

FILED
SUPREME COURT
STATE OF WASHINGTON
1/23/2018 4:15 PM
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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

SUPREME COURT NO. 95171-3
COURT OF APPEALS NO. 75737-7-I

SCOTT BLOMENKAMP, Petitioner,

v.

CITY OF EDMONDS, a municipal corporation,

and

KAUTZ ROUTE LLC, Respondents.

Petitioner's Reply to Respondents Answer to Petition for Review

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I. ISSUES

Is the Respondent Kautz Route entitled to attorney fees and expenses under RAP 18.1(j)? No.

II. FACTS SUPPORTING ARGUMENT

The Edmonds Hearing Examiner decided that although he did not have authority to review allegations of code violations or whether conditions on the permits were being followed, his decision and decision on reconsideration did find the grading and land clearing had caused a hazard and nuisance. *See CP @ Hearing Examiner Decision PG 7-8.*

The Superior Court decided that the Hearing Examiner did not apply Edmonds Community Development Code 18.45.075(A)(2) correctly, using a height of 10' replacement trees instead of a minimum 3" caliper. *See Superior Court Decision.*

III. ARGUMENT

RAP 18.1(j) states in relevant part "Fees for Answering Petition for Review. If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals,". Attorney fees were not awarded in the Division 1 decision. The court rule requires that fees and expenses to have been previously awarded for this rule to apply. Further none should be awarded. The Petitioner's appeals have not been frivolous, and have been soundly based in law. Further under RCW 4.84.370, only the

prevailing or substantially prevailing party maybe awarded attorney fees and costs if they were the prevailing or substantially prevailing party before the city and the prevailing or substantially prevailing party "in all prior judicial proceedings." RCW 4.84.370(1)(a)(b). A "'prevailing party' is any party that receives some judgment in its favor."¹

VI. CONCLUSION


For the reasons above, Appellant Scott Blomenkamp respectfully requests that this Court decline to award attorney fees and costs for either responding to this petition or the previous appeal.

I, Scott Blomenkamp hereby declare under penalty of Washington perjury laws that the foregoing is true and correct.

¹ The recovery amount, or percentage recovered in comparison to the amount sought, is not dispositive to determine prevailing party status.[2] In reference to the attorney fee provision in our civil forfeiture statute (RCW 69.50.505(6)), we explained that a "'prevailing party' is any party that receives some judgment in its favor." *Guillen v. Contreras*, 169 Wn.2d 769, 775, 238 P.3d 1168 (2010) (emphasis added); see also *Ennis v. Ring*, 56 Wn.2d 465, 473, 341 P.2d 885, 353 P.2d 950 (1959) ("The prevailing party is the one who has an affirmative judgment rendered in his favor at the conclusion of the entire case."); BLACK'S LAW DICTIONARY 1298 (10th ed. 2014) (The "prevailing party" is the "party in whose favor a judgment is rendered, regardless of the amount of damages awarded.")

Dated this 22nd day of January, 2018.

Respectfully submitted,



Scott Blomenkamp, Pro Se

SCOTT BLOMENKAMP - FILING PRO SE

January 23, 2018 - 4:15 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 95171-3
Appellate Court Case Title: Scott Blomenkamp v. City of Edmonds and Kautz Route, LLC
Superior Court Case Number: 15-2-07634-3

The following documents have been uploaded:

- 951713_Answer_Reply_20180123161341SC725648_6080.pdf
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