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Court of Appeals  
Division I  
State of Washington

No. 73335-4

COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON

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KEITH L. HOLMQUIST and KAY BURDINE HOLMQUIST, f/k/a  
KAY BURDINE, husband and wife; and FREDERICK A.  
KASEBURG, a single man,

Appellants,

v.

KING COUNTY, a political Subdivision of the State of Washington,

Defendant,

and

CITY OF SEATTLE, a municipal corporation,

Respondent.

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APPEAL FROM THE SUPERIOR COURT  
FOR KING COUNTY  
THE HONORABLE MONICA BENTON

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BRIEF OF APPELLANTS

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## I. INTRODUCTION

Appellants Keith and Kay Burdine Holmquist and Fred Kaseburg (“the owners”) obtained a decree quieting title to a vacated street end against the adverse claims of King County and respondent City of Seattle. The City stayed the decree pending its unsuccessful appeal, filing a notice of supersedeas without bond, while continuing to declare the property open to the public and advertising its intent to develop the property as a public beach. After this Court affirmed the judgment quieting title, the owners sought a judgment for their loss of use of the property, and for the City’s public benefits in continuing public use of the property, during the 21 months while its unsuccessful appeal was pending.

The trial court refused to award damages, ignoring the plain language of RAP 8.1(c)(2), which provides that the supersedeas of a decision affecting property secures “the loss which the prevailing party in the trial court would incur as a result of the party’s inability to enforce the judgment during review.” The trial court’s order contravenes the principle that a governmental entity that supersedes without bond is liable for delay damages to the same extent as a private party. *See Norco Constr., Inc. v. King Cnty.*, 106 Wn.2d 290, 721 P.2d 511 (1986). The owners appeal.

## **II. ASSIGNMENT OF ERROR**

1. The trial court erred in entering its Order Denying Motion to Establish Damages Due to City's Stay. (CP 246) (App. A)

## **III. ISSUES RELATED TO ASSIGNMENT OF ERROR**

A. Following affirmance by the appellate court of a judgment quieting title, is the unsuccessful appellant liable in damages for the owners' inability to enforce their ownership rights to the real property while the appeal was pending due to the appellant's stay of enforcement of the judgment under RAP 8.1(b)(2)?

B. Are damages against a municipality for causing delay in enforcement pending appeal of a judgment that quiets title to real property measured by (1) the property's rental value during the time in which the owners were prevented from exercising their ownership rights and (2) the value of the public benefit obtained by the municipality's physical appropriation of the property?

## **IV. STATEMENT OF THE CASE**

The Court of Appeals decision in *Holmquist v. King Cnty.*, 182 Wn. App. 200, 328 P.3d 1000, *rev. denied*, 181 Wn.2d 1029 (2014), which affirmed Judge Monica Benton's ("the trial court") judgment quieting title, includes an extensive history of this quiet title action.

The following is a brief summary of the trial court's decision on remand denying Holmquist's and Kaseburg's claim for delay damages:

**A. Adjacent property owners Holmquist and Kaseburg quieted title to the street end of NE 130<sup>th</sup>, which vested in their predecessors when King County vacated the street end in 1932.**

Holmquist and Kaseburg filed this action to quiet title to the street end property against King County, tracing their title to their predecessors, who came into ownership when King County vacated the adjacent NE 130<sup>th</sup> Street right of way in 1932. The trial court granted the City of Seattle's motion to intervene, over Holmquist's and Kaseburg's objection that the City lacked any colorable claim or interest in the vacated NE 130<sup>th</sup> Street right of way. (CP 1, 10-17, 35-36) The trial court entered its judgment on May 23, 2013, quieting title against King County and the City and in favor of Kaseburg and Holmquist, each for one-half of the former street end located at NE 130<sup>th</sup> Street. (CP 37-43)

**B. The City superseded enforcement of the judgment quieting title and continued to maintain that the property was open to the public while it unsuccessfully challenged the judgment on appeal.**

Both the City and King County appealed, but only the City sought to stay enforcement of the trial court's judgment quieting title

to the owners. The City filed a notice of supersedeas without bond under RAP 8.1(b)(2) and (f). (CP 50)

