

FILED
Court of Appeals
Division III
State of Washington
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No. 36122-5-III

WASHINGTON STATE COURT OF APPEALS, DIVISION III

Lori Van De Graaf,

Respondent,

v.

Rod D. Van De Graaf,

Appellant

ON APPEAL FROM YAKIMA COUNTY SUPERIOR COURT
Yakima County Superior Court No. 11-3-00982-6
(Change to legal description in the decree) (CR 60 May)

REPLY BRIEF RE CR 60-ELLENSBURG PROPERTY ADDITION

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	v-vi
I. INTRODUCTION & GENERAL REPLY.....	1
II. REPLY ARGUMENT	3
A. The 2012 Appraisal Was Not Examined By The Parties Or By The Court At Trial Because The Land Value Was Not Disputed; Nor Was It Not Relied On By Respondent’s Trial Counsel Below in the Rule 60 Proceedings But Was Ignored. The Appraisal Does Not Resolve This Matter Where Respondent’s CR 60 Motion Demonstrated The Different Acquisition History Of Parcel 20588 And Included The Legal Description For Parcel 20587 In The Amended Decree, Both Of Which Must Be Addressed.....	3
B. The Amended Decree Failed To “Correct” The Property Award Because, Among Other Things, Its Operative Judgment States The Legal Description To Parcel <u>20587</u> Which Was Traded By Van de Graafs To Klockner In 2004, Not The Legal Description For Parcel <u>20588</u> Which Klockner Traded To Van de Graafs.....	9
C. Because Parcel No. 20587 Was Acquired By Rod And Rick In Late 2004 By Gift From Their Father After He Agreed To The Trade With Klockner For Parcel No. 20588, It Is Not Subject To The Same Community Property Analysis The Trial Court Applied To The Land Acquired Under The Real Estate Contract.....	10
D. Procedure Does Matter -- RAP 7.2(e) And CR 7(b)(1) And Whether Legal Rules Will Be Enforced.....	12

E.	Fees Should Only Be Awarded, If At All, To Rod's Counsel For The Violations Below In Bringing The Underlying Motions.....	15
III.	CONCLUSION.....	18

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Statutes and Court Rules	
CR 11	17
CR 60	passim
CR 60(a).....	1, 13
CR 60(b).....	15, 17
CR 7(b)(1).....	2, 12, 14
RAP 7.2(a)	2
RAP 7.2(e)	1, 12, 13

I. INTRODUCTION & GENERAL REPLY

The primary thrust of the Response (other than to raise distractions) is to essentially argue harmless error, that the addition to the legal property description does not make a difference. That is wrong. Without conceding that is the proper test for whether the change qualifies as a “clerical error” for purposes of CR 60(a), or whether permission was required under RAP 7.2(e), the proposition that it makes no difference is just plain wrong. The change to the Decree and the facts it brought to light make a difference, as shown in the Opening Brief, as to the character and value of the property.

The Reply’s primary points are that the addition of the smaller property, Parcel 20588, makes a material difference for several reasons, most of which were raised by Respondent’s own CR 60 papers below and subsequent motions; and that the contentions as to the appraisal of the Ellensburg property are not a reason for sanction, particularly where the appraisal was never used or relied on by Respondent in the CR 60 motion and hearings below. If the appraisal had been dispositive, Respondent’s counsel would have raised it in the first instance. As explained *infra*, the way the case was tried shows why Rod, at least, had no reason to raise it.

A critical fact raised and documented by Respondent's motion, which cannot be waved away by any arguments related to the appraisal, is that Parcel 20588 was acquired in late 2004 by Rod and Rick as the result of a gift. They received the parcel as the end part of a swap of Van de Graaf Ranch land owned by Dick and Maxine Van de Graaf with land owned by Mr. Klockner. Respondent's documents show they were gifted the Ranch's parcel to be traded to Klockner before the swap was finalized, so that it was they who swapped with Klockner, not the parents. Parcel 20588 was never part of the land purchased under the 1977 real estate contract. Nor did was any of that original land traded for the new parcel. This precludes using the trial court's analysis for characterizing the property as community based on payment of the real estate contract and makes it character separate based on the gift. The later documents raise the issue of valuation.

The straightforward case law and court rules related to the RAP 7.2(a) and CR 7(b)(1) issues are set out in the Opening Brief and will not be repeated here. The Court is respectfully directed to that brief. The issue addressed herein is, when the trial courts fail to follow those rules, as here, whether this Court will enforce them.

Finally, any Response arguments not expressly addressed are not conceded, but are adequately dealt with in the Opening Brief or are irrelevant, and need take up no more time. The unnecessarily personal attacks on party and counsel will not be responded to in kind, which would be inappropriate, but are shown to be inaccurate.

II. REPLY ARGUMENT

A. The 2012 Appraisal Was Not Examined By The Parties Or By The Court At Trial Because The Land Value Was Not Disputed; Nor Was It Not Relied On By Respondent's Trial Counsel Below in the Rule 60 Proceedings But Was Ignored. The Appraisal Does Not Resolve This Matter Where Respondent's CR 60 Motion Demonstrated The Different Acquisition History Of Parcel 20588 And Included The Legal Description For Parcel 20587 In The Amended Decree, Both Of Which Must Be Addressed.

At a substantive level as to the property at issue, Parcel 20588, there has been, at minimum, a series of errors by Lori's counsel and, as the facts have come to light, the resulting revelation of a more complicated picture of the property than earlier believed, facts which materially affect the property division and any award of Parcel 20588.

It is clear that no one – neither the parties, their counsel, nor the judge, paid attention to or relied on the 2012 appraisal at trial. The appraisal was about setting the value for that land. Neither party

disputed the valuation number, so no one had a need to look carefully at the appraisal, which was taken as a given when both the present trial counsel took over the case months after the appraisal was completed, four and a half years before trial was eventually held after numerous delays by Lori. Even if trial counsel had reviewed the appraisal in any detail, they would not have learned anything about the acquisition of Parcel 20588 after completion of the real estate contract for the large parcel without seeing the documents that Rick Van de Graaf provided only in March, 2018. CP 236-240. They show the acquisition of 20588 after completion of the contract for the large parcel. When examined with the information from Rod Van de Graaf's declaration (CP 195-201), the only reasonable explanation is the property was acquired by Rod and Rick by a trade arranged by their father Dick in which the property given up was gifted to them in November or December, 2004.

The trial's focus on the Ellensburg land was as to its characterization as community or separate and the 1977 real estate contract by which the sons bought the property from their parents, as discussed in the Opening Brief at pp. 10, 21-22. That contract was entered into eight years before the marriage, so the property

presumptively was Rod's separate property, as discussed in the opening brief in the underlying divorce appeal No. 35133-5-III. *See* OB (No. 35133-5-III), pp. 41-44. The trial court nevertheless characterized it as community property on the rationale that most of the payments were made during the marriage, ignoring the initial acquisition status and also the fact that no community resources were required to make the payments, which were made from the income the land itself generated. *See id.* But as pointed out in the Opening Brief herein, that as Rod argued below, even if that rationale were affirmed, it could not apply to Parcel 20588 which was acquired *after* contract was paid for. Opening Brief, pp. 22-23. Moreover, as shown *infra*, 20588 appears to have been acquired by Rod and Rick from their father Dick Van de Graaf as a gift to facilitate the trade, making it separate property, not community.

While the 2012 appraisal does identify two parcels, the fact it also included two separate legal descriptions and that Respondent's counsel failed to identify a second parcel or include the legal description for Parcel 20588 in the final orders confirms he did not rely on the appraisal or think it was material after the November 17 ruling.

Nor did Lori's trial counsel rely on the appraisal for any of the CR 60 proceedings. This is confirmed by the lack of any reference to the appraisal in Lori's papers or at the two hearings by counsel or the trial court. It is also confirmed by Lori's submission of Rick Van de Graaf's declaration for the CR 60 motion which revealed the different history of Parcel 20588.¹ His declaration and that history would have been unnecessary if the appraisal was definitive.

Rick's declaration attached the quit claim deeds for the 2004 land swap that acquired the adjacent Parcel 20588 to Rod and Rick's 333-acre parcel. CP 236-240, attached as App. B, pp. B-2-B-6. Since, as Rod explained, it was Rick who had the copies of the quit claim deeds which showed the different history of the parcels and the acquisition of 20588 *after* the real estate contract was paid off,

¹ The text of Rick's declaration claiming that the original parcel was some 343 acres and that some "9.52 acres that were traded for 6.58 acres out of the original 343 acres" is called into question by the Kittitas County Assessor's printout attached to Rod's declaration which states that Parcel 20587 is "Acres 3.11". None of the other documents specify the acreage for 20587. Since there is no question the swap was Parcel 20587 for parcel 20588, it was, per the auditor, 3.11 Van de Graaf acres to Klockner for the 6.86 Klockner acres to Van de Graafs. The Kittitas auditor believes that the large parcel, number 835436, is 333.09 acres per its print-out attached to Rod's declaration. CP 199. Moreover, the 333-acre parcel's legal description accords with the legal description in the real estate contract and the 2004 statutory warranty fulfillment deed, Ex. 11 at trial, attached to the Opening Brief at App. A-9-10.

and did not provide them to Lori for trial (CP 196, ¶3²), Rod's counsel was not alerted to the different history of Parcel 20588.

The trade apparently was orchestrated by their father Dick Van de Graaf using a piece of Van de Graaf Ranches property land. Klockner's typed memo says, "Dick, This exchange is agreed based on our agreement the properties in question are owned free and clear by each of us, with no lien attached." CP 236, App. B p. B-2.³ The map shows that large land holding VDG Ranch property was contiguous to Klockner's (*see* map of the properties, CP 198, attached at p. B-1),⁴ and included the small piece of land Klockner

² "All these documents were in Rick's possession and are dated in November/December 2004. None were presented to the Court at trial. Neither Rick nor Lori explain why not. These documents were not in my possession."

³ As Rod noted, the handwriting of someone hand-rote Rod's and Rick's names over their father's typed name.

⁴ The only explanation that makes sense of the documents supplied by Rick which write over Dick Van de Graaf's name to put in Rod's and Rick's, is that Dick arranged a trade with Mr. Klockner in October and early November 2004, then after Klockner agreed to swap for Parcel 20587 on November 6, 2004, Dick transferred or gifted to his sons the land to be traded to Klockner. Rod and Rick signed the final documents over a month later. Klockner wanted to use that 3.11 acre parcel for buildings (see CP 200, Kittitas County assessor print-out for parcel 20587 showing both the acreage and \$135,000 of improvements on that parcel). Then, after the initial paperwork had been done (CP 237-240) and Klockner had written his November 6, 2004, memo to Dick (CP 236), Dick gave the 3.11 acres of Parcel 20587 (which he had committed to trade to Klockner for Parcel 20588) to his sons. Compare CP 236 (Klockner memo originally addressed to Dick Van de Graaf) and CP 238 (Klockner's quit claim deed which he dated November 6, 2004 and is made out to Dick Van de Graaf) and CP 237 & 239-241, quit claim and excise tax affidavits executed by Van de Graafs on December 15, 2004).

wanted to build on. That was the land that was traded, not a piece of what Rod and Rick had just finished purchasing in April, 2004.

