

NO. 48074-3-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

MOUNTAIN VIEW PLACE, LLC,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

BRIEF OF RESPONDENT

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I. INTRODUCTION

This is an interlocutory appeal in a condemnation action. RCW 8.04.070 allows a property owner to appeal a superior court order adjudicating public use and necessity within five days of the entry of the order. Appellant Mountain View Place (MVP) makes such an appeal challenging the superior court's public necessity determination. The Washington State Department of Transportation (WSDOT) respectfully requests that this Court affirm the superior court and deny MVP's appeal.

WSDOT's authority to condemn property rights to build and maintain limited access highways under RCW 47.52.050 is undisputed. MVP also does not dispute that the Project is for a public use. The question before the Court is whether WSDOT acted in an arbitrary and capricious manner regarding public necessity. In light of the applicable law and the record below, it is clear that WSDOT acted appropriately in this case.

The Legislature has authorized WSDOT to purchase, acquire, and condemn real property in order to establish limited access highways for the public's use. RCW 47.12.010; 47.52.050. Any determination by WSDOT that acquisition of a private property right is necessary for a highway construction or improvement project is legislative in nature, and subject to judicial deference absent arbitrary and capricious conduct

amounting to constructive fraud. RCW 47.12.010; *Central Puget Sound Regional Transit Authority v. Miller*, 156 Wn.2d 403, 411, 128 P.3d 588 (2006).

WSDOT is constructing on and off-ramps from Interstate 205 (I-205) onto Northeast (NE) 18th Street in Vancouver, Washington. As part of the project, WSDOT determined it needed to acquire Appellant MVP's access rights to its properties that abut NE 18th Street, while carving out a break in limited access for MVP's current driveway to remain in use.

MVP challenges this determination. It allegedly has intentions to develop the property for commercial uses along with other abutting parcels it owns in the area, and it might require a different type of access in order to support that development. MVP alleges WSDOT's failure to account for these hypothetical future plans violates WSDOT's limited access regulations, which require WSDOT to consider a property's potential uses, which amounts to arbitrary and capricious conduct.

The superior court properly rejected MVP's argument and granted WSDOT's motion for public use and necessity. MVP did not have a driveway for commercial uses prior to condemnation, and WSDOT's determination to condemn some of the access rights but to allow access that supported the property's current use (a multi-family apartment

complex) was within its discretion and not arbitrary or capricious. Moreover, MVP offered no evidence below indicating that redevelopment of the subject property was being planned, or that WSDOT had any knowledge that MVP intended to put the subject property to commercial use in the future. This Court should affirm allowing the condemnation process to proceed as the Legislature intended.

II. STATEMENT OF THE CASE

In November 2014, WSDOT contractors began work on a highway construction project in order to improve traffic congestion and the overall safety of I-205. CP at 35. The project included a new northbound off-ramp and southbound on-ramp connecting I-205 with NE 18th Street in Vancouver. *Id.* In support of this project, WSDOT drafted and adopted a right-of-way plan sheet setting forth in detail what real property would need to be acquired. CP at 38.

I-205 is a “limited access” highway, which the Legislature defines as:

...a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons, have no right or easement, or only a limited right or easement of *access*, light, air, or view by reason of the fact that their property abuts upon such limited access facility...

RCW 47.52.010 (emphasis added). Since NE 18th Street would now be connected to I-205 through the on-ramp and off-ramp, NE 18th Street had to be incorporated into the interstate's limited access plan. WSDOT accomplished this before construction began by holding a limited access hearing on April 12, 2012, and issuing a limited access findings and order on July 30, 2012. CP at 86.

Once the right-of-way plan sheet and limited access plan were finalized, WSDOT determined it needed to acquire "limited access rights" from a parcel of real property (subject property) owned by MVP that abuts NE 18th Street within the limited access plan. CP at 33. See Exhibit A, attached. The subject property is identified on the WSDOT right-of-way plan sheet as Parcel No. 4-08353. *Id.* Specifically, WSDOT needed to acquire "rights of ingress and egress (including all existing, future, or potential easements of access, light, view, and air) to, from, and between I-205." *Id.* Additionally, WSDOT needed to acquire limited access rights from Parcel No. 4-08366, which abuts the subject property and sits at the intersection of NE 18th Street and NE 112th Avenue. *Id.*

MVP owns both the subject property (Parcel No. 4-08353) and the abutting property (Parcel No. 4-08366), as well as three other parcels that abut the subject property and have frontage on NE 112th Avenue. CP at 54-65. While MVP owns all five parcels, Clark County still identifies

them as individual parcels. *Id.* But, only the subject property and the abutting property have frontage on NE 18th Street within WSDOT's right-of-way plan sheet. CP at 38.