The owners objected to the City's maintenance pending appeal of a 4-foot by 4-foot sign on the vacated NE 130th Street right of way announcing the City's intention to develop a forthcoming "NE 130th Shoreline Street End Improvement" and reciting that the project is intended to "improve public access to the shoreline street end." (CP 53-65) The sign contained the familiar logo of Seattle Parks and Recreation, and invited the reader to "visit us at [seattle.gov/parks](http://seattle.gov/parks)." (CP 65) (App. B) The City also maintained a website showing the vacated property as a public waterfront street end, inviting public use and occupancy as a public beach. The trial court granted the City a stay of the judgment quieting title without bond, and allowed the City to maintain its sign on the property during the appeal. (CP 96-97)<sup>1</sup>

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<sup>1</sup> The website continued to designate the property as public property after issuance of the mandate. (CP 159, 178-80) As of June 2015, the City's website still shows the property as a public shoreline street end, whose legal status "will be resolved within the next few years." with the notation "Worth a visit," and accompanying text: "Hop off the Burke-Gilman path and enjoy this sand beach cove." Department of Transportation, City of Seattle, Seattle's Shoreline Street Ends Map & Photos, [http://www.seattle.gov/transportation/stuse\\_stends\\_map.htm](http://www.seattle.gov/transportation/stuse_stends_map.htm) (last visited June 16, 2015) (CP 159) (App. C)

The City's stay allowed the public to continue using the property while the City appealed. (CP 157-58, 164-71, 222-23) During the summers of 2013-14, members of the public accessed the property from the Burke-Gilman trail, and used the property for a public beach, swimming, storing and launching watercraft, parking cars, mooring boats and beach parties. (CP 157-58, 222-23, 163-71) (App. D)

The City lost its appeal. The Court of Appeals affirmed the trial court's decision on June 30, 2014, and, as the City was never in the chain of title, questioned the basis for the City's assertion of any interest that could justify the City's intervention in the owners' quiet title action against King County. *Holmquist v. King County*, 182 Wn. App. 200, 206 n.5, ¶ 14, 328 P.3d 1000 (2014). The Supreme Court denied the City's petition for review on December 23, 2014. 181 Wn.2d 1029 (2014). This case was mandated to the trial court on February 13, 2015. (CP 98)

**C. The trial court denied the owners' motion for damages caused by the City's preventing the owners' exclusive use and possession of the property.**

After this Court issued its mandate, the owners sought damages from the City for depriving them of the use and enjoyment of the property and for the City's unjustly obtained public benefit in

continuing to maintain the property for public use during the 21 months in which the City's appeal was pending. (CP 116) The owners relied upon the City's own calculation of the price per square foot charged by the City to private owners for comparable waterfront street end properties. (CP 122-27, 206-15) The City opposed the owners' right to damages but did not offer a different methodology in calculating those damages. (CP 224-32)

The trial court denied the motion for damages on March 10, 2014. (CP 246) Holmquist and Kaseburg timely appealed. (CP 247)

## V. ARGUMENT

### A. **The City is liable for damages to the owners for preventing the owners' exercise of their rights to possess and use the vacated NE 130th Street right of way during the City's unsuccessful appeal.**

The trial court erred in refusing to hold the City liable for depriving Holmquist and Kaseburg of their rights to use and enjoy their property for almost two years while unsuccessfully appealing the judgment quieting title. These property owners have the right to recover their loss incurred as a result of their inability to exercise their rights of ownership pending appeal under RAP 8.1. This Court's review is *de novo* because interpretation of a court rule is a question of law. *P.E. Systems, LLC v. CPI Corp.*, 176 Wn.2d 198, 203, ¶7, 289

P.3d 638 (2012); *Nevers v. Fireside, Inc.*, 133 Wn.2d 804, 809, 947 P.2d 721 (1997).

In order to stay enforcement of a decision affecting real property, an appellant must provide security for the prevailing party's inability to enforce the decision during the pendency of appeal:

[A] party may obtain a stay of enforcement of a decision affecting rights to possession, ownership or use of real property or of tangible personal property, or intangible personal property, by filing in the trial court a supersedeas bond or cash, or alternate security approved by the trial court pursuant to subsection (b)(4).