So while Respondent has an argument that the correction of the Amended Decree amounts to a correction of a clerical error, when the facts are peeled back, that “correction” itself is material because it changes the property division for the reasons listed *supra*, as well as for the increases in value attested to by Lori’s November sworn statement on the excise tax affidavit Rod was ordered to sign valuing Parcel 20588 at \$654,000, CP 191, discussed in the Opening Brief at pp. 1, 15-16, 21-23, 26-28.⁵

Now that Pandora’s box has been opened, Respondent has to take the bitter with the sweet from opening that box, and the consequences flowing from it have to be addressed, not swept under

⁵ Lori’s trial counsel has since then submitted his own declaration and materials now purporting to allege Parcel 20588 is valued at \$5,750, among other changes from what was originally proffered to the trial court commissioner in December 2018. See App. B., pp. B-27-28. However, as pointed out in Rod’s reply materials below filed February 8, 2019 (App. B. pp. 18-23 hereto), the newly-proffered excise tax affidavit specifying the \$5,750 valuation is not signed by anyone, so there is no one who can represent that value. The only testimony in this record of the parcel’s current value is Lori’s sworn affidavit that it is worth \$654,000. Either one is a material change from the original property division since as the Opening Brief points out, the Amended Decree values the 333-acre parcel at the full \$690,000.

Counsel was just apprised late on February 25 that the trial court commissioner denied Rod’s motion to reconsider on February 22 and has, in fact, ordered the proffered form from Lori’s counsel be signed by the clerk, despite the undisputed inaccuracies.

the rug. They can best be addressed on a remand for a new property division when the underlying divorce appeal is reversed. But even if the underlying appeal was denied as to the property division, this Amended Decree would still have to be vacated and remanded to address at least three material issues: 1) address in the first instance the character of the property as separate or community given its separate acquisition history which means it cannot be characterized on the same rationale as the 333-acres; 2) address how this omitted parcel will be titled following its characterization – either Rod’s sole separate property, or held as tenants in common if community property; and 3) vacate the legal description in the Amended Decree which in fact awards Lori Parcel 20587, which belongs to Klockner.

B. The Amended Decree Failed To “Correct” The Property Award Because, Among Other Things, Its Operative Judgment States The Legal Description To Parcel 20587 Which Was Traded By Van de Graafs To Klockner In 2004, Not The Legal Description For Parcel 20588 Which Klockner Traded To Van de Graafs.

Rick Van de Graaf’s declaration documents the problem by providing the correct legal descriptions for the traded parcels.

The Amended Decree’s real property judgment specifies the legal description for Parcel 20587, the parcel acquired by Mr.

Klockner in 2004 in the trade of properties. *Compare*, CP 237 and CP 88, attached at pp. B-3 and B-8. CP 237 is the quit claim deed from the Van de Graafs to Klockner showing the legal description of what Klockner received, Parcel 20587. CP 88, the referenced appendix of real property awarded in the Amended Decree, shows the same legal description as Mr. Klockner received was granted to Lori Van de Graaf in the Amended Decree's actual judgment, albeit misnamed as Parcel "20588". It is the legal description that controls, and the legal description in the Amended Decree's real property judgment is Klockner's parcel.

This shows that whatever was done in granting amendment to the Decree, it did not actually correct any claimed error in form but, if anything, exacerbated it.

C. Because Parcel No. 20587 Was Acquired By Rod And Rick In Late 2004 By Gift From Their Father After He Agreed To The Trade With Klockner For Parcel No. 20588, It Is Not Subject To The Same Community Property Analysis The Trial Court Applied To The Land Acquired Under The Real Estate Contract.

The documents from Rick Van de Graaf's declaration at CP 236-240 (at pp. B-2-5), together with the map at B-1, showing the

location of the parcels, help to understand the history of Parcels 20587 and 20588.

They show that the parcel Mr. Klockner received from the Van de Graafs in 2004 was not part of the large parcel Rick and Rod bought from their parents by real estate contract. That is seen by reviewing the legal description in the real estate contract and that of Parcel 20587, which is nowhere included in the contract. Rather, all those documents at CP 236-240, including the changes writing over Dick Van de Graaf's name and substituting Rick's and Rod's, shows the scenario orchestrated by their father: Dick arranged the trade of parcels with Mr. Klockner in 2004 after the large parcel was paid off, then later transferred 20587 to them, apparently as a gift as there is no known contract or transfer document to Rod and Rick.

Just as important, the associated memo from Mr. Klockner with the quit claim deeds and excise tax affidavits, along with the map at B-1, demonstrate that the parcel Mr. Klockner received from the Van de Graafs, Parcel 20587, was *not* part of the large parcel Rick and Rod bought from their parents by real estate contract, which is clear from reviewing the legal description in that contract, which does not contain the legal for Parcel 20587. Rather, the

changes to all those documents at CP 236-240 which delete Dick Van de Graaf's name and substitute Rick and Rod's shows the most likely scenario as orchestrated by their father.

As pointed out in the Opening Brief, property received as a gift to the two sons would be separate property, meaning that when this parcel is found to not have been distributed, it is Rod's sole property in his name and not subject to partition. Opening Brief, p. 25 & fn. 6 and cases cited therein. The only time undistributed property is subject to partition between ex-spouses is when that property was community property. *Id.* The only way that such separate property becomes subject to the dissolution court is if the overall property division is vacated and a new property division is done.

D. Procedure Does Matter -- RAP 7.2(e) And CR 7(b)(1) And Whether Legal Rules Will Be Enforced.

In many ways, this appeal (and the underlying divorce appeal) is about whether legal rules and forms have any meaning or will be followed. The acquiescence of the trial judge and commissioner below have meant that neither the substantive or procedural legal rules, nor the legal forms matter. As long as a

avored local lawyer is presenting the proposed order, it will be signed, no matter how far off the mark. This Court has to remind the local Bench that there are limits to overlooking the procedural and substantive legal requirements that all parties are supposed to meet.

Vacation of the Amended Decree and of the underlying May 4 order is required because, fundamentally, the Amended Decree is incorrect as to the real property transferred. It did not, in fact, correct a “clerical error” but in fact, materially affected the judgment on review. The fact of the dispute and debate about the property in question shows how it is not, in fact a clerical error, but affects the overall property division, as discussed *supra* and in the Opening Brief.

Reversal is thus required because the proposed order changing the judgment was entered before obtaining permission from this Court, in violation of RAP 7.2(e). The appellate rule *was* applicable both on its own and under the text of CR 60(a) for clerical errors, but was brushed aside by Judge McCarthy. He is not the first; trial courts need to be reminded to follow that rule. Rules exist for a reason. If the trial courts and trial counsel can ignore the rules, then there is no law. The “law” becomes whatever ruling the judge

or commissioner decides to bestow on the favored local counsel at the moment, which bodes particularly ill for counsel who through no fault of their own or of their clients are from out of town. That is not equity, but lawlessness.

Similarly, reversal is also required for the reasons set out in the Opening Brief due to the defects in Respondent's trial counsel's pleadings which regularly failed to comply with the specificity requirements of CR 7(b)(1), seeking to have Rod's counsel do his work by clarifying what the issues most likely were about, but at the same time failing or refusing to provide notice of the arguments and evidence supporting the requested relief.

Finally, in sum, the errors here were not harmless. Adding the six+ acres to the parcel specified in the Final Orders materially changes the property division made by Judge McCarthy right after the 2016 trial in three fundamental ways. *First*, it increases the acreage, which gave the legal description of the 333-acre parcel only. *Second*, it adds thousands of dollars to the property division, no matter which excise tax affidavit proffered by Lori – each of which was sworn to be true and accurate under penalty of perjury – is accepted, the one that declared the parcel worth \$654,000

submitted in December, 2018, or the one declaring it worth \$5,750 submitted in January 2019.

Third, the history of this additional parcel as shown by the documents submitted by Lori's business partner Rick Van de Graaf, who apparently alone had them, as well as by Rod Van de Graaf, is that it was *not* part of the original 333 acres bought under the 1977 real estate contract from their parents, but was received in December 2004, *after* that contract was paid off in April 2004. It therefore is not subject to the same analysis for community or separate character as is the original parcel and needs to be properly characterized, valued, and retained by Rod as his separate, undistributed property, or subject to distribution if there is a new overall property division.

E. Fees Should Only Be Awarded, If At All, To Rod's Counsel For The Violations Below In Bringing The Underlying Motions.

The Response asserts misconduct by Rod's counsel on the basis that the smaller Parcel 20588, was before the trial court due to references in the 2012 appraisal and, essentially, that "everyone knew" that it was included in the property division such that his objections to the CR 60(b) motion was improper. That is inaccurate

and ignores the fact of how the case was tried, and how the CR 60 motion was brought by Lori's counsel, which is set out in Section A, *supra*. Those points resolve the seeming improprieties that Lori's appellate counsel complains of because they show that Lori's trial counsel either ignored the appraisal or treated it as immaterial.

First, Lori's trial counsel never raised those references to the court at trial. Review of the transcript shows that the property was discussed by Rod at RP 502-504, but never cross-examined on the appraisal, or whether there were different parcels. Whatever the references in the appraisal, Lori's counsel did not raise that question as to two parcel numbers at trial.

Second, neither Parcel 20588 nor its legal description were referenced in Judge McCarthy's detailed letter ruling of November 17, 2016. *See* CP 115-116 (discussing real property awarded). Nor was Parcel 20588 referenced by Lori's trial counsel when drafting the final orders, nor in any of the post-trial hearings or arguments, as the legal descriptions show, which is why the CR 60 motion was later brought.

Third, appraisal references were not raised or discussed by Lori's counsel in any of the motions or hearings before the trial court

on the CR 60 motions in 2018. Not once did Lori's trial counsel indicate any sort of reliance on the appraisal as a basis for his initial motion heard on May 4, 2018, nor at the hearing for entry of the order on August 24, 2018, as the short transcripts show. Nor could he have relied on it and also filed his CR 60(b) motion consistent with CR 11, since his motion was filed under CR 60(b) including the subsections invoking mistakes and inadvertence, and newly discovered evidence. *See* CP 1-2. Whatever else Lori's motion papers and arguments did or failed to do at the hearing, they did not rely on any references in the appraisal. Nor were appraisal references raised in any of the later pleadings or hearings seeking to get execution of a quit claim deed in December 2018 and January, 2019, including Lori's trial counsel's final amended declaration of January 30, 2019. CP __ - __, App. B., pp. 27. If Lori's trial counsel knew of the references to a second parcel in the appraisal, his actions show he believed them to be immaterial and irrelevant. These circumstances do not constitute misconduct by Rod or his counsel. If any fees should be awarded, they should be to Rod for the unnecessary proceedings caused by Respondent's errors, including using the legal description for Parcel 20587 in the Amended Decree.

III. CONCLUSION

Appellant Rod Van de Graaf respectfully asks the Court to vacate the May 4, 2018, order, and the August 24 and December 12, 2018, and subsequent orders based on them, and remand with the merits appeal for a new property division, for the reasons given above. To the extent the Court determines there was any impropriety in bringing the underlying motions in the trial court, intentional or not, Appellant requests an award of fees for this proceeding here and below, none of which should have been necessary.

Respectfully submitted this 26th day of February, 2019.

CARNEY BADLEY SPELLMAN, P.S.

