and has blocked all dues increases, except one small one for the pools.” *Casey v. Sudden Valley Community Ass’n.*, 329 P.3d 920, 921 (2014).

Having to determine what to do with an *approved* budget with an *unapproved* portion of the budget (assessments), the Community found itself without guidance from the Act and created unregulated “spending plans.” CP 221-223. These spending plans were exactly like the prior budgets except that the board unilaterally adjusted expenditures to reflect

the reduced assessment revenue. CP 365-373, 384-87. Importantly, the Community *sought no owner approval* for these “spending plans,” claiming the notice or ratification procedures of the HOA Act did not apply. CP 221-23. In the 2010 spending plan, the Committee outlined the tension between its duty to maintain and the failed assessment vote:

The following proposed spending plan has been developed to remain financially viable during the coming fiscal year. . . . *With the limited funding presently available, we realize the Association will no longer be able to provide all services or amenities that are desired by the membership.* We, nonetheless, are duty bound to ensure the Association’s operations and viable amenities are maintained and provided within the available funding; a duty we are committed to meet.

Id. (emphasis added). The Community found itself in a similar quandary in 2011 when the budget passed, but the assessments were again voted down, requiring the Association to revert to assessments approved back in 2008 and necessitating the creation of another “spending plan.” CP 223, 385-87. Not even nominal increases passed due to the vocal minority that continued to vote down assessments under the Bylaws. *Id.*

In August of 2011, the Board finally resolved the conflict, determining that at the 2012 annual meeting, the budget votes would “be determined in accordance with Washington State Law, RCW 64.38.025, which provides that the Budget, including the dues to support it is approved unless a majority of the membership rejects it.” CP 224. The budget proposed for 2012 was set at a substantial increase to make up for the lack of assessment revenue for the past few years. CP 224, CP 401.

The measure clearly asked voters to approve both the budget and the per-lot assessment amounts. CP 225, 401, 403. The proposed budget for 2012 passed at the November 5, 2011 annual meeting, with just under 40% of the owners voting to reject it. CP 225.

Before the end of that month however, a newly-comprised Board reversed its prior legal interpretation that resolved the conflict and reinstated the affirmative voting provisions of the Bylaws. CP 225, 409-416.⁴ Amidst board controversy, the new board also rescinded the new assessments, reverted to 2008 assessment levels and adopted another unapproved spending plan. CP 226.

Frustrated with the return to pre-HOA Act status, Homeowners brought this claim against the Association, asserting the supremacy of the HOA Act's budget and assessment ratification provision over the Bylaw provision. CP 6-19. Petitioners were originally awarded fees by the trial court on summary judgment. CP 481-82. The court of appeals reversed that award when they found for the Association and held Petitioners liable for fees. *Casey*, 329 P.3d at 926. Should this petition be accepted and the court of appeals reversed, the Homeowners request its attorneys' fees.

V. ARGUMENT

A. **The Petition for Review Should be Accepted Because it Involves an Issue of Substantial Public Interest.**

This petition should be accepted because it involves an issue of

⁴ The Stipulation as to Undisputed Facts refers to the minutes of this action as Exhibit Z when, in fact, it appears that they were submitted to the court as Exhibit AA. The CP reference here is to the proper document.

substantial public interest that should be determined by this Court. *See* RAP 13.4(b). Under an identical standard in RAP 2.3(d)(3), the courts have held: “In determining whether an issue involves a sufficient public interest, we consider the public or private nature of the question, the need for future guidance provided by an authoritative determination, and the likelihood of recurrence.” *Edie v. State, Dep’t. of Licensing*, 101 Wn. App. 218, 3 P.3d 208 (2000); *see also Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 632, 860 P.2d 390 (1993) (citing similar considerations under RAP 18.9(c)(2)).

The issues raised by this decision are of a public nature and likely to recur because of the sheer number of Washington residents directly affected by this ruling. Moreover, the legislature has recently determined that the core issue in this case – providing for long-term financial stability of homeowners’ associations – is of great public interest as demonstrated by its enactment of recent reserve study legislation.

1. *The Number and Size of Affected Homeowner Associations in Washington Supports Review.*

The *Sudden Valley* decision affects a large number of Washington residents. In addition to affecting the over 6,000 residents of Sudden Valley, it is equally obvious that homeowners’ associations in Washington with affirmative assessment vote provisions in their governing documents are similarly impacted. Moreover, because the court of appeals held that the operative provision in the Community’s *Bylaws* affects the Community’s passage of its budget, any homeowners association can

exploit *Sudden Valley* by amending its bylaws to require an affirmative vote for assessments to avoid paying any increases.⁵ In this way, the Opinion affects all homeowners' associations in Washington, the members of which represent a large portion of the Washington population.

In fact, as of 2013, Washington State ranked ninth in the nation of the number of estimated community associations, with an estimated 10,000 associations in the state, comprised of an estimated 2,000,000 people living in community associations.⁶ Perhaps this is why SVCA conceded to the court of appeals that this case: "has significant implications for SVCA and homeowners' associations throughout the State." *Brief of Appellant Sudden Valley Community Association*, p. 1.

2. The Importance of the Financial Sustainability of Homeowner Associations Supports Review.

The case also affects the public interest because it substantially impacts a core governance issue of community associations – providing for the long-term financial stability of homeowner associations through budgeting, collection of assessments and planning for reserves. The legislature has recently addressed this important public policy when it enacted reserve study legislation requiring even apathetic homeowner

⁵ This could be easily accomplished because the HOA Act does not supply a minimum threshold vote requirement for amendment of an association's bylaws, deferring that provision to the bylaws themselves. See RCW 64.38.030(5). As a result, an HOA's bylaws could be amended by a mere majority of owners, by a minority of owners, or even without vote of the owners.

⁶ 2013 *Community Association Fact Book for Washington* published by Foundation for Community Association Research ("FCAR"), excerpts from which are provided at Appendix D.

associations to be fiscally responsible.

The recently enacted reserve study legislation requires homeowner associations with significant assets to prepare and update reserve studies annually. *See* RCW 64.38.065. The purpose of a reserve study is to estimate the future costs of major maintenance, repair and replacement of common element “reserve components,” including roofs, pools, roads, sidewalks and the like. RCW 64.38.070(2); 64.38.010(16). Community associations are encouraged to establish “reserve accounts” to fund these future repairs. RCW 64.38.065(1).

The purpose of this legislation is to “offset the financial burden of necessary future renovations that, in the absence of a reserve account, would require the condominium association to impose a special assessment upon the owners.” CP 182-83. In other words, the statute is intended to overcome the reluctance of owners to pay their pro-rata share of the useful life of the common elements they enjoy so that the entire cost of major repairs or replacements is not borne by those owners who happen to be in residence when the major repair or replacement becomes necessary. Thus, the legislature clearly considered the issue of long-term financial sustainability of its homeowners’ associations to be of substantial interest to warrant this legislation.

The legislature’s prudence in this respect is clear given the substantial commerce transacted in these communities. Community associations in Washington collect estimated annual assessments of almost *two billion dollars per year*, with over six hundred million of those dollars

allocated to reserves. *See n. 6, supra.* Roughly 70,000 board members are entrusted with spending the billions of dollars in assessments, most of whom are volunteers with little to no experience in managing multi-million dollar corporations. *Id.* Given these numbers, responsible regulation of this spending is of serious public interest, as demonstrated by the legislature's concern that associations create reserve accounts.

This case impacts responsible homeowner association spending even more dramatically than reserve legislation because it affects not only homeowners' associations' ability to fund reserves, but their very ability to raise and collect regular assessments for the ongoing maintenance and operations of their communities. Thus, the Court should accept review to continue the legislature's work in ensuring continued fiscal responsibility of homeowner associations.

B. An Authoritative Determination by the Supreme Court is Necessary because Sudden Valley Represents a Dangerous Departure from Established Practice Under the HOA Act.

The court of appeals' Opinion is based on a fundamental misunderstanding of a Washington HOA's budget process and represents a dangerous departure from established practice in this State. First, the plain language of RCW 64.38.025(3) reveals that it was intended to be the sole method for approving assessments because they are the primary component of the "revenue" portion of the budget. Second, when the statute is read in harmony with related statutes and the legislative intent, it becomes clear that the legislature intended RCW 64.38.025(3) to be the

exclusive and uniform method for establishing approval of assessments. The Supreme Court must accept review to bring practice back into line with the HOA Act's stated objectives and to protect hundreds of thousands of Washington homeowners.

1. *The Plain Language of RCW 64.38.025(3) Demonstrates Clear Legislative Intent that the Approval of Budgets Encompasses Approval of Assessments.*

The court of appeals never seemed to understand the nature of budgets and assessments as components of an association's overall financial picture. First, the court's conclusion that "the Act's statutory scheme treats budgets and assessments as distinct subjects"⁷ misses the point. The issue is not whether a budget *is* an assessment, but whether assessments are part of budgets such that the budget *approval* process constitutes *approval* of assessments.