RAP 8.1(b)(2).

The purpose of this supersedeas is to provide a fund from which the respondent may obtain from an unsuccessful appellant the damages caused by the delay in the respondent's ability to enforce the trial court judgment while the appeal is pending. *See Seventh Elect Church in Israel v. Rogers*, 34 Wn. App.105, 120, 660 P.2d 280, *rev. denied*, 99 Wn.2d 1019 (1983). Under RAP 8.1(c)(2) the security necessary to stay enforcement of a decision affecting property must include "the amount of the loss which the prevailing party in the trial court would incur as a result of the party's inability to enforce the

judgment during review [, o]rdinarily, . . . the reasonable value of the use of the property during review.” RAP 8.1(c)(2).

This rule providing for an unsuccessful appellant’s liability for delay damages applies equally to private parties who are required to post a bond and to governmental entities that are not. *See Norco Construction, Inc. v. King Cnty.*, 106 Wn.2d 290, 296-97, 721 P.2d 511 (1986); WSBA, Appellate Practice Deskbook, § 12.16 (Third Ed. 2005). While the City is statutorily exempt from the requirement to post a cash or surety supersedeas bond, RCW 4.96.050, it is liable to the same extent as a private party that posts a bond to stay enforcement of a decision affecting property. RCW 4.96.010 (waiver of sovereign immunity); RAP 8.1(f) (governmental entity that is not required to post a bond it is “in the same position as if the party had posted a bond”).

In *Norco*, the Supreme Court held that King County’s supersedeas of an adverse land use decision without bond did not exempt it from damages resulting from Norco’s inability to use its property while the supersedeas was in place:

[P]ursuant to RAP 8.1(b)(2), when an appellant supersedes enforcement of a trial court decision affecting property during an unsuccessful appeal, the respondent is entitled to claim damages resulting from the delay in enforcement. King County’s exemption from the requirement of posting a bond does not affect

its potential liability for such damages. As long as it has filed a notice that the trial court decision is superseded without bond, a party that is exempt from the bond requirement is in the same position as if it had posted a bond. RAP 8.1(c).

*Norco*, 106 Wn.2d at 296-97 (emphasis added). The *Norco* Court thus followed the established rule that once an appeal has failed, the supersedeas obligor's "liability for damages in that event is absolute." *John Hancock Mut. Life Ins. Co. v. Hurley*, 151 F.2d 751, 755 (1<sup>st</sup> Cir. 1945), *cert. denied*, 327 U.S. 793 (1946).

In this case, the trial court quieted title in Holmquist and Kaseburg but the City's supersedeas prohibited Holmquist and Kaseburg from exercising any of their rights of ownership, depriving them of the possession, use and enjoyment of their property pending appeal. (CP 50) The City publically announced that the trial court's order and the City's Notice of Supersedeas meant "that Mr. Kaseburg and the Holmquists cannot do anything to assert their property rights to the street end while the appeals are pending." (CP 175-177)

Under RAP 8.1 and *Norco*, the City's notice of supersedeas without bond secures the damages resulting from the owners' inability to enforce the trial court's judgment pending appeal. The trial court erred in refusing to hold the City liable for damages suffered by Holmquist and Kaseburg during the time the City

prevented them from possession, ownership, and use of the vacated NE 130th Street right of way. This Court should reverse and direct the trial court to award the owners damages for their inability to enforce the judgment quieting title pending the City's unsuccessful appeal.

**B. The City is liable, at a minimum, for the reasonable rental value of the property during the time in which the City deprived Holmquist and Kaseburg of possession, ownership, and use of the vacated NE 130th Street right of way.**

Under RAP 8.1(c)(2), the City is liable for the “amount of loss” incurred by the owners as a result of their inability to enforce their rights of ownership pending appeal, measured by, at a minimum, the use or rental value of the property:

The supersedeas amount shall be . . . the amount of the loss which the prevailing party in the trial court would incur as a result of the party's inability to enforce the judgment during review. Ordinarily, the amount of loss will be equal to the reasonable value of the use of the property during review. A party claiming that the reasonable value of the use of the property is inadequate to secure the loss which the party may suffer as a result of the party's inability to enforce the judgment shall have the burden of proving that the amount of loss would be more than the reasonable value of the use of the property during review. (emphasis added)

RAP 8.1(c)(2) (emphasis added).