By s/Gregory M. Miller

Gregory M. Miller, WSBA No. 14459

Jason W. Anderson, WSBA No. 30512

Attorneys for Rod D. Van De Graaf

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

David Hazel Hazel & Hazel 1420 Summitview Yakima, WA 98902 P: (509) 453-9181 F: (509) 457-3756 E: daveh@davidhazel.com	<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> email <input checked="" type="checkbox"/> Other – via Portal
Catherine W. Smith Valerie A. Villacin Smith Goodfriend, PS 1619 8 th Avenue North Seattle, WA 98109 P: (206) 624-0974 F: (206) 624-0809 E: cate@washingtonappeals.com valerie@washingtonappeals.com	<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> email <input checked="" type="checkbox"/> Other – via Portal
Joanne Rick Halstead & Comins Rick PS PO Box 511 ** 1221 Meade Ave Prosser, WA 99350 P: 509-786-2200; 786-2211 F: 509-786-1128 E: jgcrick@gmail.com	<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> email <input checked="" type="checkbox"/> Other – via Portal

DATED this 26th day of February, 2019.

/s/ Elizabeth C. Fuhrmann
 Elizabeth C. Fuhrmann, PLS, Legal
 Assistant/Paralegal to Greg Miller

APPENDIX

Page(s)

Kittitas County Map of Parcels at Issue,
No. 835436, No. 20587, No. 20588: CP
23 (appended to May 3, 2018 objection to
CR 60 motion); also at CP 224 (Ex. 1 to
5/14/18 Declaration of Rod Van de Graaf).....B-1

Nov. 6, 2004 cover memo from Mr.
Klockner referencing and quit claim deeds
and excise tax affidavits from Van de
Graafs to-from Kerry Klockner, which
show trade of parcels 20587 and 20588 in
December, 2004, attached to Declaration
of Rick Van de Graaf (CP236),B-2

Quit claim deed from Van de Graafs to
Klockner showing the legal description of
what Klockner received, parcel No. 20587,
which is the same legal description
granted to Lori Van de Graaf in the
Amended Decree’s actual judgment (CP
237)B-3

Quit claim deed from Klockner to Van de
Graafs showing the legal description of
property Van de Graafs received, parcel
No. 20588 (CP238).....B-4

Excise tax affidavits for property trade
between Klockner and Van de Graafs in
December, 2004 (CP 239-240) B-5-6

Amended Decree’s Summary of Real
Property Judgment using legal description
for Parcel No. 20588, and section 7
referring to appendix for real property
awards. (CP 80-81) B-7-8

Amended Decree’s actual real property judgment specifying real property being transferred to Lori Van de Graaf and using the legal description for Parcel No. 20587 in No. 12 (CP 88).....B-9

Declaration of Rod Van de Graaf with attachments (CP195-201) B-10-16

Response to Petitioners Reply (Respondent’s Resp nse to Petitioner’s Reply re Court’s 01/18/2019 Order on Respondent’s Motion for Reconsideration and Declaration of Counsel), filed Feb. 8, 2019 (CP ___ - ___, sub no. 821) B-17-31

Kittitas County COMPAS Map

#086033 VANDEGRAAF RANCHES 157a

VANDEGRAAF RANCHES #636033 636a.

#20587 →

3-11a

KLOCKNER

#379433

222.7a

NE

VANDEGRAAF RANCHES

"Ellensburg Property"

#835436

333a

NW

#20588

686a

ction 15
on 14

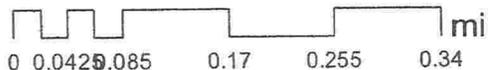
Date: 3/21/2018

1 inch = 752 feet

Relative Scale 1:9,028

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11/6/04

Rick, & Rod,

Here is a copy of the quit claim and excise affidavits I will have recorded to transfer ownership of those parcels we have agreed to exchange. This exchange is agreed based on our agreement the properties in question are owned free and clear by each of us, with no liens attached.

Please sign the enclosed quit claim deed and excise tax affidavit and supplement and return to me. I will have both the quit claims recorded in Kittitas County and send copies to you as soon as possible.

Sincerely,

Kerry Klockner

Kerry Klockner,

I

AFTER RECORDING MAIL TO:

Name ^{KK} ~~Richard~~ ^{KK} Van De Graaf = Rod Van De Graaf

Address 1691 Midvale Rd

City, State, Zip Sunnyside, Wa 98944

Filed for Record at Request of:

^{KK} RICK QUIT CLAIM DEED

THE GRANTOR(S) ~~Richard~~ ^{KK} Van De Graaf + Rod Van De Graaf

for and in consideration of _____

conveys and quit claims to KERRY KLOCKNER

the following described real estate, situated in the County of Kittitas

state of Washington, together with all after acquired title of the grantor(s) therein.

Van De Graf to Klockner

That portion of the East 1/2 of the Northwest 1/4 lying westerly of the Kittitas Reclamation District Lateral N.B. 15.2 - 1.9 - 2.1 in section 14, Township 18 North, Range 18 East, W.M., in the county of Kittitas, state of Washington.

Assessor's Property Tax Parcel/Account Number: 18-18-14010-0002

Dated: Dec 15 2004

By Rick Van de Graaf By _____

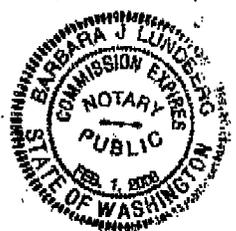
By Rod Van de Graaf By _____

STATE OF Washington
COUNTY OF Yakima

I certify that I know or have satisfactory evidence that Rick Vandegraaf + Rod Vandegraaf (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he/she/they) (is/are) authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party(ies) for the uses and purposes mentioned in this instrument.

Dated: December 15, 2004 Barbara Lundberg

Notary Public in and for the state of Washington
My appointment expires: 2-1-2008



LPB-12(c), 7/97

AFTER RECORDING MAIL TO:

Name Kerry Klockner

Address 16512-107th St NE

City, State, Zip Bothell, WA 98011

Filed for Record at Request of:

QUIT CLAIM DEED

THE GRANTOR(S) Kerry Klockner

for and in consideration of
conveys and quit claims to Richard Van De Graaf & Rod VanDeGraaf
the following described real estate, situated in the County of Kittitas, state of Washington,
together with all after acquired title of the grantor(s) therein:

Klockner to Van De Graaf

That portion of the Southwest Quarter of the Northwest Quarter lying Southeasterly of the North Branch canal of Kittitas Reclamation District in Section 14, Township 18 North, Range 18 East, W.M. in the county of Kittitas, state of Washington.

Assessor's Property Tax Parcel/Account Number: 18-18-14020-0002

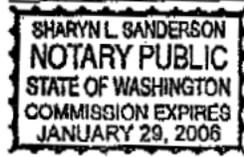
Dated: Nov 6 2004

X _____
K _____

STATE OF Washington
COUNTY OF Snohomish

I certify that I know or have satisfactory evidence that Kerry Klockner
(is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument and
acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: _____
Sharyn Sanderson
Notary Public in and for the state of Washington
My appointment expires: 1-29-06



LPB-12(i) 7/97

REAL ESTATE EXCISE TAX AFFIDAVIT

This form is your receipt when stamped by cashier.

TYPE OR PRINT
BACK PAGE

CHAPTER 84.45 RCW - CHAPTER 458-61 WAC
FOR USE AT COUNTY TREASURER'S OFFICE

(Use Form No. 84-0001B for Reporting Transfers of Controlling Interest of Entity Ownership to the Department of Revenue)
THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS 1-7 ARE FULLY COMPLETED

SELLER GRANTOR	Name <u>KERRY KLOCKNER</u>	BUYER GRANTEE	Name <u>Richard van De Graaf</u> <u>Rod Van De Graaf</u>
	Street <u>16502 107 PL NIS</u>		Street <u>1691 Middle Rd</u>
	City/State/Zip <u>Bothell Wa 98011</u>		City/State/Zip <u>Sunnyside Wa 98944</u>
ADDRESS TO SEND ALL PROPERTY TAX RELATED CORRESPONDENCE		ALL TAX PARCEL NUMBERS	
Name _____		COUNTY TREASURER PLACE ASSESSED VALUE IF TAX EXEMPT	
Street _____		_____	
City/State/Zip _____		_____	

LEGAL DESCRIPTION OF PROPERTY SITUATED IN UNINCORPORATED _____ COUNTY OR IN CITY OF _____
 Street Address (if property is improved): _____

That portion of the Southwest Quarter of the NORTHWEST Quarter Lying Southeasterly of the NORTH Branch canal of KITTITAS Reclamation District in Section 14, Township 18 NORTH, Range 18 East, W.M., IN THE COUNTY OF Kittitas, state of Washington

5 Is this property currently:

Classified or designated as forest land? Chapter 84.33 RCW	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Classified as current use land (open space, farm and agricultural, or timber)? Chapter 84.34 RCW	<input type="checkbox"/>		<input type="checkbox"/>	
Exempt from property tax as a nonprofit organization? Chapter 84.36 RCW Seller's Exempt Reg. No. _____	<input type="checkbox"/>		<input type="checkbox"/>	
Receiving special valuation as historic property? Chapter 84.26 RCW	<input type="checkbox"/>		<input type="checkbox"/>	

Property Type: land only land with new building
 land with previously used building land with mobile home
 timber only building only

Principal Use: Apt. (4+ unit) residential
 timber agricultural commercial/industrial
 other

6 Description of personal property included in gross selling price, both tangible (eg. furniture, equipment, etc.) or intangible (eg. goodwill, agreement not to compete, etc.)

If exemption claimed, list WAC number and explanation.
 WAC No. (Sec/Sub) _____
 Explanation trade

Type of Document Quit Claim Deed
 Date of Document _____

Gross Selling Price \$ _____
 Personal Property (deduct) \$ _____
 Taxable Selling Price \$ _____
 Excise Tax: State \$ _____
 Local \$ _____
 Delinquent Interest: State \$ _____
 Local \$ _____
 Delinquent Penalty \$ _____
 Total Due \$ _____

A MINIMUM OF \$2.00 IS DUE AS A PROCESSING FEE AND TAX.

8 (1) NOTICE OF CONTINUANCE (RCW 84.33 OR RCW 84.34)
 If the new owner(s) of land that is classified or designated as current use or forest land wish to continue the classification or designation of such land, the new owner(s) must sign below. If the new owner(s) do not desire to continue such classification or designation, all compensating or additional tax calculated pursuant to RCW 84.33.120 and 140 or RCW 84.34.108 shall be due and payable by the seller or transferor at the time of sale. The county assessor must determine if the land transferred qualifies to continue classification or designation and must so indicate below. Signatures do not necessarily mean the land will remain in classification or designation. If it no longer qualifies, it will be removed and the compensating taxes will be applied. All new owners must sign.

This land does does not qualify for continuance.

Date _____
 DEPUTY ASSESSOR

(2) NOTICE OF COMPLIANCE (Chapter 84.26 RCW)
 If the new owner(s) of property with special valuation as historic property wish to continue this special valuation the new owner(s) must sign below. If the new owner(s) do not desire to continue such special valuation, all additional tax calculated pursuant to Chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE _____

9 AFFIDAVIT
 I Certify Under Penalty of Perjury Under The Laws of The State of Washington That The Foregoing Is True And Correct. (See back page of this form).