The budget approval provision in RCW 64.38.025(3) encompasses approval of assessments because assessments are the "revenue" portion of budgets. The court of appeals acknowledged that assessments are revenues included within budgets. *Id.* at n. 5 (budget means an estimate of *expected income* and expense); *Id.* at 920 ("The Association derives revenue from a variety of sources, including annual due an assessments levied on its members.") Why, then, did it undergo such a tortured analysis to prove that RCW 64.34.025(3) for approval of budgets does not constitute approval of assessments when the answer is plain and especially

⁷ *Casey*, 329 P.3d at 923.

where the modern view is to determine plain language in context with the legislative intent. In determining statutory meaning, the Court's fundamental objective is to ascertain and carry out the Legislature's intent. *State Dep't. of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002).

The primary statute at issue in this case is both plain on its face and when considering the legislative intent. RCW 64.38.025(3)(3) provides:

(3) Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors.

There is no dispute that pursuant to this statute, the HOA Act provided homeowner associations throughout Washington with a uniform and mandatory process by which to adopt budgets. CP 218. The statute does not explicitly state that it is the procedure by which "assessments" are approved, but it does not need to because assessments are, by any definition, part of an association's budget. Similarly, the statute does not specifically state that it is the procedure by which "expenditures" are approved, but no one would reasonably argue that this is not the case;

Both assessments (as revenues) and expenditures are subsets of “budgets.”

By any definition, a “budget” includes both revenues and expenditures. All of the sources cited by the court of appeals and the SVCA and the Homeowners below define budgets to include both revenues and expenditures, proving that revenues are an essential component of “budgets” as that phrase is commonly understood. *Casey*, 329 P.3d at n. 5. Homeowner association budgets also include revenues and expenditures. CP 312-13, 365-373, 385-87. Thus, when a budget is submitted to the owners for ratification under RCW 64.38.025(3), it is not just the expenditures they are being asked to approve – it is also the revenues or assessments. If the legislature had intended that owners approve only *expenditures* of the Board, then RCW 64.38.025 would not provide for ratification of budgets, but ratification of *expenditures*. This interpretation would require the Court to re-word the statute, which is in derogation of the rule against inserting or disregard words in legislative acts to suit an interpretation. *City of Seattle v. Fuller*, 177 Wn.2d 263, 269, 300 P.2d 340 (2013); *King County v. City of Seattle*, 70 Wn.2d 988, 991, 425 P.2d 887 (1967). Because the statute clearly applies to approval of budgets and because the main component of an association’s revenue is the assessment revenue, common sense tells us that the statute is intended to operate as the approval process for assessments. As such, enactment of the HOA Act abrogated any inconsistent provisions under the common law. *See Potter v. Washington State Patrol*, 165 Wn.2d 67, 196 P.3d 691 (2008) (“A law abrogates the common law when ‘the provisions of a

statute are so inconsistent with and repugnant to the prior common law that both cannot simultaneously be in force.”) Any other interpretation defies common sense.

2. Application of Statutory Canons of Construction Reveals Legislative Intent that Approval of Budgets Constitutes Approval of Assessments.

If the Court is not convinced that the approval of budgets under the Act also constitutes the approval of assessments solely by looking at the plain language of the term “budget,” then it need look no further than to the remainder of the Act and legislative intent to clarify that meaning. This court has very recently opined:

To glean the meaning of the words in a statute we do not look at those words alone, but [at] all of the terms and provisions of the act in relation to the subject of the legislation, the nature of the act, and the general object to be accomplished and consequences that would result from construing the particular statute in one way or another.

BAC Home Loans Servicing, LP v. Fulbright, 180 Wn.2d 754, 328 P.3d 895 (2014) (internal citations omitted). Legislative intent guides the inquiry: “[T]he interpretation adopted should always be one which best advances the legislative purpose.” *Rozner v. City of Bellevue*, 116 Wn.2d 342, 347, 804 P.2d 24 (1991) (citing *Dep’t of Transp. v. State Employees’ Ins. Bd.*, 97 Wn.2d 454, 458-59, 645 P.2d 1076 (1982)). In the present case, a review of the HOA Act as a whole, the express legislative intent and legislative history demonstrate that the legislature intended the budget approval provision to operate as an assessment approval provision.

a. Consideration of the HOA Act a Whole Reveals that Approval of Budgets Constitutes Approval of Assessments.

Examination of the entire HOA Act shows that assessments are intended to be approved as part of the budget approval process. This Court has recently confirmed that a court construes the meaning of a statute by considering the entire sequence of all statutes relating to the same subject matter. *State v. McEnroe*, 179 Wn.2d 32, 38, 309 P.3d 428 (2013); *see also Pacific Marine Ins. Co., v. State Dep't of Revenue*, 329 P.3d 101, 2014 WL 2583478, 4 (meaning is discerned from closely related statutes and underlying legislative purposes). Three separate statutes in the HOA act prove that assessments are an integral part of budgets that are approved in accordance with RCW 64.38.025(3).

First, RCW 64.38.035(3) provides that notices of HOA meetings must contain, among other things, “any budget or changes in the previously approved budget that result in a change in assessment obligation.”⁸ This language inexorably links budgets with assessments, requiring re-approval of any budget that “results in a change of the assessment obligation.” If, as the court of appeals claims, budgets do not set assessment obligations, then how could a change in a budget ever “result” in a change of the assessment obligation?

Second, the empowerment language of RCW 64.38.020(2) endows an association with the power to “adopt and amend budgets for revenues,

⁸ RCW 64.38.035(3) (Current citation as revised in 2013, although same language appeared in subsection (1) of the statute from its enactment in 1995).

expenditures and reserves and impose and collect assessments for common expenses from owners.” Based on the plain language of this statute, the legislature has expressed a clear intent that budgets include “revenues, expenditures and reserves.” Thus, when a budget is approved under RCW 64.38.025(3), the “revenues, expenditures and reserves,” as subsets of the budgets, are also approved.

Finally, when the Legislature added reserve study requirements to the HOA Act in 2011, requiring community associations and their boards to plan for future maintenance of large-ticket common elements, it added RCW 64.38.025(4), clarifying that the summary of the budget provided prior to owner ratification must identify what portion of the regular assessment would be applied to reserves.⁹ If budget approval does not also constitute approval of assessments, then what would be the point of requiring such mandatory notice as part of the “summary of the budget”?

The obvious conclusion from each of these three statutes is that when owners are asked to approve budgets, they are asked to approve all components of that budget, both the expenditures and the revenues, including assessment revenue. The court of appeals failed to interpret the

⁹ RCW 64.38.025(4) provides, in pertinent part:

(4) As part of the summary of the budget provided to all owners, the board of directors shall disclose to the owners:

(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution is based.

(b) if additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each owner per month or year, and the purpose of the assessments. . . .

budget provision in light of these statutes in reaching its decision and therefore, review should be granted.

b. The Express Legislative Intent Supports the Interpretation that Approval of Budgets Includes Approval of Assessments.

Both the HOA Act's express legislative intent contained in RCW 64.38.005 and the legislative history produced in favor of the Act in 1995 bolster the conclusion that RCW 64.38.025(3) was intended to provide a uniform procedural method by which assessments are approved by the members, contrary to the court of appeals' decision.

RCW 64.38.005 provides: "The intent of this chapter is to provide consistent laws regarding the formation and legal administration of homeowners' associations." The interpretation advanced by Homeowners, that RCW 64.38.025(3) provides a uniform method by which assessments are approved, is supported by this express legislative intent because the Act provides a uniform method by which owners receive notice of assessments – contained within budgets – and a right to vote on the passage of those assessments along with their right to vote on how the assessments will be spent. It is almost too obvious to point out that allowing each HOA to set the method for approval of assessments on an ad hoc basis in its Bylaws contravenes this express intent.

Second, the House Bill report produced in support of the HOA Act in 1995 supports the interpretation that the budget approval process was intended to be the assessment approval process. The HB 1471 House Bill Report stated, in pertinent part:

The bill provides a basic set of rules and procedures by which homeowners' associations must operate in order to protect individual association members. The board of directors of some homeowners' associations currently do not provide members notice of their actions *and imposition of assessments*. The Board needs to be accountable to the members of the association and needs to make decisions based on the association's interest.

CP 83-84 (emphasis added). Reviewing this quote, the court of appeals somehow concluded: "The legislature was concerned with protecting members from lack of information. Nothing indicates the legislature intended to go further." *Casey*, 329 P.3d at 925. To say that the legislative history addresses only notice literally ignores all but one fragment of the statement. The statement emphasizes five core concepts of the HOA Act, all of which are supported by Petitioners' interpretation: 1) Consistent procedures; 2) Protection of owners; 3) Provision of notice; 4) Information regarding assessments; and 5) Board accountability.

If the budget approval provision in RCW 64.38.025(3) is also the assessment approval method, each of these legislative goals is fulfilled: 1) The procedures are mandatory and consistent because they are set by statute, not by individual bylaws; 2&3) owners are protected because they are provided with specific and timely notice of the entire budget *and* the total amount of assessments to be collected; 4) owners are given specific per-unit assessments information under RCW 64.34.025(4); and 5) the board remains accountable to owners because if the owners ratify the budget, assessments are then levied and collected in accordance with the

amounts listed in the budget proposed; if the budget does not pass, the board must then operate under the last budget lawfully ratified under RCW 64.38.025(3), so the board remains accountable either way. This is the only interpretation that serves each of the legislative goals.