Based on the right-of-way plan sheet, NE 18th Street is considered a "modified control" limited access highway in front of subject property (Parcel No. 4-08353) and the abutting property (Parcel No. 4-08366). By definition, a modified control highway is one where the abutting property owner's access rights are "controlled to give preference to through traffic to such a degree that most approaches,¹ including commercial approaches, existing and in use at the time of the establishment, may be allowed." WAC 468-58-010(3).

WSDOT contacted MVP to find out whether it was willing to negotiate terms of the sale of the access rights WSDOT required. CP at 97. The parties communicated on several occasions regarding the scope of WSDOT's proposed acquisition and the type of "approach" WSDOT would permit the Appellant to maintain on the subject property, which is currently the site of an apartment complex. CP at 97.

After some negotiations between the parties but no agreement, WSDOT decided to permit a Type C approach for the subject property,

¹ "Approach" as used in the record is a technical term used (but not defined) in the Washington Administrative Code that refers to the access point between a highway and a parcel of real property.

which is defined in the Washington Administrative Code (WAC) as being used “for special purposes at a width to be agreed upon.” WAC 468-58-080(3)(b)(iii). It was further described in the record below as a “catch-all” type of driveway that would support a wide range of uses. CP at 97.

When the parties failed to agree on the terms of purchase, WSDOT filed a condemnation petition. CP at 2; *see also* CP at 121. WSDOT also filed a motion for an order adjudicating public use and necessity as required by RCW 8.04.070. CP at 39. MVP’s counsel objected to WSDOT’s motion. CP at 45. After a hearing, Judge Daniel L. Stahnke granted WSDOT’s motion. CP at 99. Judge Stahnke stated that he found WSDOT’s conduct was not arbitrary and capricious. VRP at 21. MVP filed a timely appeal. CP at 123.

III. ISSUES PRESENTED

1. Did the superior court properly uphold the State’s determination that acquisition of the access rights is necessary to support a public use?
2. Is the Appellant entitled to attorney fees under federal civil rights laws in a condemnation action when WSDOT officials were acting in their official capacity and therefore are not “persons” subject to suit?

IV. STANDARD OF REVIEW

In condemnation actions acquiring land in support of a state highway, WSDOT's selection of specific property "shall, in the absence of bad faith, arbitrary, capricious, or fraudulent action, be conclusive upon the court and judge before which the action is brought that said lands or interests in land are necessary for public use for the purposes sought." RCW 47.12.010.

On an appeal of the superior court's adjudication of public necessity, this Court reviews the record to determine "only whether the factual findings are supported by substantial evidence. Substantial evidence is viewed in the light most favorable to the respondent, and is evidence that would 'persuade a fair-minded, rational person of the truth of the finding.'" *Central Puget Sound Regional Transit Authority*, 156 Wn.2d at 419 (quoting *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994)).

V. ARGUMENT

The superior court correctly determined that WSDOT established public necessity. MVP's opposition to this determination must fail for two reasons. First, WSDOT acted within its discretion in adopting its right-of-way plan for the project in this case, and therefore its proposed acquisition of MVP's access rights is neither arbitrary nor capricious.

Second, even if MVP could establish the acquisition affects its ability to develop the subject property (and WSDOT contends it has not), such impact is not relevant to a determination of public necessity; MVP's argument to the contrary reflects a flawed interpretation of the limited access regulations.

Additionally, MVP's request for attorney fees should be rejected because (a) MVP is not being deprived of a property right in violation of its due process rights, and (b) WSDOT is not a "person" that can be sued under 42 U.S.C. § 1983, and therefore, there can be no attorney fees award against WSDOT under 42 U.S.C. § 1988.

A. The Superior Court Properly Found Public Necessity

Proving that a state agency acted in an arbitrary or capricious manner in a condemnation case is a high hurdle to clear. MVP cannot do so here, and this Court should affirm the superior court's decision granting WSDOT's public use and necessity order.