Signature of Grantor/Agent _____
 Name (print) _____
 Date and Place of Signing: _____
 Signature of Grantee/Agent Rod Van de Graaf
 Name (print) Rod Van de Graaf
 Date & Place of Signing: 12-15-04 Sunnyside

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and



PLEASE TYPE OR PRINT
SEE BACK PAGE

REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW - CHAPTER 458-61 WAC
FOR USE AT COUNTY TREASURER'S OFFICE

This form is your receipt
when stamped by cashier.

(Use Form No. 84-0001B for Reporting Transfers of Controlling Interest of Entity Ownership to the Department of Revenue)
THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS 1-7 ARE FULLY COMPLETED

SELLER GRANTOR	Name <u>Richard Van De Graaf</u>	BUYER GRANTEE	Name <u>Kerry Klockner</u>
	Street <u>1691 Midvale Rd</u>		Street <u>16512 107th NE</u>
	City/State/Zip <u>Sunnyside WA 98944</u>		City/State/Zip <u>Bothell WA 98011</u>
3 ADDRESS TO SEND ALL PROPERTY TAX RELATED CORRESPONDENCE		ALL TAX PARCEL NUMBERS	
Name _____		COUNTY TREASURER PLACE ASSESSED VALUE IF TAX EXEMPT	
Street _____		_____	
City/State/Zip _____		_____	

4 LEGAL DESCRIPTION OF PROPERTY SITUATED IN UNINCORPORATED _____ COUNTY OR IN CITY OF _____
 Street Address (if property is improved): _____

That portion of the East 1/2 of the Northwest 1/4 lying westerly of the KITTITAS Reclamation District Lateral N.B. 15.2 - 1.9 - 2. 1 in section 14, Township 18 NORTH, Range 18 East, W.M., in the county of Kittitas, state of Washington

5 Is this property currently:

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>
Classified or designated as forest land? Chapter 84.33 RCW	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Classified as current use land (open space, farm and agricultural, or timber)? Chapter 84.34 RCW	
<input type="checkbox"/>	<input type="checkbox"/>
Exempt from property tax as a nonprofit organization? Chapter 84.36 RCW	
<input type="checkbox"/>	<input type="checkbox"/>
Seller's Exempt Reg. No. _____	
<input type="checkbox"/>	<input type="checkbox"/>
Receiving special valuation as historic property? Chapter 84.26 RCW	
<input type="checkbox"/>	<input type="checkbox"/>

Property Type: land only land with new building
 land with previously used building land with mobile home
 timber only building only

Principal Use: Apt. (4+ unit) residential
 timber agricultural commercial/industrial
 other

6 Description of personal property included in gross selling price, both tangible (eg. furniture, equipment, etc.) or intangible (eg. goodwill, agreement not to compete, etc.)

If exemption claimed, list WAC number and explanation.
 WAC No. (Sec/Sub) _____
 Explanation TRADE

Type of Document Quit Claim Deed
 Date of Document December 15, 2004

Gross Selling Price \$ _____
 Personal Property (deduct) \$ _____
 Taxable Selling Price \$ _____
 Excise Tax: State \$ _____
 Local \$ _____
 Delinquent Interest: State \$ _____
 Local \$ _____
 Delinquent Penalty \$ _____
 Total Due \$ _____

A MINIMUM OF \$2.00 IS DUE AS A PROCESSING FEE AND TAX.

8 (1) NOTICE OF CONTINUANCE (RCW 84.33 OR RCW 84.34)
 If the new owner(s) of land that is classified or designated as current use or forest land wish to continue the classification or designation of such land, the new owner(s) must sign below. If the new owner(s) do not desire to continue such classification or designation, all compensating or additional tax calculated pursuant to RCW 84.33.120 and 140 or RCW 84.34.108 shall be due and payable by the seller or transferor at the time of sale. The county assessor must determine if the land transferred qualifies to continue classification or designation and must so indicate below. Signatures do not necessarily mean the land will remain in classification or designation. If it no longer qualifies, it will be removed and the compensating taxes will be applied. All new owners must sign.

This land does does not qualify for continuance.

Date _____ DEPUTY ASSESSOR

(2) NOTICE OF COMPLIANCE (Chapter 84.26 RCW)
 If the new owner(s) of property with special valuation as historic property wish to continue this special valuation the new owner(s) must sign below. If the new owner(s) do not desire to continue such special valuation, all additional tax calculated pursuant to Chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE
Richard Van de Graaf 12/14/04
Red Van de Graaf 12-15-04

7 AFFIDAVIT
 I Certify Under Penalty of Perjury Under The Laws of The State of Washington That The Foregoing Is True And Correct. (See back page of this form).

Signature of Grantor/Agent _____
 Name (print) _____
 Date and Place of Signing: _____
 Signature of Grantee/Agent Richard Van de Graaf
 Name (print) Red Van de Graaf
 Date & Place of Signing: 12-15-04 Sunnyside

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A 20.020 (1C)).

1 The **interest rate** is 12% commencing 8/17/17 unless another amount is listed below.

- 2
3 7. **Real Property** (*summarized in section 2 above*) Petitioner to vacate family home on 5/1/17.

4 The real property is divided as listed in Exhibit A & B. This Exhibit is attached and made
5 part of this Order.

6
7 8. **Petitioner's Personal Property**

The personal property listed in Exhibit B is given to Petitioner as his/her separate
7 property. This Exhibit is attached and made part of this Order.

8
9 9. **Respondent's Personal Property**

The personal property listed in Exhibit A is given to Respondent as his/her separate
9 property. This Exhibit is attached and made part of this Order.

10
11 10. **Petitioner's Debt**

The Petitioner must pay all debts s/he has incurred (made) since the date of separation,
12 unless the court makes a different order about a specific debt below.

The Petitioner must pay the debts listed in Exhibit D. This Exhibit is attached and made
13 part of this Order.

14
15 11. **Respondent's Debt**

The Respondent must pay all debts s/he has incurred (made) since the date of separation,
16 unless the court makes a different order about a specific debt below.

The Respondent must pay the debts listed in Exhibit C. This Exhibit is attached and
17 made part of this Order.

18
19 12. **Debt Collection**

If one spouse fails to pay a debt as ordered above and the creditor tries to collect the debt
20 from the other spouse, the spouse who was ordered to pay the debt must hold the other
21 spouse harmless from any collection action about the debt. This includes reimbursing the
22 other spouse for any of the debt he/she paid and for attorney fees or costs related to
defending against the collection action.

23
24 13. **Spousal Support**

The Respondent must pay spousal support as follows:

EXHIBIT "B"

- B. Wife shall be awarded as her sole and separate property, free and clear of any claim or interest by Husband, the following items of property:
- (1) Any and all household goods and furnishings now in her possession unless otherwise specifically awarded to husband in Exhibit "A";
 - (2) Her personal effects and clothing;
 - (3) Any and all bank accounts in her name;
 - (4) Any and all life insurance in her name;
 - (5) Her Social Security, pension, retirement and work-related benefits incurred by reason of her employment;
 - (6) Any and all other property not specifically listed but currently in her possession or held in her name.
 - (7) Wife's Chase IRA - Account #:95257906;
 - (8) Wife's Principal Funds- Account #: 19521;
 - (9) Wife's JP Morgan Account ;
 - (10) Wife's Yakima Federal Account;
 - (11) Wife is awarded the UBS Resource Management Account - Account #WI 61413KD, in the amount of \$816,000.00. Husband shall make up any present shortfall needed to restore this account to that balance within 30 days; As of December 21, 2016 the account balance was \$809,621.38 leaving a shortfall of \$6,378.62. Wife is awarded a judgment in this amount;
 - (12) Ellensburg Property - NKA Hungry Junction Road - Parcel No. 20588; Legally Described as follows: That portion of the East ½ of the Northwest 1/4 lying westerly of the Kittitas Reclamation District Lateral N.B. 15.2 - 1.9 - 2.1 in Section 14, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.
 - (13) Ellensburg Property - NKA Hungry Junction Road - Parcel No. 835436; Legally Described as follows: The East ½ of the Northwest 1/4 and the Southwest 1/4 of Section 14, Township 18 North, Range 18, E.W.M.; Except a tract of land situated in the Southeast 1/4 of the Southwest 1/4 of said Section, described as

EXHIBIT 1

- 1 1. I have reviewed the March 2018 Declaration of Rick Van de Graaf and the
2 attachments thereto; I make this declaration in support of my Motion for
3 Reconsideration, that the Court deny Lori's Motion to Vacate the Decree and NOT
4 award my interest in Parcel No. 20588 to her.
- 5 2. Rick's states that the second parcel in question was "traded" for another parcel
6 involving the neighbor, Kerry Klockner. He also attaches copies of deeds, letters and
7 real property excise tax affidavits which have been altered on their face: "Richard Van
8 de Graaf" is stricken and the names "Rick" and "Rod Van de Graff" have been inserted
9 by the handwriting of someone, not identified.
- 10 3. All these documents were in Rick's possession and are dated in November/December
11 2004. None were presented to the Court at trial. Neither Rick nor Lori explain why not.
12 These documents were not in my possession.
- 13 4. The typed letter dated 11/6/04 and attached to Rick's Declaration is originally
14 addressed to "Dick" and signed by Kerry Klockner. The letter states: "...*This exchange*
15 *is agreed based on our agreement the properties in question are owned free and clear*
16 *by each of us, with no liens attached...*" "Dick" is Richard Van de Graaf's nickname;
17 and he is my father.
- 18 5. Rick's declaration about these parcels is contradicted by the Kittitas County Assessors
19 Records available by online Property Search, copies of which are attached hereto as
20 follows:
- 21 6. **EXHIBIT 1:** is a map showing the locations and parcel numbers of the properties at
22 issue. Parcel #835436 is the original 333-acre parcel that was purchased by me and
23 Rick under a real estate contract in 1977 and my share was awarded to Lori by
24 Decree; Parcel #20588 [which is the parcel subject to Lori's motion to vacate] adjoins
25 several parcels owned by Klockner and is juxtaposed to the 333 acre-parcel #835436;
26 Parcel #20587 is surrounded on three sides by large acreages of land owned by Van

1 de Graaf Ranches, Inc.; Parcel #20587 and Parcel #20588 lie on opposite corners
2 from each other, with Klockner's lands in the middle.

3 7. **EXHIBIT 2:** shows the details regarding the original 333-acre parcel #835436, that Lori
4 now holds a 50% ownership interest in this real property.

5 8. **EXHIBIT 3:** shows the details regarding parcel #20587, which Klockner purchased on
6 02/03/05 for \$2304; and the "grantor" identified is Rick and Rod Van de Graaf.

7 9. **EXHIBIT 4:** shows the details regarding parcel #20588, which was purchased by Rick
8 and Rod on 02/03/05 for \$2095; and the "grantor" identified as Kerry Klockner.

9 10. According to the foregoing records, Rick and I own an undivided 100% ownership
10 interest in Parcel #20588 based on a sale and purchase of land with Klockner.

11 11. Parcel #20588 was not part of the "Ellensburg property" that the Court considered at
12 trial, valued and divided by its property division set forth in the November 2016 letter
13 decision and awarded [my half-share] to Lori by Decree.

14 12. Parcel #20588 was an overlooked and undistributed asset; it was not included in the
15 Court's division of property; it should remain titled in my name.

Kittitas County COMPAS Map

#086033 VANDEGRAFF RANCHES 157a

VANDEGRAFF RANCHES #636033 636a.