On the other hand, the consequences that would result from the court of appeals' interpretation contravene the legislative intent and are patently absurd. First, the goal of uniform and mandatory procedures is swiftly abandoned because the court of appeals' decision subordinates the statute to whatever procedures are in the Bylaws. Second, the only provision in the statute that fulfills the explicitly stated goal of giving notice of assessments (RCW 64.38.025(3)) is rendered a nullity because the court held that it *does not control the approval of assessments*. Third, protection of owners cannot be guaranteed where, as here, assessments can be defeated by a subset of owners who attend a meeting for that purpose, meaning that a *vocal minority of owners can defeat the assessment increase*, countermanding the will of the majority.

Finally, the most serious problem with the court of appeals' interpretation is the lack of board accountability that it creates. Under the Opinion, associations who pass budgets but cannot pass assessments may levy assessments and create "spending plans" *that are not be approved by the owners* in direct contravention of the statute and its goals. The Act does not address the situation where a budget is passed but an "assessment vote" fails – because this absurd situation could not have been anticipated under a reasonable interpretation of the Act. The statute allowing default

to a previously ratified budget applies only where the *budget* is not adopted in accordance with the RCW 64.38.025(3). If an “assessment vote” is required, but the measure fails, it follows that no assessments may be levied until some assessment measure is properly approved. Instead, the court of appeals sanctioned the board’s choice to default to prior years’ assessment levels and create new budgets called “spending plans” *without an owner vote*. Having fashioned this remedy without guidance from the Act, the court of appeals’ precedent provides absolutely no safeguards against abuses of the “spending plan” concept.

With this one pronouncement, the court of appeals damaged not just one, but *all* of the express legislative goals of the Act. Unregulated spending plans do not ensure consistency of procedures, do not protect owners from board tyranny, do not provide notice and do not provide owners with information regarding assessment. The Opinion violates the explicit intent of the Act and must be corrected.

VI. CONCLUSION

For all of the above reasons, Petitioners implore this Court to accept review the court of appeals’ erroneous and dangerous decision.

Respectfully submitted this 29th day of September, 2014.

BARKER • MARTIN, P.S.



Marlyn K. Hawkins, WSBA #26639

Dean Martin, WSBA #21970

Attorneys for Petitioners Curt Casey,
Dave Scott & Barbara Volkov

COURT OF APPEALS DIVISION I OF THE STATE OF WASHINGTON

SUDDEN VALLEY COMMUNITY) Court of Appeals Case No. 70329-3-I
ASSOCIATION, a Washington Non-Profit)
Corporation,)
))
Appellant,) CERTIFICATE OF SERVICE
v.)
CURT CASEY, DAVE SCOTT &)
BARBARA VOLKOV,)
))
Respondents.)

FILED
COURT OF APPEALS DIVISION I
STATE OF WASHINGTON
SEP 30 2014
CLERK

I HEREBY CERTIFY that on September 29, 2014, I caused to be served a true and correct copy of:

1. *Petition for Review*


on the party or parties listed below in the manner indicated:

Richard Allen Davis, III
Chmelik, Sitkin & Davis
1500 Railroad Ave
Bellingham, WA 98225-4542

Via:
 Hand Delivery
 U.S. Mail
 Electronic Mail
 Facsimile Transmission

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington on this 29th day of September, 2014.



Aleena Hodges

APPENDIX A

--- P.3d ---, 2014 WL 3611322 (Wash.App. Div. 1)
(Cite as: 2014 WL 3611322 (Wash.App. Div. 1))

H

Only the Westlaw citation is currently available.

Court of Appeals of Washington,
Division 1.

Curt CASEY, Dave Scott, Barbara Volkov, Wash-
ington residents, Respondents,

v.

SUDDEN VALLEY COMMUNITY ASSOCI-
ATION, a Washington homeowners' association,
Appellant.

No. 70329-3-I.

July 10, 2014.

Publication Ordered July 10, 2014.

Background: Members of homeowners' associ-
ation brought action against association seeking de-
claratory judgment that procedure for approving
homeowners' assessments and spending plans violat-
ed homeowners' association act. The Superior
Court, Whatcom County, Ira J. Uhrig, J., entered
judgment in favor of members. Association ap-
pealed.

Holdings: The Court of Appeals, Lau, J., held that:
(1) association dues and assessments did not have
to be approved in accordance with budget ratifica-
tion process outlined in homeowners' association
act, and
(2) association's adoption of spending plans without
a membership vote did not violate the homeowners'
association act.

Reversed and remanded.

West Headnotes

[1] Common Interest Communities 83T 74

83T Common Interest Communities
83TIV Unit Owners' Association
83Tk72 Dues, Assessments, Fines, and Other
Fees
83Tk74 k. Power and duty to assess or

levy; validity. Most Cited Cases

Homeowners' association dues and assessments
did not have to be approved in accordance with
budget ratification process outlined in homeowners'
association act. West's RCWA 64.38.025(3).

[2] Common Interest Communities 83T 71

83T Common Interest Communities
83TIV Unit Owners' Association
83Tk66 Powers, Duties, and Functions
83Tk71 k. Other particular powers, duties,
and functions. Most Cited Cases

Homeowners' association's adoption of spend-
ing plans without a membership vote did not violate
the homeowners' association act; nothing in the act
required the association to obtain member approval
for spending adjustments that reflected reductions
in expenditures necessitated by underfunded
budgets resulting from a dues and assessment in-
crease rejection by members. West's RCWA
64.38.025.

[3] Common Interest Communities 83T 161

83T Common Interest Communities
83TVII Actions and Proceedings
83Tk161 k. Costs and attorney fees. Most
Cited Cases
Homeowners' association was entitled to attor-
ney fees under homeowners' association act as the
prevailing party on appeal in action brought by
members challenging procedure for approving
homeowners' assessments and spending plans.
West's RCWA 64.38.050.

Richard Allen Davis III, Chmelik, Sitkin & Davis,
Bellingham, WA, for Appellant.

D. Murphy Evans, Brownlie Evans Wolf & Lee
LLP, Bellingham, WA, for Respondent.

LAU, J.

*1 ¶ 1 This case involves a dispute over the

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process governing approval of homeowner association dues and assessment increases. Sudden Valley Community Association (Association) appeals the trial court's declaratory judgment order in favor of several Association members. The Association contends that the trial court erred in concluding that (1) its procedure for approving increases in annual homeowners' assessments and (2) its process of adopting "spending plans" to adjust expenditures due to decreased revenues violates the homeowners' association act (Act), chapter 64.38 RCW. Because the Act prohibits neither action, we reverse and remand with instructions to enter declaratory relief and judgment in the Association's favor consistent with this opinion. We also reverse the trial court's award of attorney fees to plaintiffs and award the Association its appellate attorney fees as the prevailing party under the Act's attorney fees provision.

FACTS

Association's Budget and Assessment Policies under Bylaws and RCW 64.38.025

¶ 2 Sudden Valley Community Association is a nonprofit corporation and homeowners' association in Whatcom County. The Association is comprised of 3,204 lots, plus a variety of common amenities, including a golf course, community center, marina, swimming pools, and a fitness facility.

¶ 3 The Association is governed by its restrictive covenants, articles of incorporation, bylaws, and Washington state laws. A nine-member board of directors is responsible for its affairs, including adoption of annual budgets subject to ratification by the Association's members. The board is elected by the Association's members at the annual general meeting. Members have one vote for each Sudden Valley lot they own, meaning there are 3,204 possible votes at any membership meeting. A majority of the possible votes at a membership meeting is 1,603.

¶ 4 The Association derives revenue from a variety of sources, including annual dues and assessments ^{FN1} levied on its members, leases of

building space to third parties, and usage fees for the swimming pools, fitness center, golf course, and marina. Since its incorporation in 1973, Association bylaws provided that annual dues and assessments must be established by the Board and approved by the members. Article III, section 19 of the bylaws requires approval of annual dues and assessments or special assessments by 60 percent of the members voting at a meeting.

¶ 5 No bylaws govern the process for adoption of the annual budget. The Association holds its annual general membership meeting in November and special general meetings as needed. Each year the Association presents to its members a budget for ratification under RCW 64.38.025(3), ^{FN2} which provides that the budget is ratified unless a majority of votes in the Association reject it.

¶ 6 The Association has historically viewed the bylaws' article III, section 19 as the exclusive means to increase the annual dues and assessments. According to the Association, RCW 64.38.025(3)'s budget ratification procedure applies only to budget adoption and not to dues and assessment increases. The proposed budget contains the Association's projected expenses and projected revenues from all sources, including annual dues and assessments. See Clerk's Papers (CP) at 312-13 (2009 proposed operating budget); CP at 348 (2010 recommended annual operating budget); CP at 381 (2011 proposed operating budget). If the Board proposes an increase in the annual dues and assessments for the following year, the Association offers a separate measure for the membership to approve under article III, section 19 of the bylaws. The board includes the additional revenue from that increase in the proposed budget. If, however, the members ratify the budget but reject the increase measure, the projected revenue in the budget is overstated. This occurred in years 2010, 2011, and 2012. The board dealt with the revenue shortfall by adopting a "spending plan" for each of those years. This was an orderly method for the board to adjust expenditures to ensure that annual expenditures did not ex-

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ceed actual revenues.