1. WSDOT Was Within Its Constitutional and Statutory Authority to Acquire Property Rights From MVP

It is well-settled that the state has the power of eminent domain. *Miller v. City of Tacoma*, 61 Wn.2d 374, 382, 378 P.2d 464 (1963). The Legislature has granted WSDOT the authority to exercise this power to condemn real property for highway purposes generally and for the

construction and maintenance of limited access highways specifically. RCW 47.12.010; RCW 47.52.050. This power is limited by article 1, section 16 of the Washington State Constitution, as well as RCW 8.04.070, which requires that any condemnation be necessary for a public use. *State ex rel. Washington State Convention and Trade Ctr. v. Evans*, 136 Wn.2d 811, 817, 966 P.2d 1252 (1998).

a. Washington Courts Defer to the State in Condemnation Actions and Rarely Find Arbitrary and Capricious Conduct

A condemnation will be considered lawful if the State proves (1) the use is public, (2) the public interest requires it, and (3) the property appropriated is necessary for that purpose. *In re City of Seattle*, 96 Wn.2d 616, 625, 638 P.2d 549 (1981). As stated above, the Legislature has determined that WSDOT is to be afforded considerable deference in its decisions regarding condemnation of highway right-of-way, which will be “conclusive” upon the courts absent “bad faith, arbitrary, capricious, or fraudulent action.” RCW 47.12.010. This is in harmony with the relevant case law, which has consistently held that questions regarding whether a specific acquisition is necessary to carry out a proposed public use are legislative. *City of Des Moines v. Hemenway*, 73 Wn.2d 130, 139, 437 P.2d 171 (1968). Consequently, “a determination of necessity is conclusive in the absence of proof of actual fraud or such arbitrary and

capricious conduct as would constitute constructive fraud.” *Washington State Convention and Trade Ctr.*, 136 Wn.2d at 823. “Arbitrary and capricious” conduct has been described as “willful and unreasoning action, without consideration and regard for facts or circumstances.” *City of Tacoma v. Welcker*, 65 Wn.2d 677, 684, 399 P.2d 330 (1965).

The rules regarding public necessity “are so heavily stacked on the side of the condemnor that it is most unlikely that a court will overturn the condemnor’s judgment except in extreme cases of excess condemnation.” 17 William B. Stoebuck, *Washington Practice: Real Estate: Property Law* § 9.28 (2nd ed. 2004). Case law on the issue of public necessity clearly indicates that courts generally defer to the condemning agency and are reluctant to hold that an agency’s exercise of discretion constitutes arbitrary and capricious conduct.

For example, the court in *Hemenway* was confronted with a city attempting to condemn tidelands in order to construct a marina. 73 Wn.2d at 132. The trial court refused to enter a decree of public use and necessity, holding that while the city acted in good faith, the proposed marina was too large and would rely too heavily on non-residents, which violated the arbitrary and capricious standard. *Id.* In reversing the trial court, the Supreme Court held that the word “necessary. . . does not mean immediate, absolute, or indispensable need, but rather considers the right

of the public to expect or demand that certain services be provided.” *Id.* at 140. Thus, while the court might disagree with a condemnor’s actions, more than a difference of opinion is required to find arbitrary and capricious conduct. *Id.*

Similarly, in *City of Bellevue v. Pine Forest Properties, Inc.*, 185 Wn. App. 244, 253, 340 P.3d 938 (2014), the Court of Appeals was presented with a challenge of public use and necessity for a project that required the condemnation of a portion of the owner’s property for construction staging for a light rail and road improvement project. The owner argued that since the project’s design had not been fully completed, the city could not establish public necessity. *Id.*

In affirming the trial court’s finding of public use and necessity, the Court of Appeals held that the lack of a definitive plan for the entire life of the property does not make the condemnor’s actions arbitrary and capricious. *Id.* at 263. Describing the deference legislative bodies are owed, the court opined that it will not disturb a finding of necessity as long as it was reached “honestly, fairly, and upon due consideration of the facts and circumstances.” *Id.* (quoting *Central Puget Sound Regional Transit Authority*, 156 Wn.2d at 417-18)..

b. The Record Below Establishes the Superior Court Made a Valid Public Necessity Determination

In light of the legal standards for review of public necessity, the question before the Court is whether WSDOT acted in an arbitrary and capricious manner. It is clear that WSDOT acted appropriately based on the applicable case law and the record below.