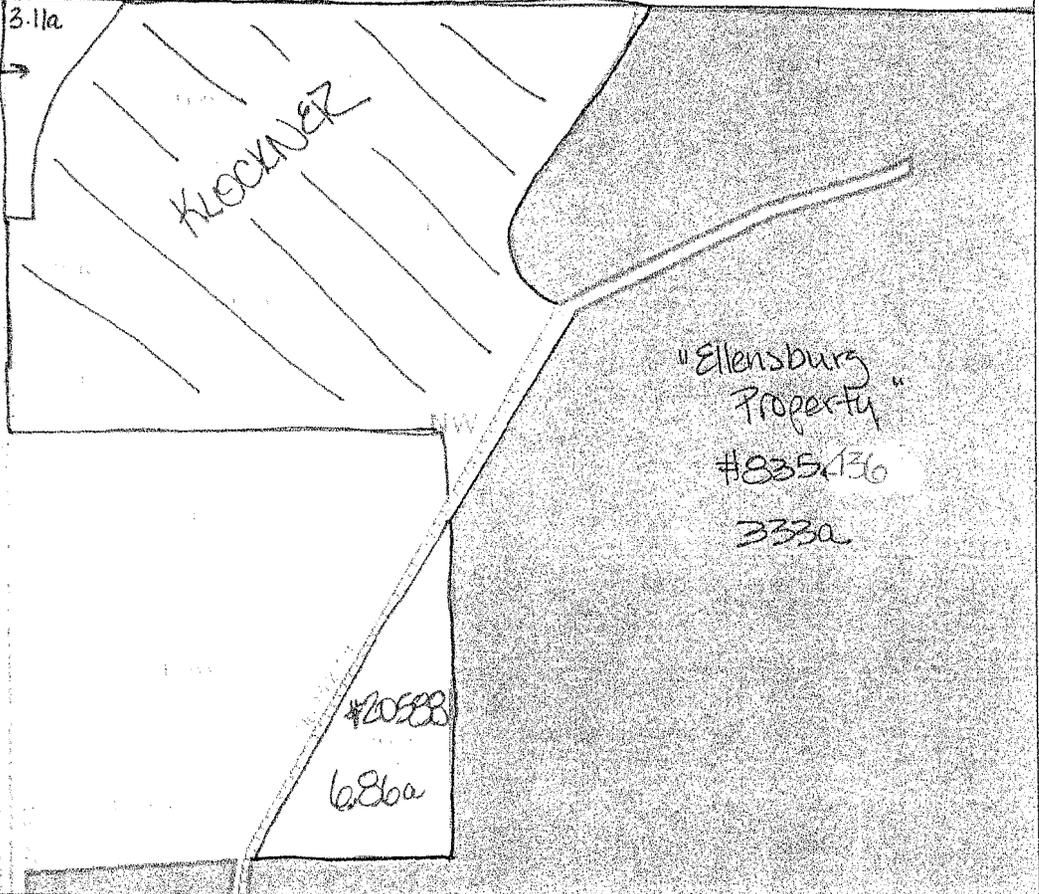
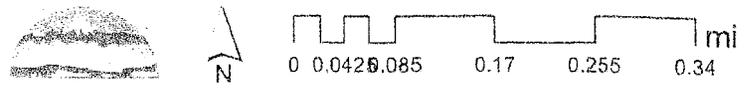


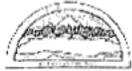
EXHIBIT #1

Date: 3/21/2018

1 inch = 752 feet
Relative Scale 1:9,028

Disclaimer:
 Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.





KITTITAS COUNTY WASHINGTON



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[PAYMENT CART\(0\)](#)

Mike Hougardy
Kittitas County Assessor 205 W 5th Ave Ste 101 Ellensburg WA 98926

[Assessor](#) [Treasurer](#) [Appraisal](#) [MapSifter](#)

Parcel

Parcel#: **835436** Owner Name: VAN DE GRAAF, LORI
 DOR Code: 83 - Resource - Agriculture Current Use Address1:
 Situs: HUNGRY JUNCTION RD ELLENSBURG Address2: 1650 BISHOP ROAD
 Map Number: 18-18-14010-0002 City, State: SUNNYSIDE WA
 Status: Zip: 98944-8444
 Description: ACRES 333.09, CD.#8439-A; SEC. 14; TWP. 18; RGE. 18; W1/2 NE1/4; PTN E1/2 NW1/4; ALL SW1/4 EXC. TAX 1; NW1/4 SE1/4;
 Comment: CG-3/24/05: SEG 9.87@ TO 18-18-14000-0001 PER SEG/BLA, 04 FOR 05

2018 Market Value		2018 Taxable Value		2018 Assessment Data	
Land:	\$784,740	Land:	\$136,260	District:	22 - COR SD401 F02
Improvements:	\$0	Improvements:	\$0		H01 CO COF ST
Permanent Crop:	\$0	Permanent Crop:	\$0	Current Use/DFL:	Yes
Total	\$784,740	Total	\$136,260	Senior/Disability Exemption:	No
				Total Acres:	333.09000

Ownership

Owner's Name
 VAN DE GRAAF, RICK RANDEL
 VAN DE GRAAF, LORI

Ownership %
 50 %
 50 %

Sales History

Sale Date	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
09/20/17	2017-2139	1	2017-2139	VAN DE GRAAF, R.R.& R.D.	VAN DE GRAAF, LORI	\$0

Building Permits

No Building Permits Available

Historical Valuation Info

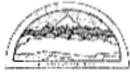
Year	Billed Owner	Land	Impr.	PermCrop	Value	Total	Exempt	Taxable
2018	VAN DE GRAAF, LORI	\$784,740	\$0	\$0	\$784,740	\$0	\$136,260	
2017	VAN DE GRAAF, LORI	\$784,740	\$0	\$0	\$784,740	\$0	\$136,260	
2016	VAN DE GRAAF, R.R.& R.D.	\$784,740	\$0	\$0	\$784,740	\$0	\$132,260	
2015	VAN DE GRAAF, R.R.& R.D.	\$674,670	\$0	\$0	\$674,670	\$0	\$136,260	
2014	VAN DE GRAAF, R.R.& R.D.	\$664,650	\$0	\$0	\$664,650	\$0	\$89,770	

[View Taxes](#)

Parcel Comments

Date Comment

36122-5 re: CR 60 Motion 000199



KITTITAS COUNTY WASHINGTON



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[PAYMENT CART\(0\)](#)

Mike Hougardy
Kittitas County Assessor 205 W 5th Ave Ste 101 Ellensburg WA 98926

[Assessor](#) [Treasurer](#) [Appraisal](#) [MapSifter](#)

Parcel

Parcel#: 20587 Owner Name: KLOCKNER, KERRY A KLOCKNER TRUST
 DOR Code: 83 - Resource - Agriculture Current Use Address1:
 Situs: 1210 KERR RD ELLENSBURG Address2: 16512 107TH PL NE
 Map Number: 18-18-14000-0001 City, State: BOTHELL WA
 Status: Zip: 98011-4043
 Description: ACRES 3.11; SEC 14, TWP 18, RGE 18; PTN NW1/4 (PARCEL 1, B32/P75)
 Comment: SEG 18-18-14000-0003, -0004, -0005, -0006; (-.01@ PER SURVEY); 06 FOR 07

2018 Market Value		2018 Taxable Value		2018 Assessment Data	
Land:	\$52,660	Land:	\$41,770	District:	22 - COR SD401 F02
Improvements:	\$135,900	Improvements:	\$135,900		H01 CO COF ST
Permanent Crop:	\$0	Permanent Crop:	\$0	Current Use/DFL:	Yes
Total	\$188,560	Total	\$177,670	Senior/Disability Exemption:	No
				Total Acres:	3.11000

Ownership

Owner's Name	Ownership %
KLOCKNER, KERRY A KLOCKNER TRUST	100 %

Sales History

Sale Date	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
02/28/18	2018-347	6	2018-347	KLOCKNER, KERRY	KLOCKNER, KERRY A KLOCKNER TRUST	\$0
02/28/18	2018-350	6	2018-350	KLOCKNER, KERRY	KLOCKNER, KERRY A KLOCKNER TRUST	\$0
02/03/05	2005-274	1	2005-274	VAN DE GRAAF, R.R.& R.D.	KLOCKNER, KERRY	\$2,304

Building Permits

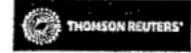
Permit No.	Date	Description	Amount
2015-00612	11/3/2016	SFR-REMODEL 1318 SQFT, GARAGE 608 SQFT, CVRD 110 SQFT	\$144,502.00

Historical Valuation Info

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable
2018	KLOCKNER, KERRY A KLOCKNER TRUST	\$52,660	\$135,900	\$0	\$188,560	\$0	\$177,670
2017	KLOCKNER, KERRY	\$52,660	\$122,310	\$0	\$174,970	\$0	\$164,080
2016	KLOCKNER, KERRY	\$52,660	\$122,310	\$0	\$174,970	\$0	\$174,970
2015	KLOCKNER, KERRY	\$60,660	\$4,480	\$0	\$65,140	\$0	\$7,090
2014	KLOCKNER, KERRY	\$68,240	\$4,520	\$0	\$72,760	\$0	\$6,230

[View Taxes](#)

36122-5 re: CR 60 Motion 000200



Mike Hougardy
Kittitas County Assessor 205 W 5th Ave Ste 101 Ellensburg WA 98926

[Assessor](#) [Treasurer](#) [Appraisal](#) [MapSifter](#)

Parcel

Parcel#: 20588 Owner Name: VAN DE GRAAF, R.R.& R.D.
DOR Code: 83 - Resource - Agriculture Current Use Address1:
Situs: HUNGRY JUNCTION RD ELLENSBURG Address2: 1650 BISHOP RD
Map Number: 18-18-14000-0002 City, State: SUNNYSIDE WA
Status: Zip: 98944-8444
Description: ACRES 6.86; SEC 14, TWP 18, RGE 18 PTN SW1/4 NW1/4 TAX 3
Comment: CG-3/24/05: SEG FROM 18-18-14020-0002, 04 FOR 05

2018 Market Value		2018 Taxable Value		2018 Assessment Data	
Land:	\$20,580	Land:	\$5,750	District:	22 - COR SD401 F02
Improvements:	\$0	Improvements:	\$0		H01 CO COF ST
Permanent Crop:	\$0	Permanent Crop:	\$0	Current Use/DFL:	Yes
Total	\$20,580	Total	\$5,750	Senior/Disability Exemption:	No
				Total Acres:	6.86000

Ownership

Owner's Name
VAN DE GRAAF, R.R.& R.D.