*2 ¶ 7 Due to article III, section 19's elevated (60 percent) approval threshold, most efforts to increase annual dues and assessments have failed. In August 2011, the board passed a motion rejecting the article III, section 19 voting procedures. It implemented a new process to increase the approval chances at the 2011 annual membership meeting. The August 22 meeting minutes state the rationale for the motion and quote the motion itself:

Our experience at our last several AGM [annual membership meetings] has been consistent. Each year our budget is approved but the dues proposal is defeated. Something like 50% of the members vote. Since approval of the dues under our Bylaws requires a super majority of 60% of those voting, 20% of the membership can and has blocked all dues increases, except one small one for the pools. To prevent this from happening at the coming AGM, I move:

That at the AGM, the results of the vote on the regular budget for Operations, Road and Capital be increased in the Operations Budget to subsidize the cost of the pools and the Special Budget for the Capital Repair, Replacement, Reserve Fund be determined in accordance with Washington State Law, RCW 64.38.025, which provides that the Budget, *including the Dues to support it* is approved unless a majority of the membership rejects it.

(Emphasis added.) The board combined the vote on dues and assessments with the vote on the budget. The result was an overwhelming rejection of the combined measure, based on fewer than 50 percent of the total possible votes in the Association.^{FN3} Under the new process, the board achieved its goal of increasing dues and assessments despite the members' overwhelming vote to reject it.

¶ 8 Following the election of new board members, the board voted to rescind the August 22,

2011 motion and to reinstate the article III, section 19 procedure for voting on dues and assessment increases. The Board also treated the dues and assessment increase as invalid because a 60 percent voting majority failed to approve it as required under article III, section 19. The Association continued to assess and collect annual dues and assessments at the level established by the membership's March 2008 vote. The Association submitted no updated 2012 budget to the membership for ratification, but it adopted a 2012 "spending plan" instead.

Lawsuit

¶ 9 In September 2012, several individual Association members ("plaintiffs") filed a complaint against the Association seeking declaratory and injunctive relief. Plaintiffs requested the court to declare that (1) "RCW 64.38.025 governs [the Association's] adoption of any proposed dues assessment and overrides Article III, Section 19 of the Bylaws," (2) "RCW 64.38.025 governs [the Association's] adoption of any budget or special budget," (3) "RCW 64.38.025 requires that any proposed budget submitted to the membership for ratification must include any proposed dues assessments for the time period covered by the proposed budget," (4) "RCW 64.38.025 prohibits [the Association] board from adopting a revised budget or 'spending plan' that has not been previously ratified or approved by the membership." Plaintiffs also requested injunctive relief corresponding to the relief quoted above.

*3 ¶ 10 The Association's answer denied that the spending plans were revised budgets requiring ratification. It requested declaratory relief and specifically asked the court to declare, among other things, that (1) article III, section 19 of the bylaws governs the voting approval threshold for increases in dues and assessments, (2) RCW 64.38.025's ratification threshold does not apply to approval of increases in the Association's dues and assessments, (3) the Board's approval of a spending plan does not constitute adoption of a regular or special budget requiring ratification under RCW 64.38.025, (4) "On those occasions when anticipated revenues

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in the budget ratified by the membership are not met because of the failure of the membership to approve an increase in dues and assessments, the Board may adopt and follow a spending plan without submitting the spending plan to the membership for ratification,” and (5) “That the Board of [the Association] has the authority under the Bylaws to govern the Association which includes, inter alia, making financial decisions which vary from the budget ratified by the membership.”

¶ 11 In February 2013, both parties moved for summary judgment. Each party asked the court to enter a declaratory judgment adopting its respective position on whether RCW 64.38.025 or article III, section 19 governed the Association's adoption of dues and assessment increases. The court heard oral argument. On May 7, 2013, the court issued an amended declaratory judgment ruling in plaintiffs' favor. The court determined:

1. Any dues and assessment measure proposed by the Sudden Valley Community Association must be ratified by membership vote in accordance with the requirements of RCW 64.38.025. To the extent that RCW 64.38.025 (the “statute[”] and Article III, Section 19 of the [Association] Bylaws are inconsistent, the statute governs).

2. RCW 64.38.025 requires [the Association] to submit to its membership for ratification vote a unified budget proposal that includes both proposed expenditures and proposed revenues in a single measure.

3. The [Association] Board's practice of adopting “spending plans” without submitting such plans to a ratification vote of the membership violates RCW 64.38.025.

The court also awarded attorney fees to plaintiffs under RCW 64.38.050. The Association appeals.

ANALYSIS

Standard of Review

¶ 12 Where, as here, the facts are undisputed and the only issues are questions of law, the standard of review is de novo. *Shafer v. Bd. of Trustees of Sandy Hook Yacht Club Estates, Inc.*, 76 Wash.App. 267, 273, 883 P.2d 1387 (1994). Questions of statutory construction are reviewed de novo. *State v. Votava*, 149 Wash.2d 178, 183, 66 P.3d 1050 (2003). “The primary goal of statutory interpretation is to ascertain and give effect to the legislature's intent and purpose.” *In re Condemnation Petition of Seattle Popular Monorail Auth.*, 155 Wash.2d 612, 627, 121 P.3d 1166 (2005). We read the statute as a whole to give effect to all language used. *In re Pers. Restraint of Skylstad*, 160 Wash.2d 944, 948, 162 P.3d 413 (2007).

Bylaws and the Act

*4 [1] ¶ 13 The Association contends that article III, section 19's 60 percent approval requirement governs the establishment and approval of annual dues and assessments. Plaintiffs claim that the Act controls the process for imposing dues and assessments. Plaintiffs rely mainly on RCW 64.38.025(3)'s budget approval process.^{FN4}

¶ 14 RCW 64.38.025(3) provides:

Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. *Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present.* In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors.

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(Emphasis added.) Plaintiffs do not argue this section is ambiguous. Indeed, the statute's plain language addresses the process for approving the budget,^{FN5} not the process for imposing dues and assessments. Nowhere is "assessment" mentioned. We decline to read into this plainly written clause a meaning the legislature never intended.

¶ 15 Other provisions of the Act^{FN6} govern assessments. The Act defines "assessment" as "all sums chargeable to an owner by an association in accordance with RCW 64.38.020." RCW 64.38.010(1). RCW 64.38.020(2) empowers the association to "[a]dopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from owners." (Emphasis added). And under RCW 64.38.020(11), the association may "[i]mpose and collect charges for late payments of assessments...." That section further provides for the levy of fines following notice and an opportunity to be heard.^{FN7}

None of the provisions governing assessments mentions or requires dues and assessments to be approved under RCW 64.38.025(3)'s budget ratification process. The Act's statutory scheme treats budgets and assessments as distinct subjects. *See, e.g.*, RCW 64.38.020.

¶ 16 Plaintiffs also argue that because the proposed budgets included the proposed revenues from dues and assessment increases, RCW 64.38.025's budget ratification procedure also applies to the projected dues and assessment revenue. As discussed above, the Act's plain language undermines this assertion.

¶ 17 The Act also neither prohibits nor limits the Association's authority to levy dues and assessments under a process outlined in its governing documents. RCW 68.34.020 enumerates the powers that a homeowners' association may exercise "[u]nless otherwise provided in the governing documents," including the power to "[a]dopt and amend bylaws, rules, and regulations;" "[a]dopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for

common expenses from owners;" "[e]xercise any other powers conferred by the bylaws;" and "[e]xercise any other powers necessary and proper for the governance and operation of the association." RCW 64.38.020(1), (2), (12), (14). The Act's definition of "governing documents" is broad and expressly includes covenants and bylaws. RCW 64.38.010(10). Here, the bylaws authorize the Association's process for establishing and increasing dues and assessments.

*5 ¶ 18 Plaintiffs also rely on RCW 64.38.025(4)^{FN8} and RCW 64.38.035^{FN9} to argue that these provisions indicate the legislature intended that approval of a budget automatically means approval of dues and assessments. In other words, a favorable vote to ratify a budget also results in approval of a dues and assessment increase.

¶ 19 The plain language of RCW 64.38.025(4) fails to support plaintiffs' argument. The "summary of the budget" that homeowners' associations provide to members has nothing to do with whether the budget ratification process automatically imposes a binding assessment obligation on members. The purpose of the summary is to explain a capital reserve document—which makes 30-year projections—in terms easily understood by its members. It informs members whether the association can fund its capital projects in the coming years and how it plans to do so. Legislative history^{FN10} also shows that RCW 64.38.025(4) is a disclosure requirement.^{FN11} RCW 64.38.025(4) fails to support plaintiffs' argument.

¶ 20 Plaintiffs rely on RCW 64.38.035 for the first time on appeal. Nonetheless, RCW 64.38.035(3) does not apply here. It merely makes RCW 64.38.025(3)'s budget ratification procedure applicable to changes in a previously approved budget that result in a change in assessments—an unremarkable requirement given the Act's strong emphasis on notice and protecting members.