WSDOT's proposed acquisition of MVP's limited access rights along NE 18th Street is consistent with its right-of-way plans that were developed and implemented in support of the Project and were part of the record below. CP at 38. These right-of-way plans were not implemented on a whim; they were the result of a deliberative and public process with notice to abutting landowners and opportunity for comment. CP at 86. Additionally, WSDOT did not rush to condemn MVP's access rights. WSDOT first attempted to negotiate the purchase of MVP's access rights along NE 18th Street. CP at 97. After "repeated communications" with MVP, the parties could not reach an agreement on terms of purchase, and WSDOT moved forward with the condemnation. CP at 97, 121. Thus, the superior court correctly decided that the proposed acquisition was necessary to support a public use and was not arbitrary and capricious.

2. MVP's Interpretations of "Potential Uses" and "Appraisals" in the WAC Are Impermissibly Broad

Ignoring the obvious fact that this access is being acquired for a highway, MVP argues that WSDOT failed to comply with its own regulations that govern how it should assess the appropriate type of approach for the subject property. This was the focus of MVP's unsuccessful opposition to WSDOT's public use and necessity motion at the superior court level, as well. *See generally* CP at 45. But MVP's interpretation of the applicable regulation is flawed and would lead to absurd results. MVP also ignores critical portions of the record that conclusively establish that WSDOT acted honestly, fairly, and in due consideration of the facts and circumstances; WSDOT was not arbitrary and capricious.

a. Accepting MVP's "Investment Backed Expectations" as "Potential Uses" Would Lead to Absurd Results

MVP argues that WSDOT failed to follow its own regulations in authorizing a Type C approach for the subject property. Br. App. at 11. Specifically, MVP cites WAC 468-58-100(1), which states that the approach for each property "shall be commensurate with the present and potential land use" which consider a number of factors, including local comprehensive plans and zoning ordinances, and the highest and best use

of the property. WAC 468-58-100(1)(a). MVP argues that since the subject property might be put to commercial use in the future, WSDOT's failure to approve a Type E (commercial) approach is a failure to consider potential land use in violation of WAC 468-58-100(1).

This argument is flawed for two reasons. First, the current use of the subject property as an apartment complex does not support a Type E approach. As stated in the WAC, a Type E approach is “a *separated* off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operation of a commercial establishment.” WAC 468-58-080(3)(b)(v) (emphasis added). The record below indicates that the subject property is currently being used to support an apartment complex, as is contemplated by current zoning regulations. CP at 54. The record also establishes that the subject property does not currently have a separated on and off approach, and for that reason alone a Type E approach is not appropriate. CP at 98. Thus, granting a Type E approach would be inconsistent with the property's present land use and would violate WAC 468-58-100(1). What MVP describes as an exercise of agency discretion is not a choice at all; WSDOT cannot ignore the subject property's current use which has been established in the record, at the expense of a potential use which has not.

Second, there is no evidence in the record that MVP has any plans to redevelop the subject property for commercial uses aside from the representations of counsel, or that WSDOT had any knowledge of MVP's future development plans at the time of condemnation for that matter. MVP contends it owns five contiguous parcels (including the subject property) in the vicinity of the Project, with "investment backed expectations of future commercial development." Br. App. at 1. However, as WSDOT argued at the public use and necessity hearing, MVP offered no proof that it had development plans pending that would qualify them to take advantage of the City of Vancouver's "MX" designation for commercial uses on any of the five properties. *See* Vancouver Municipal Code Section 20.430.060(C) (requiring approval of a multiple building mixed use master plan to change a zoning designation to "MX").

Courts must apply the rules of statutory construction to administrative rules and regulations. *Overlake Hospital Association v. Department of Health*, 170 Wn.2d 43, 52, 239 P.3d 1095 (2010). In light of this, the Court should reject interpretations of a regulation that would lead to absurd results. *State v. Hall*, 168 Wn.2d 726, 737, 230 P.3d 1048 (2010). MVP's argument that its expectations should be considered a potential use would eliminate the deferential rationality review, and

require WSDOT to speculate about any conceivable change in land use designation or re-zoning of the subject property. This would frustrate the purpose of the regulation and hamstring WSDOT in its statutory obligation to maintain limited access highways. Thus, the Court should reject MVP's argument.

b. MVP's Interpretation of "Appraisals" is Also Flawed

MVP claims that WSDOT failed to have a formal appraisal done on the subject property to determine the proper approach based on the criteria set forth in WAC 468-58-100(1). MVP relies on *State v. Roggenkamp*, 153 Wn.2d 614, 106 P.3d 196 (2005) for the proposition that the Legislature uses different terms for different reasons. *Id.* at 625.