Ownership %
100 %

Sales History

Sale Date:	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
02/03/05	2005-275	1	2005-275	KLOCKNER, KERRY	VAN DE GRAAF, R.R.& R.D.	\$2,095

Building Permits

No Building Permits Available

Historical Valuation Info

Year	Billed Owner	Land	Impr.	PermCrop	Value	Total	Exempt	Taxable	
2018	VAN DE GRAAF, R.R.& R.D.	\$20,580	\$0			\$0	\$20,580	\$0	\$5,750
2017	VAN DE GRAAF, R.R.& R.D.	\$20,580	\$0			\$0	\$20,580	\$0	\$5,750
2016	VAN DE GRAAF, R.R.& R.D.	\$20,580	\$0			\$0	\$20,580	\$0	\$5,750
2015	VAN DE GRAAF, R.R.& R.D.	\$20,580	\$0			\$0	\$20,580	\$0	\$5,750
2014	VAN DE GRAAF, R.R.& R.D.	\$20,580	\$0			\$0	\$20,580	\$0	\$3,780

[View Taxes](#)

Parcel Comments

Date	Comment
12/06/05	CG-3/24/05: SEG FROM 18-18-14020-0002, 04 FOR 05

DECLARATION OF COUNSEL

1
2 I, JOANNE G COMINS RICK, DECLARE under penalty of perjury of the laws of the state of
3 Washington that the following is true and correct:

- 4 1. I am the trial attorney of record for the Respondent, Rod Van de Graaf.
- 5 2. On January 29, 2019 Respondent was served with a copy of Petitioner's Reply
6 documents by email attachment without the Clerk's file stamp.
- 7 3. Attached as **EXHIBIT A** is a true and correct copy of Petitioner's Reply documents
8 printed from the Clerk's records on Odyssey and file stamped 29 Jan 2019. The records
9 in this filing are: Declaration of David Hazel In Reply; a copy of information regarding
10 Parcel No 20588 printed from Kittitas County TAXSIFTER; an Order Amending Order,
11 unsigned by the Court and parties' attorneys; and an unsigned REETA form.
- 12 4. On January 30, 2019 Respondent was served with a copy of Petitioner's Amended Reply
13 documents by email attachment without the Clerk's file stamp, and without notice that the
14 documents were segregated into two filings with the Clerk.
- 15 5. Attached as **EXHIBIT B** is a true and correct copy of the Petitioner's Amended Reply
16 documents printed from the Clerk's records on Odyssey and file stamped 30 Jan 2019.
17 The records in this filing are: Amended Declaration of David Hazel In Reply; and a copy
18 of information regarding Parcel No 20588 printed from Kittitas County TAXSIFTER.
- 19 6. Attached as **EXHIBIT C** is a true and correct copy printed from the Clerk's records on
20 Odyssey, file stamped 30 Jan 2019. The Clerk designates this entry as "order". The
21 records in this filing are: an unsigned Order Amending Order; and an unsigned REETA.
- 22 7. The only change made in the Amended Reply from the original is to correct that Mr.
23 Hazel signed his Declaration "January", not "June" as stated in the original. Accordingly,
24 the Respondent's Response is equally applicable to Petitioner's Reply and Petitioner's
25 Amended Reply.
- 26 8. The Declaration of Mr. Hazel begins: "*It is correct that the REETA should state...*" and
then identifies three items that should state:

- a. "yes" under Paragraph 6: Is this property classified as current use (open space, farm and agriculture, or timber) land per Chapter 84.34;
- b. Paragraph 5 should state code "83, agriculture current use;"
- c. The assessed value shown by the Kittitas County Records is \$5750.

9. Mr. Hazel's Declaration elaborates about the assessed value, to wit:

"The excise tax affidavit listed the assed value at \$654,000. The trial court adopted an appraisal of the Ellensburg property and found the parties' fifty per-cent interest to be worth \$690,000. Prior to trial, Mr. Van de Graaf and his brother traded with a neighbor smaller portions to square their respective properties. The assessed value of the portion traded, and the subject of the current order under consideration, is shown by the Kittitas County records to be \$5750."

10. Mr. Hazel does not identify "the excise tax affidavit" to which he refers, leaving Respondent and the Court to speculate.

11. The REETA that a copy of was served on the Respondent 12/4/2018 showed the assessed value at \$654,000; and was signed by Lori Van de Graaf as "grantee" under penalty of perjury as being the true and correct amount. A copy of that REETA [hereinafter "Original REETA"] is attached hereto as **EXHIBIT D**.

12. Mr. Hazel's comments, shown in bold face print above, portend to be "facts" that should be disregarded, as hearsay and beyond the scope of the Court's Order on Reconsideration for additional briefing. Additional concerns are discussed below.

13. Judge McCarthy's Amended Decree is currently on appeal before Division III; and mere days ago, Catherine Smith filed Lori Van de Graaf's Response Brief in the Court of Appeals. Mr. Hazel should not be permitted to use the additional briefing requested by this Court to surreptitiously buttress facts and arguments pending before the appellate court.

14. Mr. Hazel's Declaration concludes:

"An Amended Order is submitted herewith directing the Clerk to sign an excise tax affidavit designating the current use...as agriculture, current use in both boxes 5 and 6 and listing the assessed value at \$5750..."

1 15. The Amended Order is not submitted as a "proposed" order. There is no definitive
2 identification as to what excise tax affidavit the Court will order the Clerk to sign pursuant
3 to the Amended Order.

4 16. The REETA [hereinafter "Latest REETA"] is not referenced by the other documents
5 concurrently filed in Reply; and is not attached as an exhibit for the Court to review and
6 consider.

7 17. The Latest REETA is not signed by Lori Van de Graaf, as Grantee, under oath.
8 There is nothing to verify that the information typed thereon is "true and correct." The
9 lack of the grantee's signature puts the status of this Latest REETA as being nothing
10 more than a "draft", subject to change without notice or prior approval by the Court.

11 18. The Amended Order mandates "...the Clerk is directed to forthwith sign..."; and the
12 unanswered question remains "what" is the Clerk to sign.

13 19. Mr. Hazel's Latest REETA makes correction to Paragraph 5 and makes correction
14 that the current property is classified as open space land in the second question under
15 Paragraph 6.

16 20. However, the remainder of Paragraph 6 has not been completed nor otherwise
17 corrected, to wit:

18 "...If any answers are 'yes', complete as instructed below: [Mr. Hazel checked one
19 box "yes"]

20 (1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE):
21 NEW OWNERS: To continue the current ... classification as current use (open space,
22 farm and agriculture...) land, you must sign on (3) below. The County Assessor must
23 then determine if the land transferred continues to qualify and will indicate by signing
24 below. **If the land no longer qualifies or you do not wish to continue the
...classification, it will be removed and the compensating or additional taxes
will be due and payable by the seller or transferor at the time of sale...**

25 **This land [] does [x] does not qualify** for continuance.

26 _____
Deputy Assessor Date

1 (2)NOTICE OF COMPLIANCE (HISTORIC PROPERTY)...

2 (3)OWNER(S) SIGNATURE

3 _____
4 [PRINT NAME]

5 21. The Petitioner's Reply and the Amended Order fail to explain and address the
6 consequences that result by the "election" to remove this parcel from open space. The
7 language printed on the REETA Form is crystal clear: if the current use isn't continued or
8 if the parcel does not qualify for continuance **"it will be removed and the**
9 **compensating or additional taxes will be due and payable by the seller or**
10 **transferor at the time of sale...**

11 22. Mr. Hazel is asking this Court to sign an Amended Order which presents an untenable
12 situation for both the Court and the Clerk. If the Court orders the Yakima County Clerk to
13 "sign forthwith" the Latest REETA, and the Clerk then signs as "transferor", ostensibly the
14 Yakima County Clerk could be assessed and liable for the payment of taxes and
15 penalties assessed by Kittitas County due to the Petitioner's election that the parcel
16 "does not qualify for continuance." If these are not paid, the REETA will not get
17 processed by Kittitas County; and the deed cannot be recorded.

18 23. As before: It is axiomatic that where the record before the Court is devoid of the
19 document or a copy of the document identifying what the Court's written ORDER
20 mandates to be signed and executed by others, the Court is deprived of its authority to
21 enforce the explicit provisions of its Order; and equally, those who are commanded by
22 the Order "to sign" have no recourse and no redress against the Court's powers of
23 contempt or to resist against the Court's power to compel, for their refusing to sign what
24 document Mr. Hazel put before them "to sign"; as not being one and the same document
25 that the Court had ordered by its Order to be "signed."

26 24. The election to remove from open space is also in conflict with Petitioner's latest

1 “assessed value” at \$5750, which is the assessed Taxable Value, if the property is
 2 **continued** as open space; the “assessed Market Value” increases to \$20,580 when
 3 removed from open space classification.

4 25. Mr. Hazel has yet to explain how Rod and Rick acquired ownership of Parcel No
 5 20587 which they then “traded” for Parcel No 20588. The “trade” required Rick and Rod
 6 as GRANTORS to convey to Klockner as GRANTEE the Parcel No 20587, located a
 7 significant distance away from any other real property that Rick and Rod owned up in
 8 Ellensburg. Mr. Hazel provides no documentation to support there was a “trade”. His
 9 sworn statement that: “...Prior to trial, Mr. Van de Graaf and his brother traded with a
 10 neighbor smaller portions to square their respective properties...” cannot be based upon
 11 Mr. Hazel’s personal knowledge or observation.

12 26. Turning to the Amended Order, the last sentence goes beyond the scope of the
 13 Court’s Order on Reconsideration to provide additional briefing, to wit:

14 “...Filing of the deed and excise tax affidavit **completes the correction of the legal**
 15 **description**¹ of the Ellensburg property **which the trial court**² valued at \$690,000
 16 and **awarded**³ to Petitioner...”

17 ¹Judge McCarthy oral rulings and the Amended Decree that he signed and
 18 entered did **not** require further action be undertaken “**to complete the**
 19 **correction of the Ellensburg property legal description.**” The Amended
 20 Decree speaks for itself and requires no further declaration of “completion and
 21 correction” of the Ellensburg property.

22 ² Mr. Hazel presents no authority that would allow the Commissioner to “order”
 23 *the trial court valued the Ellensburg property at “\$690,000”;*

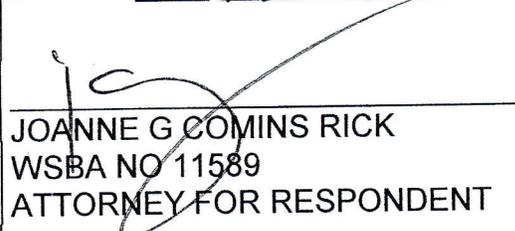
24 ³ Mr. Hazel presents no authority that would allow the Commissioner to “order”
 25 *what the trial court “awarded to Petitioner”.*

26 27. The Petitioner’s Reply continues to raise legitimate questions and concerns about
 27 areas of the Latest REETA form that are incomplete, inconsistent, conflicting or fraught
 28 with unknown consequences; moreover, where the Latest REETA is submitted to the
 29

1 Court as an unsigned and unattached document that has not been made part of the
2 Court Record, the Respondent is made to engage in an exercise of futility by trying find
3 clarity in what Mr. Hazel has muddled.

4 28. The Respondent's Motion for Reconsideration should be granted; and the prior
5 1/10/2019 and 12/12/2018 Order should be vacated, so that the parties can investigate
6 and present the Court with complete information to make an informed ruling on these
7 matters.