¶ 21 Plaintiffs repeatedly refer to RCW 64.38.005 for support. It provides, "The intent of

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this chapter [the Act] is to provide consistent laws regarding the formation and legal administration of homeowners' associations." RCW 64.38.005. The House Bill Report for the Act states:

The bill is needed to deal with common complaints received from members of homeowners' associations. The bill provides a set of basic rules and procedures by which homeowners' associations must operate in order to protect individual association members. The board of directors of some homeowners' associations currently do not provide members notice of their actions and imposition of assessments. The board needs to be accountable to the members of the association and needs to make decisions based on the association's interests.

H.B. Rep. on H.B. 1471, 54th Leg., Reg. Sess. (Wash.1995). Plaintiffs argue that the legislature's use of the term "consistent laws" in the intent statement means the legislature intended all homeowners' associations to impose dues in a uniform manner. But neither the Act's language nor its legislative history suggest the legislature was attempting to create comprehensive procedural rules. The legislature was concerned with protecting members from lack of information. Nothing indicates the legislature intended to go further.

¶ 22 Plaintiffs also rely on provisions from the closely related Condominium Act, chapter 64.34 RCW. They cite RCW 64.34.308(3) and (4)^{FN12}—which are nearly identical to RCW 64.38.025(3) and (4) quoted above—as well as RCW 64.34.360(1)'s requirement that "After any assessment has been made by the association, assessments must be made against all units, based on a budget adopted by the association." Plaintiffs contend that the Act "was clearly based on [the Condominium Act]." Resp't's Br. at 27.

*6 ¶ 23 To the extent RCW 64.34.360(1) requires assessments to be ratified at the same time and by the same process under the Condominium Act,^{FN13} the legislature did not use the same lan-

guage in the homeowners' association act. It did not say—as it did for condominiums in RCW 64.34.360—that assessments must be based on the budget.^{FN14} Where the legislature expressly includes a provision in one statute but not another, we may presume that the exclusion was intentional. See, e.g., *State v. Delgado*, 148 Wash.2d 723, 728–29, 63 P.3d 792 (2003); *In re Det. of Williams*, 147 Wash.2d 476, 491, 55 P.3d 597 (2002). We conclude that the Act conveys a plain meaning. It contains no requirement that dues and assessments imposed by the Association must be approved in accordance with RCW 64.38.025(3)'s budget ratification process.

"Spending Plans"

[2] ¶ 24 The Association argues the court erred in determining that the adoption of "spending plans" without a membership vote violates RCW 64.38.025. It contends the spending plans merely reflect reductions in expenditures necessitated by underfunded budgets. Plaintiffs respond that the spending plans are essentially revised budgets that must be submitted to the membership for ratification.

¶ 25 Plaintiffs "do not deny that the board has authority to adjust spending to deal with changes in circumstances that take place during the fiscal year after the budget is approved by the membership."^{FN15} Resp't's Br. at 30. However, citing RCW 64.38.035(3)'s notice requirement for "any budget or changes in the previously approved budget that result in a change in assessment obligation," they argue that spending plan approval requires notice and a vote. Plaintiffs contend only "unanticipated changes in circumstances," such as a tenant defaulting on its lease, a downturn in the economy, or other necessary budget changes "that are unrelated to the level of dues assessed by the association," are excluded from RCW 64.38.035(3)'s notice requirement. Resp't's Br. at 30. They acknowledge that "RCW 64.38.035 does not require the association to give its membership notice of a change in the budget that is not related to a change in assess-

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ments.” Resp’t’s Br. at 30. However, they claim that here, the spending plans were caused by changes in the dues and assessment obligation because the members rejected the proposed increases, resulting in underfunded budgets.

¶ 26 Plaintiffs’ assertion is undermined by the notice requirement’s plain language. The statute requires no notice of changes to the budget that result from a change in assessment obligation. It requires notice of changes to the budget that result in a change in assessment obligation. It is undisputed that none of the Association’s “spending plans” resulted in changes in the assessment obligation. The spending plans outlined expenditure cuts resulting from a dues and assessment increase rejection. The dues and assessment obligation remained the same as it was in 2008, the last time the members approved an increase.

*7 ¶ 27 Plaintiffs also rely on RCW 64.38.025(3), which specifies that if a budget is rejected, the Association must revert to the budget last ratified by the membership. Plaintiffs claim that “[the Association] should have reverted to the budget last ratified by membership vote” rather than adopting “spending plans.” Resp’t’s Br. at 33. The statute’s plain language defeats plaintiffs’ argument. This provision applies only if members reject a proposed budget. It is undisputed that the members did not reject any of the proposed budgets here. Instead, they ratified the budgets but rejected dues and assessment increases that partially funded the budgets, thus requiring the Association to adjust spending to account for the shortfall.

¶ 28 The trial court erred in determining that the Association’s spending plans violate the Act. Nothing in the Act requires the Association to obtain member approval for spending adjustments in these circumstances.

Attorney Fees

[3] ¶ 29 Both parties request attorney fees under RCW 64.38.050, which states, “Any violation of the provisions of this chapter entitles an ag-

grieved party to any remedy provided by law or in equity. The court, in an appropriate case, may award reasonable attorneys’ fees to the prevailing party.” The Association is entitled to attorney fees as the prevailing party.^{FN16}

CONCLUSION^{FN17}

¶ 30 For the reasons discussed above, the trial court erred when it granted declaratory relief in plaintiffs’ favor. We reverse the trial court’s declaratory judgment order and remand with instructions to enter declaratory relief and judgment in the Association’s favor consistent with this opinion. We also reverse the trial court’s award of attorney fees to plaintiffs and award appellate attorney fees to the Association subject to its compliance with RAP 18.1.

WE CONCUR: DWYER and BECKER, JJ.

FN1. The parties refer to the terms “dues” and “assessments” interchangeably.

FN2. As discussed below, this provision is part of the Act, chapter 64.38 RCW.

FN3. Voting results: 658 approved and 1249 rejected the increase. Under RCW 64.38.025(3), 1605 votes were needed to reject.

FN4. At its core, plaintiffs’ contention depends on the unsupported claim that the budget approval process is synonymous with the process for imposing dues and assessments.

FN5. The Act provides no definition for “budget.” When a statute fails to define a term, a court may rely on the ordinary meaning of the word as stated in a dictionary. *See Budget Rent A Car Corp. v. Dep’t of Licensing*, 144 Wash.2d 889, 899, 31 P.3d 1174 (2001). “Budget” is ordinarily defined as “[a] statement of an organization’s estimated revenues and expenses for a specified period, [usually] a year” or “[a]

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sum of money allocated to a particular purpose or project.” Black’s Law Dictionary 221 (9th ed.2009). “Budget” means “1. an estimate, often itemized, of expected income and expense for a given period in the future. 2. a plan of operations based on such an estimate. 3. an itemized allotment of funds, time, etc., for a given period. 4. the total sum of money set aside or needed for a purpose: the construction budget.” Dictionary.com (last visited May 12, 2014) (emphasis omitted).

FN6. The Act was enacted in 1995 and addresses the rights and responsibilities of homeowners’ associations. The Act is based on the Uniform Common Interest Ownership Act (UCIOA) as drafted by the National Conference of Commissioners on Uniform State Laws in 1994.

FN7. Section 3–102 of the UCIOA provides for “Powers of Unit Owners’ Association” and contains language similar to that in RCW 64.38.020. Section 3–102 states that the association may “adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners.” Section 3–102(a)(2). The association may also “exercise any other powers conferred by the declaration or bylaws.” Section 3–102(a)(15). The commentary to the UCIOA states, “The declaration may limit the right of the association to exercise any of the listed powers, except in a manner which discriminates in favor of a declarant.” Comment 4 to Section 1–104 (discussing Section 3–102 (Powers of the Association)).

FN8. RCW 64.38.025(4) provides:

“As part of the summary of the budget provided to all owners, the board of directors shall disclose to the owners:

“(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

“(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each owner per month or year, and the purpose of the assessments;

“(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association’s obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

“(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per owner per month or year;

“(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

“(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the

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projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

“(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.”

FN9. This provision states in relevant part:

“(1) A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the board of directors, or by owners having ten percent of the votes in the association.

....

(3) The notice of any meeting shall state the time and place of the meeting and the business to be placed on the agenda by the board of directors *for a vote by the owners*, including the general nature of any proposed amendment to the articles of incorporation, bylaws, *any budget or changes in the previously approved budget that result in a change in assessment obligation*, and any proposal to remove a director.” RCW 64.38.035(1) (emphasis added). Subsection (3) addresses voting on (1) budgets and (2) proposed changes to a *previously approved budget* that result in a change in assessment obligation. See RCW 64.38.035(3).

FN10. Legislative history may be of some interest even where the court concludes that the statute's plain language is unambiguous. *Scott v. Cascade Structures*, 100 Wash.2d 537, 544, 673 P.2d 179 (1983).

“This is particularly so where the contemporaneous record of a bill's progress bolsters the plain meaning.” *Lane v. Port of Seattle*, 178 Wash.App. 110, 119 n. 3, 316 P.3d 1070 (2013).