However, the Court in *Roggenkamp* also recognizes the statutory construction principle that a single word in a statute must be read in the context of the entire statute, not in isolation. *Id.* at 623. The Court also held that "the meaning of words may be indicated or controlled by those with which they are associated." *Id.*

Here, MVP argues that the term "appraisal" should be used in the legal context of a formal determination of a property's market value. Br. App. at 12. However, the limited access regulations are not concerned with a property's value. The purpose of WAC 468-58-100(1) is to set

forth guidelines for which each property within a limited access plan is permitted the appropriate approach, consistent with current and potential land uses, and the property's highest and best use. In this context, the more general definition of appraisal as "the act of judging the value, condition, or importance of something" captures the appropriate context in which the term "appraisal" is used. Merriam-Webster's Collegiate Dictionary, Eleventh Edition. Any analysis of the fair market value of the property (for which a formal appraisal by a third party would potentially be competent evidence) is reserved for the factfinder at trial, but is not relevant for determining which type of approach WSDOT should permit.

B. MVP Is Not Entitled to Attorney Fees

MVP argues it is entitled to attorney fees since WSDOT's actions were arbitrary and capricious and therefore violated MVP's constitutional rights, making WSDOT liable under federal civil rights laws, specifically 42 U.S.C. § 1983 and § 1988. This argument is without merit.

In a direct condemnation action, the government concedes that it is taking or damaging an owner's property, and provides a forum through the courts to address what just compensation is owed to the owner for the taking as required by the Constitution. *See First English Evangelical Lutheran Church of Glendale v. Los Angeles County*, 482 U.S. 304, 315-16, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987). Liability for an

uncompensated taking under an inverse condemnation theory or based on 42 U.S.C. § 1983 is simply not an issue, as the condemnation action's purpose is to determine what compensation is owed to the property owner. *City of Monterey v. Del Monte Dunes, Ltd.*, 526 U.S. 687, 711-12, 119 S. Ct. 1624, 143 L. Ed. 2d 882 (1999).

MVP attempts to argue that its substantive due process rights are implicated by WSDOT's conduct in this matter while conceding this is a condemnation case and that the State does not dispute MVP's right to just compensation for the taking. *See* Br. App. at 15-16. Both things cannot be true. As this is a direct condemnation case, WSDOT cannot be held liable under 42 U.S.C. § 1983, and therefore MVP's request for attorney fees under 42 U.S.C. § 1988 is unwarranted.

Even if this was an uncompensated taking case, in order to prove a violation of 42 U.S.C. § 1983, a plaintiff must show that a person deprived it of a federal constitutional or statutory right, and that person must have been acting under color of state law. *Sintra, Inc. v. Seattle*, 119 Wn.2d 1, 11, 829 P.2d 765 (1992). But the U.S. Supreme Court has clearly held that a state (and by extension, its agencies) is not a "person" within the meaning of 42 U.S.C. § 1983. *Will v. Michigan Dep't of State Police*,

491 U.S. 58, 64, 109 S. Ct. 2304, 105 L. Ed. 2d 45 (1989). Thus, MVP cannot be awarded attorney fees.²

MVP's reliance upon *Lutheran Day Care v. Snohomish County*, 119 Wn.2d 91, 829 P.2d 746 (1992) is misplaced. In that case, plaintiff sought relief under 42 U.S.C. § 1983 against a county, which is considered a "person" under *Monell v. Dep't of Social Services of City of New York*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978); *Lutheran*, 119 Wn.2d at 118. As this case concerns the actions of the State of Washington and not a city or county, it is distinguishable from *Lutheran Day Care* and MVP is without recourse to seek attorney fees for any alleged 42 U.S.C. § 1983 violation. Consequently, the Court should deny MVP's request.