8 DATED: 8 FEB 2019 ; SIGNED AT: PROSSER WA

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10 
11 JOANNE G COMINS RICK
12 WSBA NO 11589
13 ATTORNEY FOR RESPONDENT
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FILED
MACEY R. STAGLE, CLERK

'19 JUN 29 P 3:52

MAIL ROOM

CERTIFICATE OF TRANSMITTAL
I hereby certify that we sent a copy of this to the attorney for the petitioner / respondent by mail, postage prepaid, or by attorney messenger service on 11/29/17. I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
Yakima, WA D. Hazel

SUPERIOR COURT OF WASHINGTON
COUNTY OF YAKIMA

In re the Marriage of:

LORI VAN DE GRAAF

Petitioner,

and

ROD D. VAN DE GRAAF

Respondent

NO. 11-3-00982-6

DECLARATION OF DAVID
HAZEL IN REPLY TO ORDER ON
MOTION FOR
RECONSIDERATION

I, DAVID HAZEL, do hereby certify under the penalty of perjury under the laws of the State of Washington that the following statement is true and correct to the best of my knowledge and belief:

It is correct that the Real Estate Excise Tax Affidavit should state "yes" under Paragraph 6: "Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34". Under paragraph 5, it should state code "83, agricultural current use". The the excise tax affidavit listed the assessed value at \$654,000. The trial court adopted an appraisal of the Ellensburg property and found the parties' fifty per-cent interest to be worth \$690,000. Prior to trial, Mr. Van de Graaf and his brother traded with a neighbor smaller portions to square their respective properties. The assessed value of the portion traded, and the subject of the current order under reconsideration, is shown by the Kittitas County records to be \$5,750. See attached. An amended order is submitted herewith to directing the clerk to sign an excise tax affidavit

Sworn Statement of David Hazel
Page - 1

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

designating the current use of the property as agricultural, current use in both boxes 5 and 6 and listing the assessed value at \$5,750.

DATED this 29 day of June, 2017.

David Hazel
DAVID HAZEL

Sworn Statement of David Hazel
Page - 2

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

EXHIBIT A

Exhibit



SAMPLE SEARCH SALES SEARCH COUNTY HOME PAGE CONTACT DISCLAIMER

TAXSIFTER

PAYMENT CART(0)

Mike Hougardy
Kittitas County Assessor 205 W 5th Ave Ste 101 Ellensburg WA 98926

Assessor Treasurer Appraisal MapSifter

should be

Parcel

Parcel#: 20588
DOR Code: 83 - Resource - Agriculture Current Use
Situs: HUNGRY JUNCTION RD ELLENSBURG
Map Number: 18-18-14000-0002
Status:
Description: ACRES 6.86; SEC 14, TWP 18, RGE 18 PTN SW1/4 NW1/4 TAX 3
Comment: CG-3/24/05: SEG FROM 18-18-14020-0002, 04 FOR 05

Table with 3 columns: 2019 Market Value, 2019 Taxable Value, 2019 Assessment Data. Includes rows for Land, Improvements, Permanent Crop, and Total.

Ownership

Owner's Name: VAN DE GRAAF, R.R. & R.D.
Ownership %: 100 %

Sales History

Table with columns: Sale Date, Sales Document, # Parcels, Excise #, Grantor, Grantee, Price. Shows a sale on 02/03/05 for \$2,095.

Building Permits

No Building Permits Available

Historical Valuation Info

Table with columns: Year, Billed Owner, Land, Impr., PermCrop Value, Total, Exempt, Taxable. Shows valuation from 2015 to 2019.

View Taxes

Parcel Comments

Table with columns: Date, Comment. Shows a comment on 12/06/05 regarding a segment from 18-18-14020-0002.

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SUPERIOR COURT OF WASHINGTON
COUNTY OF YAKIMA

In re the Marriage of:

LORI VAN DE GRAAF

and

ROD D. VAN DE GRAAF

Respondent

NO. 11-3-00982-6

ORDER AMENDING ORDER

THIS MATTER HAVING COME ON for hearing before the undersigned judge/commissioner of the above-entitled court, it is hereby ORDERED THAT:

The prior orders directing the clerk to sign the deed and excise tax affidavit are hereby amended with respect to the excise tax affidavit only based upon the following. The excise tax affidavit should be amended to designate the property in paragraph 5 as "83 - agricultural, current use" and in paragraph 6 to state "yes" to the box "Is this property classified as current use (open space, farm and agricultural, or timber)". The assessed value should be listed as \$5,750. The clerk is directed to forthwith sign an excise tax affidavit with those changes. Filing of the deed and excise tax affidavit completes the correction of the legal description of the Ellensburg property which the trial court valued at \$690,000 and awarded to Petitioner.

DONE IN OPEN COURT this ____ day of _____, 2019.

JUDGE/COURT COMMISSIONER

Order Amending Order- 1

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

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Presented by:

Approved as to form:

DAVID HAZEL, WSBA No. 7833
Attorney for Petitioner

JOANNE COMINS RICK, WSBA No. 11589
Attorney for Respondent

Order Amending Order-2

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756



REAL ESTATE EXCISE TAX AFFIDAVIT
CHAPTER 82.45 RCW - CHAPTER 458-61A WAC

This form is your receipt when stamped by cashier.

PLEASE TYPE OR PRINT

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED
(See back of last page for instructions)

<input type="checkbox"/> Check box if partial sale, indicate % sold.		<input type="checkbox"/> List percentage of ownership acquired prior to each name.	
1 SELLER	Name <u>Rod Van de Graaf</u>	2 BUYER	Name <u>Lori Van de Graaf</u>
	Mailing Address <u>5652 Gap Road</u>		Mailing Address <u>623 Yakima Valley Highway PMB 140</u>
	City/State/Zip <u>Outlook, WA 98938</u>		City/State/Zip <u>Sunnyside, WA 98944</u>
	Phone No. (including area code)		Phone No. (including area code) <u>(509) 840-4508</u>
Send all property tax correspondence to: <input checked="" type="checkbox"/> Same as Buyer/Grantee		List all real and personal property tax parcel account numbers - check box if personal property	List assessed value(s)
	Name	<u>20588</u>	<input type="checkbox"/> \$5,750.00
	Mailing Address		<input type="checkbox"/>
	City/State/Zip		<input type="checkbox"/>
	Phone No. (including area code)		<input type="checkbox"/>

3 Street address of property: NICA Hungry Junction Road
This property is located in Kittitas County
 Check box if any of the listed parcels are being segregated from another parcel, are part of a boundary line adjustment or parcel being merged.
Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)
That portion of the Southwest Quarter of the Northwest Quarterlying Southeastly of the North Branch Canal of Kittitas Redamation District in Section 14, Township 18, North Range 18 east W.M. in the County of Kittitas, State of Washington.

4 Select Land Use Code(s):
3 - Agriculture classified under current use chapter 84.34 RCW
enter any additional codes:
(See back of last page for instructions)

Was the seller receiving a property tax exemption or deferral under chapters 84.36, 84.37, or 84.38 RCW (nonprofit organization, senior citizen, or disabled person, homemaker with limited income)? YES NO

5 Is this property designated as forest land per chapter 84.33 RCW? YES NO
Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34? YES NO
Is this property receiving special valuation as historical property per chapter 84.26 RCW? YES NO
If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)
NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.
This land does does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)
NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) does not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE _____
PRINT NAME _____

6 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:
WAC No. (Section/Subsection) 458-61A-203(2)
Reason for exemption Award by Governor Decree - Yakima County Cause No. 11-3-00982-6

Type of Document Quit Claim Deed
Date of Document 1/29/19

Gross Selling Price	\$	0.00
*Personal Property (deduct)	\$	
Exemption Claimed (deduct)	\$	
Taxable Selling Price	\$	0.00
Excise Tax - State	\$	0.00
<u>0.0025</u> Local	\$	0.00
*Delinquent Interest: State	\$	
Local	\$	
*Delinquent Penalty	\$	
Subtotal	\$	0.00
*State Technology Fee	\$	5.00
*Affidavit Processing Fee	\$	5.00
Total Due	\$	10.00

A MINIMUM OF \$18.00 IS DUE IN FEE(S) AND/OR TAX
*SEE INSTRUCTIONS

7 I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent _____	Signature of Grantee or Grantee's Agent _____
Name (print) <u>Rod Van de Graaf</u>	Name (print) <u>Lori Van de Graaf</u>
Date & city of signing: _____	Date & city of signing: <u>Yakima, WA 98902</u>

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0901a (11/23/19) THIS SPACE - TREASURER'S USE ONLY TAXPAYER

STATE OF WASHINGTON

JAN 30 11 44

COURT CLERK

CERTIFICATE OF TRANSMITTAL
I hereby certify that we sent a copy of this to the attorney for the petitioner / respondent by mail, postage prepaid, or by attorney messenger service on _____ I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Yakima, WA.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF YAKIMA**

In re the Marriage of:

LORI VAN DE GRAAF

Petitioner,

and

ROD D. VAN DE GRAAF

Respondent

NO. 11-3-00982-6

**AMENDED DECLARATION OF
DAVID HAZEL IN REPLY TO
ORDER ON MOTION FOR
RECONSIDERATION**

I, **DAVID HAZEL**, do hereby certify under the penalty of perjury under the laws of the State of Washington that the following statement is true and correct to the best of my knowledge and belief:

It is correct that the Real Estate Excise Tax Affidavit should state "yes" under Paragraph 6: "Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34". Under paragraph 5, it should state code "83, agricultural current use". The the excise tax affidavit listed the assessed value at \$654,000. The trial court adopted an appraisal of the Ellensburg property and found the parties' fifty per-cent interest to be worth \$690,000. Prior to trial, Mr. Van de Graaf and his brother traded with a neighbor smaller portions to square their respective properties. The assessed value of the portion traded, and the subject of the current order under reconsideration, is shown by the Kittitas County records to be \$5,750. See attached. An amended order is submitted herewith to directing the clerk to sign an excise tax affidavit

Sworn Statement of David Hazel
Page - 1

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
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designating the current use of the property as agricultural, current use in both boxes 5 and 6 and listing the assessed value at \$5,750.

DATED this 29th day of January, 2019.

David Hazel

DAVID HAZEL

Sworn Statement of David Hazel
Page - 2

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

EXHIBIT B

Exhib



**KITTITAS COUNTY
WASHINGTON**



TAXSIFTER

[SIMPLE SEARCH](#) [SALES SEARCH](#) [COUNTY HOME PAGE](#) [CONTACT](#) [DISCLAIMER](#)

[PAYMENT CART\(0\)](#)

Mike Hougardy
Kittitas County Assessor 205 W 5th Ave Ste 101 Ellensburg WA 98926

Assessor Treasurer Appraisal MapSifter

should be

Parcel

Parcel#: 20588 Owner Name: VAN DE GRAAF, R.R. & R.D.
 DOR Code: 83 - Resource - Agriculture Current Use Address1:
 Situs: HUNGRY JUNCTION RD ELLENSBURG Address2: 1650 BISHOP RD
 Map Number: 18-18-14000-0002 City, State: SUNNYSIDE WA
 Status: Zip: 98944-8444
 Description: ACRES 6.86; SEC 14, TWP 18, RGE 18 PTN SW1/4 NW1/4 TAX 3
 Comment: CG-3/24/05: SEG FROM 18-18-14020-0002, 04 FOR 05

2019 Market Value		2019 Taxable Value		2019 Assessment Data	
Land:	\$20,580	Land:	\$5,750	District:	22 - COR SD401 F02 F02B H01 CO COF ST
Improvements:	\$0	Improvements:	\$0	Current Use/DPL:	Yes
Permanent Crop:	\$0	Permanent Crop:	\$0	Senior/Disability Exemption:	No
Total	\$20,580	Total	\$5,750	Total Acres:	6.86000

Ownership

Owner's Name	Ownership %
VAN DE GRAAF, R.R. & R.D.	100 %

Sales History

Sale Date	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
02/03/05	2005-275	1	2005-275	KLOCKNER, KERRY	VAN DE GRAAF, R.R. & R.D.	\$2,095