FN11. See Final B. Rep. on Engrossed Substitute H.B. 1309, at 3, 62d Leg., Reg. Sess. (Wash. 2011) (“Homeowners' associations are encouraged to establish *reserve accounts, supplemental to the annual operating budget*, to fund major maintenance, repair, and replacement of common elements.... *HOAs must disclose information to owners regarding reserve accounts and reserve studies with the summary of the annual budget.*”) (emphasis added); H.B. Rep. on Engrossed Substitute H.B. 1309, at 4, 62d Leg., Reg. Sess. (Wash. 2011) (same); S.B. Rep. on Engrossed Substitute H.B. 1309, at 3, 62d Leg., Reg. Sess. (Wash. 2011) (same).

FN12. These subsections provide:

“(3) Within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

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 (Cite as: 2014 WL 3611322 (Wash.App. Div. 1))

“(4) As part of the summary of the budget provided to all unit owners, the board of directors shall disclose to the unit owners:

“(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

“(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each unit per month or year, and the purpose of the assessments;

“(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

“(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per unit per month or year;

“(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

“(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

“(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.”
 RCW 64.34.308(3), (4).

FN13. We question this premise, as the language cited does not appear to require that conclusion and plaintiffs cite no legislative history or other support for this argument.

FN14. Further, like the homeowners' association act, the Condominium Act was based on the UCIOA. The UCIOA contains a provision nearly identical to RCW 64.34.360(1): “Until the association makes a common expense assessment, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association.” Section 3-115(a). The UCIOA commentary indicates this provision was intended to ensure fairness in assessments against all units: “[O]nce an assessment is made against any unit, all units, including those owned by the declarant, must be assessed for their full portion of the common expense liability.” Comment 1 to Section 3-115. The official comments to RCW 64.34.360 contain identical language. *See* Washington Condominium Act Official Comments to RCW 64.34.360; *see also* opening comments to the Washington Condominium Act (“These

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comments are not part of the statute itself, but were published by the committee to help explain the intentions of the statute drafters as an aid to interpretation of the statute.”). Even if the legislature had included a similar provision in the homeowners' association act, nothing in the commentary supports plaintiffs' position.

We also note that even outside the context of RCW 64.34.360 discussed above, nothing in the official comments to the Condominium Act or the commentary to the UCIOA supports plaintiffs' position. Both documents express legislative intent to permit an association's declaration to limit the right of the association to exercise any of its listed powers. See Comment 4 to UCIOA Section 1-104 (“The declaration may limit the right of the association to exercise any of the listed powers, except in a manner which discriminates in favor of a declarant.”) (discussing Section 3-102 (“Powers of the Association”)); Washington Condominium Act Official Comments to RCW 64.34.030 (same; discussing RCW 64.34.304 (“Powers of Unit Owners' Association”)). Both confer great leeway as to what is included in the bylaws. See Comment 4 to Section 1-104 (“Subject to the provisions of the declaration, the bylaws may contain any matter in addition to that required by the Act.”) (discussing Section 3-106 (“Bylaws”)); Washington Condominium Act Official Comments to RCW 64.34.030 (same; discussing RCW 64.34.324 (“Bylaws”)). Thus, to the extent the Condominium Act is useful here, it supports the Association's argument rather than plaintiffs' interpretation.

FN15. Indeed, “[a]ssociation management

must perform its budgeting and set and collect its assessments with such potential future developments in mind. No one can know in advance what costs will be demanded, or when. It is inescapable that some exigencies will arise and that the association must be able to respond with urgently needed cash while keeping itself fiscally sound.” James L. Winokur, *Critical Assessment: The Financial Role of Community Associations*, 38 Santa Clara L.Rev. 1135, 1162 (1998).

FN16. Plaintiffs argue this is not an “appropriate case” for the Association to recoup its attorney fees for the sole reason that “it is not appropriate that associations who successfully defend against allegations that they have violated the Act should recover their attorney's fees from the members, because the Act is not intended to protect associations from their members, and awarding associations their attorney's fees whenever they successfully defend would only discourage such suits and reduce the likelihood that the Act will be enforced.” Resp't's Br. at 43. They cite no authority for this argument, and they misconstrue the statute. On its face, RCW 64.38.050 does not limit an award of fees to aggrieved homeowners but does allow fees to the “prevailing party.” This allows homeowners' associations, which are funded by the community as a whole, to recoup expenses incurred in defending against nonprevailing homeowners.

FN17. We decline to address plaintiffs' past dues collected assertion. This is a declaratory judgment action and the assertion is raised for the first time on appeal.

Wash.App. Div. 1,2014.

Casey v. Sudden Valley Community Ass'n

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(Cite as: 2014 WL 3611322 (Wash.App. Div. 1))

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APPENDIX B

Sudden Valley, Washington

Coordinates: 48°43′13″N 122°20′25″W﻿ / ﻿48.720311°N 122.340219°W﻿ / 48.720311; -122.340219

From Wikipedia, the free encyclopedia

Sudden Valley is a census-designated place (CDP) in Whatcom County, Washington, United States. The population was 6,441 at the 2010 census.

Based on per capita income, one of the more reliable measures of affluence, Sudden Valley ranks 97th of 522 areas in the state of Washington to be ranked.

Contents

- 1 Geography
- 2 History
- 3 Demographics
- 4 Famous residents
- 5 References
- 6 External links

Geography

Sudden Valley is located at

48°43′13″N 122°20′25″W﻿ / ﻿48.720311°N 122.340219°W﻿ / 48.720311; -122.340219
([https://tools.wmflabs.org/geohack/geohack.php?pagename=Sudden_Valley%](https://tools.wmflabs.org/geohack/geohack.php?pagename=Sudden_Valley%2C_Washington¶ms=48_43_13_N_122_20_25_W_type:city)

[2C_Washington¶ms=48_43_13_N_122_20_25_W_type:city](https://tools.wmflabs.org/geohack/geohack.php?pagename=Sudden_Valley%2C_Washington¶ms=48_43_13_N_122_20_25_W_type:city) (48.720311, -122.340219).^[3]

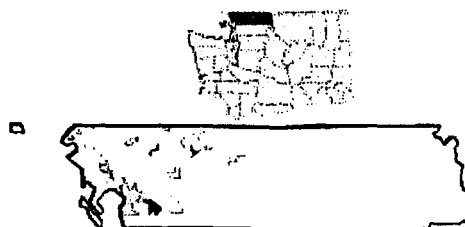
According to the United States Census Bureau, the CDP has a total area of 8.1 square miles (21.0 km²), of which, 6.2 square miles (16.1 km²) of it is land and 1.9 square miles (4.8 km²) of it (22.99%) is water.

History

Before 1969, Sudden Valley was nothing more than "a Ranch" owned by Glen and Betty Corning.

Sudden Valley, Washington

CDP



Location of Sudden Valley, Washington

Coordinates: 48°43′13″N 122°20′25″W﻿ / ﻿48.720311°N 122.340219°W﻿ / 48.720311; -122.340219

Country	United States
State	Washington
County	Whatcom
Area	
• Total	8.1 sq mi (21.0 km ²)
• Land	6.2 sq mi (16.1 km ²)
• Water	1.9 sq mi (4.8 km ²)
Elevation	673 ft (205 m)
Population (2010)	
• Total	6,441
• Density	1,038.9/sq mi (400.1/km ²)
Time zone	Pacific (PST) (UTC-8)
• Summer (DST)	PDT (UTC-7)
FIPS code	53-68200 ^[1]
GNIS feature ID	1514482 ^[2]

Demographics

As of the census^[1] of 2000, there were 4,165 people, 1,675 households, and 1,185 families residing in the CDP. The population density was 668.8 people per square mile (258.1/km²). There were 1,984 housing units at an average density of 318.6/sq mi (123.0/km²). The racial makeup of the CDP was 92.24% White, 0.79% African American, 1.61% Native American, 1.97% Asian, 0.12% Pacific Islander, 0.91% from other races, and 2.35% from two or more races. Hispanic or Latino of any race were 3.03% of the population.

There were 1,675 households out of which 31.4% had children under the age of 18 living with them, 61.5% were married couples living together, 6.1% had a female householder with no husband present, and 29.2% were non-families. 20.7% of all households were made up of individuals and 4.9% had someone living alone who was 65 years of age or older. The average household size was 2.49 and the average family size was 2.87.

In the CDP the age distribution of the population shows 23.5% under the age of 18, 8.2% from 18 to 24, 30.5% from 25 to 44, 28.3% from 45 to 64, and 9.6% who were 65 years of age or older. The median age was 38 years. For every 100 females there were 105.7 males. For every 100 females age 18 and over, there were 102.2 males.

The median income for a household in the CDP was \$51,843, and the median income for a family was \$60,250. Males had a median income of \$45,568 versus \$33,565 for females. The per capita income for the CDP was \$24,563. About 4.3% of families and 6.4% of the population were below the poverty line, including 6.0% of those under age 18 and 4.0% of those age 65 or over.

Famous residents

The infamous mob boss, Santo Trafficante, Jr., resided in Sudden Valley while the CIA was investigating the possibility that he was in some way connected with the John F. Kennedy assassination.

References

- ^a ^b "American FactFinder" (<http://factfinder2.census.gov>). United States Census Bureau. Retrieved 2008-01-31.
- ^a "US Board on Geographic Names" (<http://geonames.usgs.gov>). United States Geological Survey. 2007-10-25. Retrieved 2008-01-31.
- ^a "US Gazetteer files: 2010, 2000, and 1990" (<http://www.census.gov/geo/www/gazetteer/gazette.html>). United States Census Bureau. 2011-02-12. Retrieved 2011-04-23.