RAP 8.1(c)(2), by its terms, does not grant discretion to the trial court to deprive a successful respondent of delay damages pending appeal for its “inability to enforce the judgment during review.”<sup>2</sup> As the *Norco* Court held, “a party who supersedes enforcement of a trial court decision affecting property during an unsuccessful appeal is liable to the prevailing party for damages resulting from the delay in enforcement.” *Norco*, 106 Wn.2d at 296. Those damages will “ordinarily” be measured by “the reasonable value of the use of the property during review,” but the prevailing party may sustain the burden of proving additional damages. RAP 8.1(c)(2). Thus in *Norco*, the owner was entitled to establish its lost profits in not being able to develop the property because of the County’s unsuccessful appeal. *Norco*, 106 Wn.2d at 293.

Here, it is undisputed that the City prevented Holmquist and Kaseburg from exercising their rights to use, possess, and enjoy their property for 21 months. These owners are entitled to, at a minimum,

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<sup>2</sup> In this respect, the rule differs significantly from RAP 12.8, which provides an equitable restitutionary remedy for a successful appellant that has not superseded enforcement of a judgment pending appeal, to recover the property, or the value of the property taken from that party through enforcement or execution. *See Ehansi v. McCullough Family Partnership*, 160 Wn.2d 586, 589, ¶ 3, 159 P.3d 407 (2007) (restitution to successful appellant who has not stayed enforcement pending appeal is discretionary).

loss of use damages, measured by the property's rental value. Rental value is the typical measure of damages where a party has been deprived of its ownership rights or title. *Colby v. Phillips*, 29 Wn.2d 821, 824, 189 P.2d 982 (1948) (rental value awarded as offset against the purchase price for defendant's delay in conveying title); *Brown v. Pierce Cnty.*, 28 Wash. 345, 352, 68 P. 872 (1902) (damages for a property owner's lost possession and use of real property measured by the "fair and reasonable rental value of that property for the purpose for which it was taken and used.").<sup>3</sup>

Holmquist and Kaseburg established loss of use damages of \$3,600 per month based upon the City's own methodology for computing the reasonable rental value of the City's waterfront street ends that it rents to abutting property owners, the vacated NE 130th Street right of way has a rental value. (CP 125, 204-20) (Ordinance

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<sup>3</sup> See also *Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc.*, 102 Wn. App. 422, 427-28, 10 P.3d 417 (2000), *rev. denied*, 142 Wn.2d 1018 (2001) (measure of recovery for a contractor's unfinished or defective construction of a home); Restatement (Second) of Contracts § 348(1) (1981) (if breach delays the use of property and the loss of value to the injured party is not proved with reasonable certainty, owner may recover damages based on the rental value of the property). See also *Woodworth v. NW. Mutual Life Ins. Co.*, 185 U.S. 354, 22 S.Ct. 676, 46 L.Ed. 945, (1902) (appellant who superseded a lower court judgment awarding property to owner liable to the owner, who was kept out of possession, for property's "rents and profits"); *Annot., Measure and amount of damages recoverable against supersedeas bond in action involving real property*, 9 A.L.R. 3d 330 (1966)

123611) Seattle has 149 waterfront street ends, many of which are leased to private adjoining owners by annual permits. Department of Transportation, City of Seattle, Seattle Shoreline Street Ends Program, [http://www.seattle.gov/transportation/stuse\\_stends.htm](http://www.seattle.gov/transportation/stuse_stends.htm) (last visited June 19, 2015) (CP 180-92, 203-07) Seattle's Ordinance 123611 establishes the rental value of these waterfront street ends by determining (1) the per square foot assessed value of the abutting privately owned lot;<sup>4</sup> (2) multiplies that per square foot value times the square footage of the street end; (3) multiplies that value by a "demand probability factor"; and (4) multiplies that value by a City standard rate of return to arrive at an annual rental fee. (CP 122-125, 206)