VI. CONCLUSION

WSDOT has a statutory mandate to condemn access rights from property abutting its limited access highway system in order to ensure the safety of the traveling public. The record below is clear that WSDOT's conduct in the condemnation action is consistent with all applicable laws and rules and justified by a valid right-of-way plan. Based on that record, as well as the arguments contained herein, WSDOT respectfully requests

² MVP seeks attorney fees for their appeal only under federal law. Fees can be awarded at the completion of a condemnation action under state law in appropriate circumstances. *See* RCW 8.25.070.

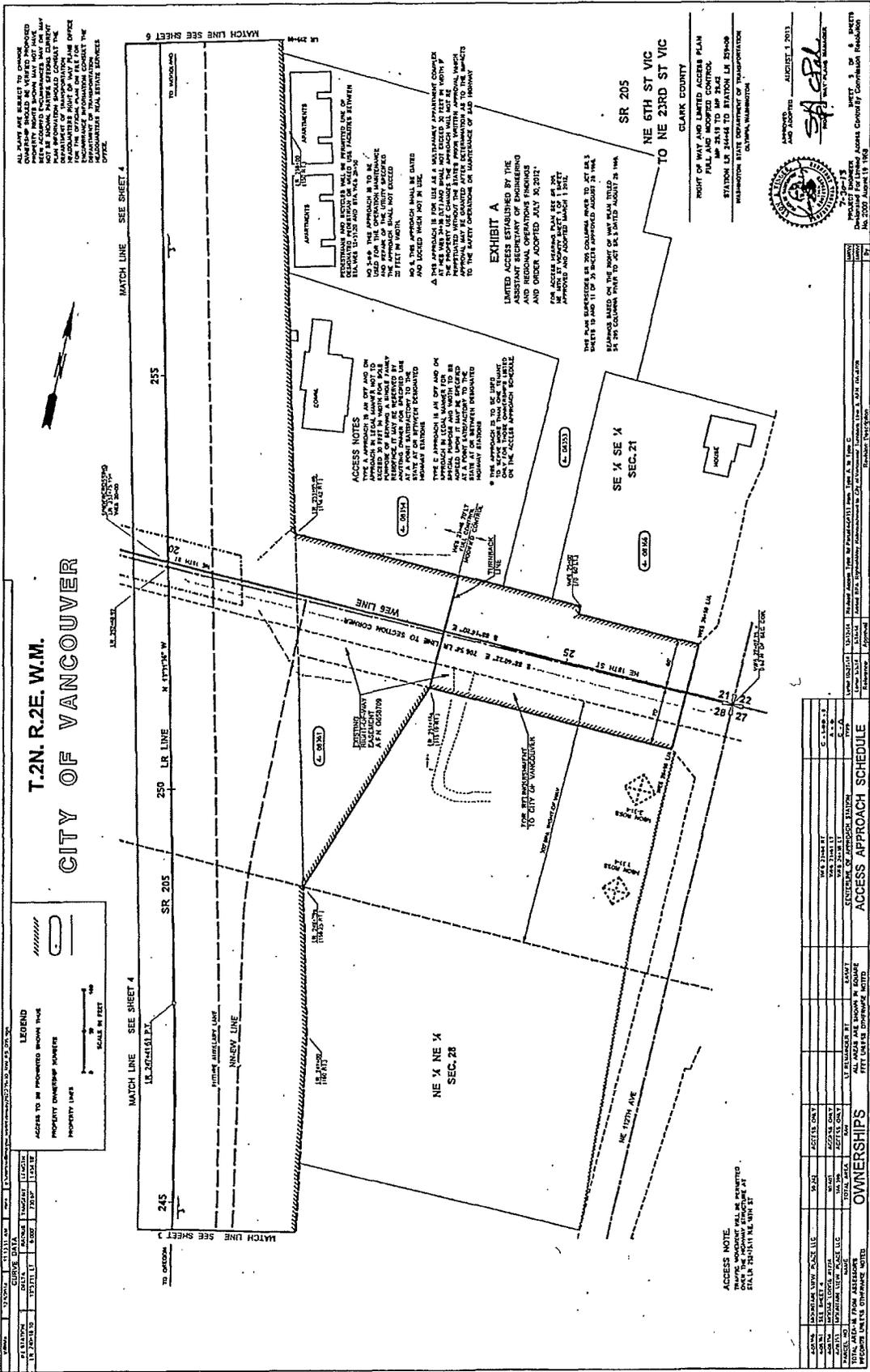
that this Court affirm the superior court's order adjudicating public use and necessity.