External links

- <http://www.suddenvalley.com>

Retrieved from "http://en.wikipedia.org/w/index.php?title=Sudden_Valley,_Washington&oldid=619252981"

Categories: Census-designated places in Whatcom County, Washington

| Census-designated places in Washington (state)

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APPENDIX C

Whatcom County, Washington

From Wikipedia, the free encyclopedia

Whatcom County /ˈhwɒtkəm/ is a county located in the State of Washington. As of the 2010 census, the population was 201,140.^[1] The county seat and largest city is Bellingham.^[2] The county was created out of Island County by the Washington Territorial Legislature on March 9, 1854, and originally included present day San Juan and Skagit Counties.^[3] Its name ultimately derives from the Lummi word *Xwot'qom*, meaning "noisy water."^[4]^[5]

Whatcom County comprises the Bellingham, WA Metropolitan Statistical Area.

Whatcom County's northern border is the international boundary with the Canadian province of British Columbia; adjoining the county on the north are four of metropolitan Vancouver's suburbs, Delta, White Rock, Surrey, Langley, and, in the central Fraser Valley, Abbotsford, with several shopping malls and other services in Bellingham and elsewhere in the county geared to cross-border shopping and recreation. The five crossing points are two at Blaine (one at the Peace Arch, located on the Interstate 5 crossing, and the other a commercial and passenger crossing on the Pacific Highway at State Route 543, both to Surrey, British Columbia), as well as at Lynden (SR 539, to Aldergrove), Sumas (SR 9, to Abbotsford), and Point Roberts (Tyee Drive, to Tsawwassen).

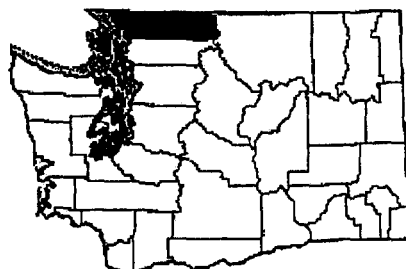
Contents

- 1 Government
- 2 Geography
- 3 Education
- 4 Economy
- 5 Demographics
- 6 Notable residents
- 7 Communities
- 8 See also

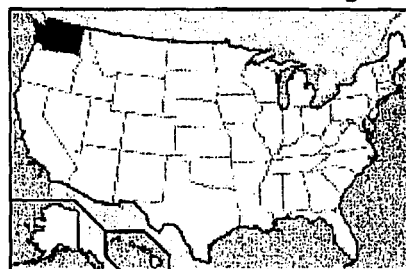
Whatcom County, Washington



Seal



Location in the state of Washington



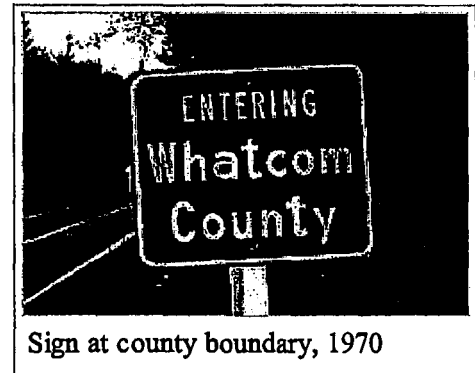
Washington's location in the U.S.

Founded	March 9, 1854
Seat	Bellingham
Largest city	Bellingham
Area	
• Total	2,503 sq mi (6,483 km ²)
• Land	2,107 sq mi (5,457 km ²)
• Water	397 sq mi (1,028 km ²), 15.8%
Population (Est.)	
• (2013)	206,353
• Density	95/sq mi (36.6/km ²)
Congressional districts	1st, 2nd
Time zone	Pacific: UTC-8/-7
Website	www.co.whatcom.wa.us (http://www.co.whatcom.wa.us)

- 9 References
- 10 External links

Government

The Whatcom County government is a municipal corporation operating under a County Charter. Voters approved the County Charter in 1978. The Charter acts as a county constitution. Whatcom County is one of only four counties in Washington to use the home rule charter provision of state law.^[6] Local government is split between the county, incorporated cities and towns, and special purpose districts. These local governments are established and operate according to state law. These local governments operate independently from the county government.



Sign at county boundary, 1970

County government

The Charter establishes the structure of Whatcom County government. The County Council holds legislative powers granted to counties. The council consists of seven members elected for a term of four (4) years. Council members are elected at the general election in November of odd-numbered years. Three council members are elected one year before a Presidential election; four council members are elected one year after a Presidential election. Two members are elected from each of three districts; the seventh member is an at-large member.^[7] The County Council also serves as the county board of health.^[7]

The executive branch consists of six elected officials, a County Executive and five department heads. The County Executive is similar to a mayor or governor. The Assessor, Auditor, Prosecuting Attorney, Sheriff, and Treasurer are elected independently from the County Executive and serve as department heads. These six officials serve four year terms.^{[8][9]} The county council establishes various departments by ordinance. The county council or county executive appoint department heads. These departments include administrative services, health, medical examiner, planning and development services, parks and recreation, and public works.^[10]

The judicial branch consists of a district court and superior court. The district court is a court of limited jurisdiction. The district court handles civil and criminal cases. Criminal cases are limited to adults charged with misdemeanor and/or gross misdemeanor offenses. State law specifies what cases are in the district court's jurisdiction. The district court operates a small claims court to resolve civil cases involving monetary damages not exceeding \$5,000. No attorneys are permitted to appear in small claims court. Cases are heard using less formal procedures.^[11] The district court has two judges, a court commissioner, and a support staff. The superior court is a court of general jurisdiction.^{[8][11]} Superior court hears civil cases exceeding \$75,000 or requesting nonmonetary remedies.^[12] Superior court hears all juvenile criminal cases and all adult felony cases. Superior court also hears appeals from district court and municipal courts.^[12] Superior court staff include three judges, three full-time court commissioners, two part-time court commissioners, and support staff. District and superior court judges are elected by the county voters for a term of four (4) years. Court commissioners are appointed by and serve at the discretion of elected judges; commissioners have powers and responsibilities equal to elected judges.

Cities and towns

Incorporated cities and towns provide municipal services. Each city or town has an elected council and mayor.

Special purpose districts

Special purpose districts include cemetery, fire, hospital, library, school, and water and sewer districts. Each special district is governed by officials elected by voters within that jurisdiction.

Fire districts

There are 11 fire districts, 2 city fire departments and 1 regional fire authority providing fire prevention, fire fighting, and emergency medical services. Each fire district is governed by an elected board of commissioners. Most districts have three commissioners. Fire districts receive most of their revenue from property taxes. All of the fire districts and the regional fire authority have volunteer or paid-call firefighters and emergency medical technicians (EMTs), as does the City of Lynden Fire Department. The City of Bellingham is an all-career department. Some of the districts also have full-time firefighter/EMTs. All fire districts use 9-1-1 for emergency calls. Whatcom County has one 9-1-1 call center located in Bellingham. Fire/EMS calls are processed and dispatched at a second PSAP (Public Safety Answering Point) called Prospect that is located at a fire station in Bellingham. Additional dispatching locations provide backup capacity to answer emergency calls.

Whatcom County Fire Districts are:^[13]

- Fire District 1 serves Deming, Everson, Nooksack, and Nugents Corner.
- Fire District 5 serves Point Roberts.
- Fire District 7 serves areas near Ferndale and Cherry Point.
- Fire District 8 serves Bellingham International Airport, the Lummi Nation, and Marietta.
- Fire District 11 serves Lummi Island Lummi Island
- Fire District 14 serves areas around SR 542 between Deming and Maple Falls, Washington, SR 547, and Sumas.
- Fire District 16 serves communities along SR 9 south of SR 542.
- Fire District 17 serves Sandy Point.
- Fire District 18 serves southern Lake Whatcom and Glenhaven Lakes.
- Fire District 19 serves Glacier.
- Fire District 21 (North Whatcom Fire Rescue) serves northwest Whatcom County including Birch Bay, Blaine, Laurel, and Lynden[°].

[°] outside Lynden city limits only. Also, the district contracts for services with Fire Dist 4. The Lynden Fire Department serves Lynden.

- The South Whatcom Regional Fire Authority serves Geneva, Sudden Valley, Chuckanut Drive, Lake Samish and Yew Street Road.

Geography

According to the U.S. Census Bureau, the county has a total area of 2,504 square miles (6,490 km²), of which 2,107 square miles (5,460 km²) is land and 397 square miles (1,030 km²) (15.8%) is water.^[14]

The county includes Lake Whatcom, which empties into Bellingham Bay by way of Whatcom Creek. Physiographically, Whatcom County is an extension of the Fraser Valley or "Lower Mainland" area of British Columbia, which is essentially the lowland delta plain of the Fraser River - at some times in the past one of the Fraser River's lower arms entered Bellingham Bay near Bellingham via what is now the mouth of the Nooksack River. A very small part of the county, Point Roberts, about 5 square miles (13 km²), is an extension of the Tsawwassen Peninsula, which is bisected by the international boundary along the 49th Parallel. The highest point in the county is the peak of the active volcano Mount Baker at 10,778 feet (3,285 m) above sea level. The lowest points are at sea level along the Pacific Ocean.