The owners used that methodology below:

(1) The abutting parcel's current land value per square foot as determined by the King County Assessor for Holmquist is \$128.16/sq.ft.<sup>2</sup> (\$660,000/5,150 sq. ft.) and for Kaseburg is \$111.20/sq. ft. (\$1,213,000/10,908 sq. ft.). (CP 208-215)

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<sup>4</sup> Washington law requires that all property must be assessed at one hundred percent of its true and fair value. RCW 84.40.030(1).

(2) The owners' respective portions of the vacated NE 130th Street right of way measure approximately 2,214 sq. ft. for Holmquist and approximately 2,307 sq. ft. for Kaseburg. (CP 159, 217)

(3) The "demand factor" was not relevant because the City was "renting" this waterfront property from adjacent owners, but if a demand probability is to be used, it should be at least 1.0. (CP 124)<sup>5</sup> The City did not assert in the trial court that the "demand factor" should be used to reduce the owners' computation of a fair market rental rate valuation. (CP 226-32)

(4) The legislative history for Ordinance 123611 notes that the historical rate of return for residential land has ranged between 7% and 8%, and the rate of return for years after 2011 has remained constant at 8%. (CP 206, 219)

The City's formula for assessing the rental value of waterfront street ends results in a total reasonable rental value for both Holmquist and Kaseburg of \$3,600/month (rounded) for each

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<sup>5</sup> The legislative history of the Ordinance describes the considerations used in balancing public demand against private use of the waterfront street end by an adjacent owner, including "an estimate of the demand or the probability of public use for the particular shoreline street end site based on location, access, view, size and topography." (CP 185). Thus, desirable residentially zoned street ends contain no discount (a demand factor of 1.0), while industrially zoned street ends contain a discount of 50% or more (demand factor of .1-.5). (CP 187-88, 207)

month the City's stay was in effect (approximately 52% or \$,1891.64/month to Holmquist and 48% or \$1,710.26/month to Kaseburg). This Court should remand for an award of reasonable rental value of the vacated NE 130th Street right of way in the amount in the amount of \$3,600 per month.

**C. The Court should also direct entry of judgment for additional damages for the City's unjust public benefit in using Holmquist's and Kaseburg's property as a public beach.**

Holmquist and Kaseburg also established that the "reasonable value of the use of the property was inadequate to secure the loss" they suffered as a result of their "inability to enforce the judgment." RAP 8.1(c)(2). The rule places the burden on the party seeking damages in addition to loss of use to "prov[e] that the amount of loss would be more than the reasonable value of the use of the property during review." RAP 8.1(c)(2). Thus, in *Norco*, the Court allowed the developer to establish that the County's stay caused it additional damages "including a depreciation in the value of the property, lost profits, and additional expenses including taxes, insurance, and increased development costs." *Norco*, 106 Wn.2d at 293.

Here, the owners also established that the public's use of the property adjacent to their residences provided a public benefit, akin to the profits an unsuccessful appellant derives from the wrongful

use of the respondent's property. *See Woodworth* 185 U.S. at 361-63 (surety on supersedeas bond to stay enforcement of confirmation of foreclosure sale liable to purchaser for rents and profits accruing to mortgagor, the principal on the bond, pending appeal). In remanding for a determination of damages, this Court should direct the trial court to award in addition to the base reasonable monthly rental value for the property, a damage element for the reasonable value of governmental benefits received by the City for the public beach usage of the vacated NE 130th Street right of way.

A long line of United States Supreme Court cases holds that an owner is entitled to compensation for the loss of exclusive use when the general public physically uses or occupies a substantial portion of private property as a result of a government action. *See Nollan v. California Coastal Comm'n*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d 677 (1987); *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S. Ct. 3164, 73 L. Ed. 2d 868 (1982). “[T]emporary’ regulatory takings which, as here, deny a landowner all use of his property, are not different in kind from permanent takings, for which the Constitution clearly requires compensation.” *First English Evangelical Lutheran Church of Glendale v. Los*

*Angeles Cnty., Cal.*, 482 U.S. 304, 318, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987).