Building Permits

No Building Permits Available

Historical Valuation Info

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable
2019	VAN DE GRAAF, R.R. & R.D.	\$20,580	\$0	\$0	\$20,580	\$0	\$5,750
2018	VAN DE GRAAF, R.R. & R.D.	\$20,580	\$0	\$0	\$20,580	\$0	\$5,750
2017	VAN DE GRAAF, R.R. & R.D.	\$20,580	\$0	\$0	\$20,580	\$0	\$5,750
2016	VAN DE GRAAF, R.R. & R.D.	\$20,580	\$0	\$0	\$20,580	\$0	\$5,750
2015	VAN DE GRAAF, R.R. & R.D.	\$20,580	\$0	\$0	\$20,580	\$0	\$5,750

[View Taxes](#)

Parcel Comments

Date	Comment
12/06/05	CG-3/24/05: SEG FROM 18-18-14020-0002, 04 FOR 05

FILED
TRACY, J. CLERK

19 JAN 30 P 3 44

UN-SIGNED ORDER
FILED W/CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF YAKIMA

In re the Marriage of:

LORI VAN DE GRAAF

Petitioner,

and

ROD D. VAN DE GRAAF

Respondent

NO. 11-3-00982-6

ORDER AMENDING ORDER

THIS MATTER HAVING COME ON for hearing before the undersigned judge/commissioner of the above-entitled court, it is hereby **ORDERED THAT**:

The prior orders directing the clerk to sign the deed and excise tax affidavit are hereby amended with respect to the excise tax affidavit only based upon the following. The excise tax affidavit should be amended to designate the property in paragraph 5 as "83 - agricultural, current use" and in paragraph 6 to state "yes" to the box "Is this property classified as current use (open space, farm and agricultural, or timber)". The assessed value should be listed as \$5,750. The clerk is directed to forthwith sign an excise tax affidavit with those changes. Filing of the deed and excise tax affidavit completes the correction of the legal description of the Ellensburg property which the trial court valued at \$690,000 and awarded to Petitioner.

DONE IN OPEN COURT this ____ day of _____, 2019.

JUDGE/COURT COMMISSIONER

Order Amending Order- 1

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

Presented by:

Approved as to form:

DAVID HAZEL, WSBA No. 7833
Attorney for Petitioner

JOANNE COMINS RICK, WSBA No. 11589
Attorney for Respondent

Order Amending Order- 2

Hazel & Hazel
ATTORNEYS & COUNSELORS AT LAW
1420 Summitview
Yakima, Washington 98902
(509) 453-9181 Facsimile 457-3756

EXHIBIT C



REAL ESTATE EXCISE TAX AFFIDAVIT
CHAPTER 82.45 RCW - CHAPTER 458-61A WAC

This form is your receipt when stamped by cashier.

PLEASE TYPE OR PRINT

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

(See back of last page for instructions)

If percentage of ownership acquired vary in each asset.

SELLER GRANTOR	1 Name <u>Rod Van de Graaf</u>	BUYER GRANTEE	2 Name <u>Lori Van de Graaf</u>
	Mailing Address <u>5652 Gap Road</u>		Mailing Address <u>623 Yakima Valley Highway PMB 140</u>
	City/State/Zip <u>Outlook, WA 98938</u>		City/State/Zip <u>Sunnyside WA 98944</u>
	Phone No. (including area code)		Phone No. (including area code) <u>(509) 840-4508</u>
3 Send all property tax correspondence to: <input type="checkbox"/> Same as Buyer/Grantee		List all real and personal property (tax parcel account numbers - check box if personal property)	
Name _____		List assessed value(s)	
Mailing Address _____		20588 <input type="checkbox"/> \$5,750.00	
City/State/Zip _____		<input type="checkbox"/>	
Phone No. (including area code) _____		<input type="checkbox"/>	

4 Street address of property: NKA Hungry Junction Road

This property is located in Kittitas County

Check box if any of the listed parcels are being segregated from another parcel, are part of a boundary line adjustment or parcel being merged.

Legal description of property (if more space is needed, you may attach a separate sheet in each page of the affidavit)
That portion of the Southwest Quarter of the Northwest Quarterlying Southeastly of the North Branch Canal of Kittitas Reclamation District in Section 14, Township 18, North Range 18 east W.M. in the County of Kittitas, State of Washington.

5 Select Land Use Code(s):
33 - Agriculture classified under current use chapter 82.45 RCW

enter any additional codes:
(See back of last page for instructions)

Was the seller receiving a property tax exemption or deferral under chapters 84.36, 84.37, or 84.38 RCW (nonprofit organization, senior citizen, or disabled person, homestead with limited income)?

YES NO

6

Is this property designated as forest land per chapter 84.33 RCW? YES NO

Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34? YES NO

Is this property receiving special valuation as historical property per chapter 84.26 RCW? YES NO

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE) NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land does does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY) NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) does not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE _____

PRINT NAME _____

7 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:
WAC No. (Section/Subsection) 458-61A-203(2)

Reason for exemption Award by Divorce Decree - Yakima County Cause No. 11-3-00682-6

Type of Document Quit Claim Deed

Date of Document 1/29/19

Gross Selling Price \$	0.00
*Personal Property (deduct) \$	
Exemption Claimed (deduct) \$	
Taxable Selling Price \$	0.00
Excise Tax - State \$	0.00
<u>0.0025</u> Local \$	0.00
*Delinquent Interest - State \$	
Local \$	
*Delinquent Penalty \$	
Subtotal \$	0.00
*State Technology Fee \$	5.00
*Affidavit Processing Fee \$	5.00
Total Due \$	10.00

A MINIMUM OF \$10.00 IS DUE IN FEE(S) AND/OR TAX
*SEE INSTRUCTIONS

8 I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent _____	Signature of Grantee or Grantee's Agent _____
Name (print) <u>Rod Van de Graaf</u>	Name (print) <u>Lori Van de Graaf</u>
Date & city of signing: _____	Date & city of signing: <u>Yakima, WA 98902</u>

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REAL ESTATE EXCISE TAX AFFIDAVIT
CHAPTER 84.45 RCW - CHAPTER 458-61A WAC

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PLEASE TYPE OR PRINT

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED
(See back of last page for instructions)

<input type="checkbox"/> Check box if partial sale. Indicate % sold.		List percentage of ownership acquired next to each name.													
SELLER GRANTOR	Name <u>Rod Van de Graaf</u>	BUYER GRANTEE	Name <u>Lori Van de Graaf</u>												
	Mailing Address <u>5652 Gan Road</u>		Mailing Address <u>623 Yakima Valley highway PMB 140</u>												
	City/State/Zip <u>Outlook WA 98938</u>		City/State/Zip <u>Sunnyside, WA 98944</u>												
	Phone No. (including area code) _____		Phone No. (including area code) <u>(509) 840-4508</u>												
Send all property tax correspondence to: <input checked="" type="checkbox"/> Same as Buyer/Grantee		List all real and personal property tax parcel account numbers - check box if personal property													
Name _____ Mailing Address _____ City/State/Zip _____ Phone No. (including area code) _____		<table border="1"> <tr> <td><u>20588</u></td> <td><input type="checkbox"/></td> <td>\$654,000.00</td> </tr> <tr> <td>_____</td> <td><input type="checkbox"/></td> <td>_____</td> </tr> <tr> <td>_____</td> <td><input type="checkbox"/></td> <td>_____</td> </tr> <tr> <td>_____</td> <td><input type="checkbox"/></td> <td>_____</td> </tr> </table>		<u>20588</u>	<input type="checkbox"/>	\$654,000.00	_____	<input type="checkbox"/>	_____	_____	<input type="checkbox"/>	_____	_____	<input type="checkbox"/>	_____
<u>20588</u>	<input type="checkbox"/>	\$654,000.00													
_____	<input type="checkbox"/>	_____													
_____	<input type="checkbox"/>	_____													
_____	<input type="checkbox"/>	_____													

Street address of property: NKA Hungry Junction Road
 This property is located in Kititas County
 Check box if any of the listed parcels are being segregated from another parcel, are part of a boundary line adjustment or parcels being merged.
 Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)
 That portion of the Southwest Quarter of the Northwest Quarter lying Southeasterly of the North Branch Canal of Kititas Redamation District in Section 14, Township 18, North Range 18 East W.M. in the County of Kititas, State of Washington

Select Land Use Code(s):
82 - Agriculture related activities
 enter any additional codes: _____
 (See back of last page for instructions)

Was the seller receiving a property tax exemption or deferral under chapters 84.36, 84.37, or 84.38 RCW (nonprofit organization, senior citizen, or disabled person, homeowner with limited income)?
 YES NO

Is this property designated as forest land per chapter 84.33 RCW? YES NO
 Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34 RCW? YES NO
 Is this property receiving special valuation as historical property per chapter 84.26 RCW? YES NO

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)
 NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.53.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.
 This land does does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)
 NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) does not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE _____
 PRINT NAME _____

List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:
 WAC No. (Section/Subsection) 458-61A203(2)
 Reason for exemption Award by Divorce Decree - Yakima County Cause No. 11-3-00982-5

Type of Document Quit Claim Deed
 Date of Document _____

Gross Selling Price	\$ _____	0.00
*Personal Property (deduct)	\$ _____	
Exemption Claimed (deduct)	\$ _____	
Taxable Selling Price	\$ _____	0.00
Excise Tax : State	\$ _____	0.00
<u>0.0025</u> Local	\$ _____	0.00
*Delinquent Interest: State	\$ _____	
Local	\$ _____	
*Delinquent Penalty	\$ _____	0.00
Subtotal	\$ _____	0.00
*State Technology Fee	\$ _____	5.00
*Affidavit Processing Fee	\$ _____	5.00
Total Due	\$ _____	10.00

A MINIMUM OF \$10.00 IS DUE IN FEE(S) AND/OR TAX
 *SEE INSTRUCTIONS

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent _____
 Name (print) Rod Van de Graaf
 Date & city of signing: _____

Signature of Grantee or Grantee's Agent Lori Van de Graaf
 Name (print) Lori Van de Graaf
 Date & city of signing: 11-9-18 yakima

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

EXHIBIT D

CARNEY BADLEY SPELLMAN

February 26, 2019 - 3:34 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 36122-5
Appellate Court Case Title: In re the Marriage of Lori Van de Graaf and Rod D. Van de Graaf
Superior Court Case Number: 11-3-00982-6

The following documents have been uploaded:

- 361225_Briefs_20190226153034D3459350_7333.pdf
This File Contains:
Briefs - Appellants Reply
The Original File Name was Reply Brief FINAL.pdf

A copy of the uploaded files will be sent to:

- anderson@carneylaw.com
- andrienne@washingtonappeals.com
- cate@washingtonappeals.com
- daveh@davidhazel.com
- fuhrmann@carneylaw.com
- jgcrick@gmail.com
- valerie@washingtonappeals.com

Comments:

Sender Name: Elizabeth Fuhrmann - Email: fuhrmann@carneylaw.com

Filing on Behalf of: Gregory Mann Miller - Email: miller@carneylaw.com (Alternate Email:)

Address:

701 5th Ave, Suite 3600

Seattle, WA, 98104

Phone: (206) 622-8020 EXT 149

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