RESPECTFULLY SUBMITTED this 27th day of January, 2016.

ROBERT W. FERGUSON
Attorney General

A handwritten signature in black ink, appearing to read "M. D. Huot", written over a horizontal line.

MATTHEW D. HUOT
WSBA #40606
Assistant Attorney General
Counsel for Respondent



T.2N. R.2E. W.M.
CITY OF VANCOUVER

LEGEND

ACCESS TO BE PROVIDED BEHIND THIS

PROPERTY EASEMENT BOUNDARY

PROPERTY LINE

SCALE IN FEET

STATION	STATION	STATION	STATION
1+00	1+00	1+00	1+00
1+00	1+00	1+00	1+00
1+00	1+00	1+00	1+00

OWNERSHIPS

OWNER	ACRES	PERCENTAGE
STATE OF WASHINGTON	1.00	100%
OTHER OWNERS	0.00	0%
TOTAL	1.00	100%

ACCESS APPROACH SCHEDULE

SECTION	DATE	BY
1	1/1/2018	J. J. JENSEN
2	1/1/2018	J. J. JENSEN
3	1/1/2018	J. J. JENSEN
4	1/1/2018	J. J. JENSEN
5	1/1/2018	J. J. JENSEN
6	1/1/2018	J. J. JENSEN
7	1/1/2018	J. J. JENSEN
8	1/1/2018	J. J. JENSEN
9	1/1/2018	J. J. JENSEN
10	1/1/2018	J. J. JENSEN

SAEPA
SPECIALIZED ACCESS ENGINEERING PROFESSIONAL ASSOCIATION

REGISTERED PROFESSIONAL ENGINEER
NO. 12345
EXPIRES 12/31/2020

PROJECT NO. 18-001
DATE: 1/1/2018

DESIGNED BY: J. J. JENSEN
CHECKED BY: J. J. JENSEN
APPROVED BY: J. J. JENSEN

RIGHT OF WAY AND LIMITED ACCESS PLAN FOR SR 205 FROM NE 17TH ST TO NE 15TH ST STATION LN 24444 TO STATION LN 25000 CLARK COUNTY WASHINGTON STATE DEPARTMENT OF TRANSPORTATION OLYMPIA, WASHINGTON

EXHIBIT A

LIMITED ACCESS ESTABLISHED BY THE ASSISTANT SECRETARY OF ENGINEERING AND ORDER ADOPTED JULY 10, 2012

FOR ACCESS THROUGH THE USE OF THE NE 17TH ST AND NE 15TH ST TO SR 205 APPROVED AND ADOPTED MARCH 1, 2018

THIS PLAN SUPERSEDES ALL 200 COLUMBIA RIVER TO ACT AS A BASIS FOR THE DESIGN OF THE LIMITED ACCESS TO SR 205 BASED ON THE BASIS OF THE PLAN SHEETS 24444 TO 25000 STATION LN 24444 TO STATION LN 25000

ACCESS NOTES

TYPE A APPROACH IS AN OFF-ROAD OR UNIMPROVED APPROACH TO A PROPERTY OR STRUCTURE. THIS APPROACH SHALL NOT EXCEED 20 FEET IN WIDTH AND 10 FEET IN DEPTH. THE APPROACH SHALL NOT EXCEED 10 FEET IN DEPTH AND 10 FEET IN WIDTH.

TYPE B APPROACH IS AN OFF-ROAD OR UNIMPROVED APPROACH TO A PROPERTY OR STRUCTURE. THIS APPROACH SHALL NOT EXCEED 20 FEET IN WIDTH AND 10 FEET IN DEPTH. THE APPROACH SHALL NOT EXCEED 10 FEET IN DEPTH AND 10 FEET IN WIDTH.

ALL PLANS ARE SUBJECT TO CHANGE WITHOUT NOTICE. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE PLANS OR FOR ANY DAMAGE TO PROPERTY OR PERSONS ARISING FROM THE USE OF THE PLANS. THE USER OF THE PLANS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER OF THE PLANS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

WASHINGTON STATE ATTORNEY GENERAL

January 27, 2016 - 1:54 PM

Transmittal Letter

Document Uploaded: 1-480743-Respondent's Brief.pdf

Case Name: Mountain View Place LLC v. State of Washington

Court of Appeals Case Number: 48074-3

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

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A copy of this document has been emailed to the following addresses:

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