The vacated NE 130th Street right of way is in a relatively quiet waterfront residential area. Most residents are middle aged and older, and do not intensely use their yards, docks, or waterfront. The public use of the vacated NE 130th Street right of way and beach, at the City's invitation, exceeded by many orders of magnitude the level of use made by other waterfront occupants of residential property along the shoreline both north and south of the vacated NE 130th Street right of way. (CP 157-59, 222-23)

The City appropriated these owners' property by keeping its large sign on the vacated NE 130th Street right of way, inviting members of the public walking or biking on the adjacent Burke-Gilman Trail to stop, walk down a path to the vacated NE 130th Street right of way, and to use the beach. (CP 157-58, 222-23) (App. D) The City received substantial governmental benefits by physically appropriating appellants' property as a public beach and these adjacent owners suffered a corresponding loss for purposes of RAP 8.1(c)(2).

The owners estimated that damages for appropriation of their property for a public beach in a quiet residential area equal at least

50% of the \$3,600 per month reasonable rental value for the loss of ownership and use of the property. (CP 116, 125-127, 159, 243) These damages may be measured by the City's benefit in diverting the recreational public from actively maintained parks and beaches to the owners' property, and by the corresponding damages in the owners' loss of peace, quiet, and enjoyment of their adjoining residences due to the physical invasion of the property during the pendency of appeal.

While such general damages can be difficult to quantify, only "the *fact of damage*" must be proved with "reasonable certainty;" the *amount of damages* need not be proved exactly. *Lewis River Golf, Inc. v. O.M. Scott & Sons*, 120 Wn.2d 712, 717, 845 P.2d 987 (1993) (emphasis in original). Once establishing the fact of damage, damages should be awarded based upon the available evidence. *Bales v. City of Tacoma*, 172 Wash. 494, 502, 20 P.2d 860 (1933) (damages for public nuisance).

The fact of damage is undisputed. This Court should remand for entry of a judgment awarding the Holmquist and Kaseburg damages for the reasonable value of governmental benefits received by the City for the public's use of their beach in the amount of \$1,800 per month, for a total award of \$5,400 per month.

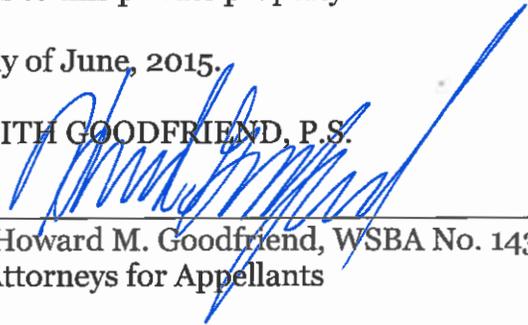
## VI. CONCLUSION

Having insisted on staying Holmquist's and Kaseburg's right to possess, own, and use property under RAP 8.1, the City is now liable for preventing them from enforcing the judgment quieting title to the vacated NE 130th Street right of way pending the City's unsuccessful appeal.

The trial court erred in refusing to award damages under the plain language of RAP 8.1 and *Norco*, including, at a minimum, for the reasonable value of the owners' loss of their right to possess, own, and use of the property, as well as the additional damages incurred because of the public's invasion of their property interests, measured by the value of the public benefits obtained by the Seattle's invited public use and occupancy of the property. This Court should remand to the trial court for entry of a judgment against the City for the owners' loss of use and for the City's unjustly obtained benefit in maintaining public access to this private property.

Dated this 22<sup>nd</sup> day of June, 2015.

SMITH GOODFRIEND, P.S.

By: 

Howard M. Goodfriend, WSBA No. 14355  
Attorneys for Appellants

**DECLARATION OF SERVICE**

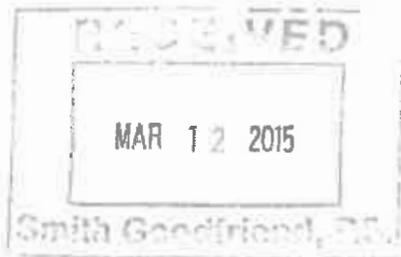
The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on June 22, 2015, I arranged for service of the foregoing Brief of Appellants, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division I One Union Square 600 University Street Seattle, WA 98101	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-File
Robert E. Ordal Robert E. Ordal, PLLC 1000 Second Avenue, Suite 1750 Seattle, WA 98104-3620	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Kelly N. Stone Seattle City Attorney's Office 600 4th Avenue, 4th Floor PO Box 94769 Seattle, WA 98124-4769	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

**DATED** at Seattle, Washington this 22<sup>nd</sup> day of June, 2015.

  
\_\_\_\_\_  
Victoria K. Vigoren



**SUPERIOR COURT FOR THE STATE OF WASHINGTON FOR KING COUNTY**

1  
2  
3  
4  
5  
6 **KEITH L. HOLMQUIST et al.**  
7  
8 **Plaintiff,**  
9 **v.**  
10 **KING COUNTY**  
11 **Defendant,**  
12 **and**  
13 **CITY OF SEATTLE,**  
14 **Intervener/Defendant.**

No12-2-21156-6 SEA

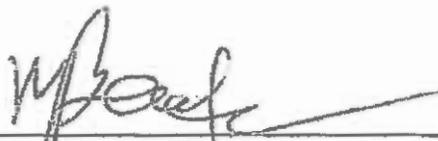
**ORDER DENYING  
MOTION TO ESTABLISH  
DAMAGES DUE TO CITY'S  
STAY**

**\* Clerk's Action Required**

15 This matter comes before the Court on Plaintiff's Motion to Establish Damages Due  
16 to City's Stay; having reviewed the motion, City of Seattle's response to the motion,  
17 declaration of Frederick A. Kaseburg, and Plaintiff's reply memorandum supporting their  
18 motion;

19 **IT IS HEREBY ORDERED** that the Motion to Establish Damages Due to City's Stay is  
20 **DENIED.**

21 Done this 10th day of March, 2015.

22  
23  
24   
25 **MONICA J. BENTON**  
26 **SUPERIOR COURT JUDGE**

**COPY**

# N.E. 130th Shoreline Street End Improvement

THANK YOU SEATTLE

## Disposal Project

The Waste Management Division is pleased to announce the start of the N.E. 130th Street End Improvement project. The project will improve the street end of the N.E. 130th Street and will include the installation of a new street end structure, the installation of a new street end structure, and the installation of a new street end structure.

## Anticipated Impact

The project will result in the installation of a new street end structure, the installation of a new street end structure, and the installation of a new street end structure.

## Project Schedule

The project is scheduled to start in the month of August and will be completed in the month of October.

## Budget

The project is estimated to cost \$1,000,000. The project is funded by the City of Seattle and the State of Washington.

## For Information Contact:

Steve Kesteven, Director of the Department of Public Works  
Phone: 206-462-3000  
Fax: 206-462-3000



Visit us at [www.seattle.gov/130th](http://www.seattle.gov/130th)

# PARKS & GREEN SPACES LEVY



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Scott Kubly, Director

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## Seattle's Shoreline Street Ends Map & Photos

Click the points to see photos and descriptions

- Worth a visit
- Not yet ready for visitors
- No public access

Find address or place



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- Shoreline Street Ends Home
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- 2014 Project Sites
- Get Involved / Improve a Street End
- Permits & Rates
- Street Ends Map & Photos
- Fact Sheet
- Contact

**NE 130 St**

*Hop off the Burke-Gilman path and enjoy this sand beach cove. A great place to launch kayaks. The official legal status of the site will be resolved within the next few years.*

**Click image to view larger version.**

Zoom to

City of Seattle. Esri, HERE, DeLor...

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Picture 1: Seattle's sign on vacated NE 130<sup>th</sup> Street right of way. (CP 163)



Picture 2: General parking by users and others 7/2014. (CP 171)



Picture 3: Another picture of loud party 8/2014-Holmquist photo. (CP 173)