Geographic features

- Bellingham Bay
- Birch Bay
- Cascade Mountains
 - Chuckanut Mountains
 - Mount Baker, highest point in Whatcom County
 - American Border Peak
 - Sumas Mountain
 - Mount Shuksan
- Chilliwack River/Chilliwack Lake
- Eliza Island
- Lake Whatcom
- Lummi Island
- Lummi Bay
- Nooksack River
- North Lookout Mountain, known locally as Galbraith Mountain
- Portage Island
- Semiahmoo Bay
 - Semiahmoo Spit
- Skagit River/Ross Lake
- Sumas River

Major highways

- Interstate 5 connecting with Seattle, Portland, Sacramento, Los Angeles, San Diego and points south.
- SR 20 connecting US 101 and Sidney, British Columbia with Newport, Washington via the North Cascades Highway. Farthest north highway thru the Cascade Mountains in USA. Note that this highway does not connect to most of Whatcom County - Instead, a person would have to travel south to Sedro-Woolley in Skagit County to connect to Highway 20.
- Alaska Marine Highway connecting Alaska highways to the Interstate Highway System.

Adjacent counties

- Okanogan County, Washington - east
- Skagit County, Washington - south
- San Juan County, Washington - southwest
- Metro Vancouver - north
- Fraser Valley Regional District, British Columbia - north
- Capital Regional District, British Columbia - west

State protected areas

- Birch Bay State Park
- Lake Terrell Wildlife Refuge
- Larrabee State Park
- Lookout Mountain (DNR)
- Lummi Island (part) (DNR)
- Stewart Mountain (DNR)
- Lake Whatcom Watershed

National protected areas

- Mount Baker National Recreation Area
- Mount Baker-Snoqualmie National Forest (part)
- North Cascades National Park (part)
- Ross Lake National Recreation Area (part)
- Pacific Northwest National Scenic Trail (part)

Education

Primary and Secondary Education

Whatcom County residents are served by a number of public and private schools. These schools provide preschool, primary (K-5), and secondary (6-12) education. Public schools are operated by eight school districts. Each school district is an independent local government managed by an elected school board. Seven districts serve the western portion of Whatcom County.^[15] One district serves the southeast corner of Whatcom County. The remaining portion of the county is national forest or national park land, which has no permanent residents.

These districts are:

- Bellingham School District serves Bellingham, Chuckanut, Lake Samish, and Sudden Valley.
- Blaine School District serves Blaine, Birch Bay, and Point Roberts.
- Concrete School District serves the county's southeast corner including Newhalem and Diablo.
- Ferndale School District serves Ferndale, Custer, Lummi Island, and the Lummi Nation.
- Lynden School District serves Lynden and surrounding areas.
- Meridian School District serves rural communities between Bellingham and Lynden.
- Mount Baker School District serves communities along the Mount Baker Highway and Nooksack River.
- Nooksack Valley School District serves Everson, Nooksack, and Sumas.

Numerous private schools operate in Whatcom County including Assumption Catholic School, St. Paul's Academy, Lynden Christian Schools, Bellingham Christian Schools, and the Waldorf School.

Higher Education

Whatcom County hosts five institutions of higher education. Western Washington University (Western) is the third largest public university in Washington. Western offers bachelors and masters degrees through seven colleges. Western enrolls over 15,000 students. Whatcom Community College is a public community college offering academic certificate programs and associates degrees. Two universities and two colleges are located in Bellingham. One college is located on the Lummi Nation (Lummi Reservation) west of Bellingham. Bellingham Technical College is a public technical and vocational college located in Bellingham. Trinity Western University (TWU) is a private, Christian university based in Langley, BC about 25 miles north of Bellingham. TWU operates a branch campus in Bellingham offering undergraduate courses and supports TWU's bachelors degree completion program.

Northwest Indian College is a college supported by the Lummi Nation and serves the Native American community. Northwest Indian College is located on the Lummi Nation (Lummi Reservation) about five miles west of Bellingham.

Economy

Agriculture

Whatcom County is the top producer of raspberries in the state. According to the *Seattle Times* (http://seattletimes.nwsources.com/html/outdoors/2002380209_nwwlynden14.html), in 2004 Whatcom County growers produced 46 million pounds of raspberries, 85% of the state's crop. Given that the state itself is the #1 producer of raspberries in the country, with over 87.8% of the crop in 2002, this makes Whatcom County responsible for almost 75% of the nation's raspberry production.

Demographics

As of the census^[20] of 2000, there were 166,814 people, 64,446 households, and 41,116 families residing in the county. The population density was 79 people per square mile (30/km²). There were 73,893 housing units at an average density of 35 per square mile (13/km²). The racial makeup of the county was 88.41% White, 0.69% Black or African American, 2.82% Native American, 2.78% Asian, 0.14% Pacific Islander, 2.49% from other races, and 2.66% from two or more races. 5.21% of the population were Hispanic or Latino of any race. 15.5% were of German, 9.2% English, 8.2% Dutch, 7.9% Irish, 7.0% Norwegian and 6.6% United States or American ancestry.

There were 64,446 households out of which 30.40% had children under the age of 18 living with them, 51.20% were married couples living together, 8.80% had a female householder with no husband present, and 36.20% were non-families. 25.60% of all households were made up of individuals and 8.40% had someone living alone who was 65 years of age or older. The average household size was 2.51 and the average family size was 3.03.

In the county, the population was spread out with 24.10% under the age of 18, 14.20% from 18 to 24, 27.50% from 25 to 44, 22.50% from 45 to 64, and 11.60% who were 65 years of age or older. The median age was 34 years. For every 100 females there were 97.10 males. For every 100 females age 18 and over, there were 95.00 males.

The median income for a household in the county was \$40,005, and the median income for a family was \$49,325. Males had a median income of \$37,589 versus \$26,193 for females. The per capita income for the county was \$20,025. About 7.80% of families and 14.20% of the population were below the poverty line, including 14.20% of those under age 18 and 8.30% of those age 65 or over.

Notable residents

- Steve Alvord, defensive tackle in the NFL in 1987-88.
- Ryan Stiles – Emmy Award-nominated actor and comedian.
- Hilary Swank – multiple Academy Award-winning actress.

Communities

Cities

- Bellingham, population 82,234
- Lynden, population 12,605
- Ferndale, population 11,998

Historical population

Census	Pop.	%±
1860	352	—
1870	534	51.7%
1880	3,137	487.5%
1890	18,591	492.6%
1900	24,116	29.7%
1910	49,511	105.3%
1920	50,600	2.2%
1930	59,128	16.9%
1940	60,355	2.1%
1950	66,733	10.6%
1960	70,317	5.4%
1970	81,950	16.5%
1980	106,701	30.2%
1990	127,780	19.8%
2000	166,814	30.5%
2010	201,140	20.6%
Est. 2013	206,353	2.6%

U.S. Decennial Census^[16]
 1790-1960^[17] 1900-1990^[18]
 1990-2000^[19] 2010-2013^[1]

- Blaine, population 4,831
- Everson, population 2,549
- Nooksack, population 1,391
- Sumas, population 1,333

2012 Estimate population^[21]

Census-designated places

- Acme
- Birch Bay
- Custer
- Deming
- Geneva
- Glacier
- Kendall
- Maple Falls
- Marietta-Alderwood
- Peaceful Valley
- Point Roberts
- Sudden Valley

Other communities

- Bakerview
- Blue Canyon
- Chuckanut
- Clearbrook
- Clipper
- Dewey
- Diablo
- Glenhaven
- Laurel
- Lummi Island
- Newhalem
- Saxon
- Snug Harbor

- Van Buren
- Wahl
- Welcome
- Wickersham

Ghost Towns

- Goshen

See also

- National Register of Historic Places listings in Whatcom County, Washington
- Nooksack Salmon Enhancement Association

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9. [^] County Code and Charter (<http://srch.mrsc.org:8080/code/template.htm?view=main>)
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External links

- Whatcom County official website (<http://www.co.whatcom.wa.us>)
- Bellingham/Whatcom County Firefighters Association (<http://www.iaff106.com>)
- Bellingham/Whatcom Chamber of Commerce & Industry (<http://www.bellingham.com>), the largest business and civic organization in Whatcom County.
- Bellingham Whatcom County Tourism (<http://www.bellingham.org>), the official tourism agency for Whatcom County.
- Whatcom County Library System (<http://www.wcls.org>)
- Whatcom Human Rights Taskforce (<http://www.whrtf.org>)
- Whatcom County Businesses Prepare for the 2010 Winter Olympics (<http://www.servinit.com>)
- Whatcom County Workshops, Seminars and Community Events (<http://www.etcwa.com>)
- Whatcom County Guide - Local, online business and community resource (<http://www.whatcomcountyguide.com>)
- WhatcomCounts.org (<http://www.whatcomcounts.org>), information on the health of the Whatcom County community.
- Whatcom Peace & Justice Center (<http://www.whatcompjc.org>)

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Categories: Washington (state) counties | Whatcom County, Washington

| 1854 establishments in the United States | North Cascades of Washington (state) | Western Washington

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APPENDIX D

64.38.025(3)

Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors.