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No. 92161-0

SUPREME COURT
OF THE STATE OF WASHINGTON

MIKE BELENSKI,

Petitioner,

v.

JEFFERSON COUNTY,

Respondent.

SUPPLEMENTAL BRIEF OF PETITIONER

Mike Belenski, Petitioner
P.O. Box 1132
Poulsbo, WA 98370
(360) 437-9808

ORIGINAL

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A. INTRODUCTION

In this case, the Court is asked to determine whether RCW 42.56.550(6) or RCW 4.16.130 is the applicable statute of limitation for records that have be requested pursuant to the state's Public Records Act[1] (PRA), but silently withheld from the requestor.

Petitioner Mike Belenski ("Belenski") submitted a public records request for Internet Access Logs (IALs[2]) under the state's PRA. In response to this request, Respondent Jefferson County ("County") claimed that it had "*no responsive records*" for this request. More than 15 months later, the County's claim was discovered to be false and Belenski learned that the County had knowingly and deliberately withheld thousands, if not millions, of IALs relevant to his request. (App. Opening Br. 24, CP 124-125, CP 138-140, CP 57, CP 68, CP 77, CP 129). The trial court made no ruling as to the applicability of RCW 42.56.550(6) or RCW 4.16.130. In granting summary judgment to the County, the court concluded that the IALs were not public records, and dismissed Belenski's action involving the September 27, 2010 request for IALs. Belenski appealed.

The Court of Appeals reversed and concluded the IALs were public records, but that the "*PRA statute of limitations*" barred Belenski's claims relating to one of the IAL requests (Opinion 1, 12-13). The Court of Appeals applied the two-year "catch-all" statute of limitations, RCW 4.16.130, to bar Belenski's claim

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[1] Codified as RCW 42.56

[2] Internet Access Logs (IALs) contain a record of every single contact between a County issued personal computer and the World Wide Web. (CP 17-18, 361)

involving the IALs requested on September 27, 2010. A ruling regarding the applicability of the statute of limitations found in the PRA, RCW 42.56.550(6), was not made by the Court of Appeals.

This decision by the Court of Appeals is in direct conflict with the PRA's policy of liberal construction and the broad disclosure of public records, and it is also in direct conflict with this Court's opinions in PAWS v. UW, 125 Wn.2d 243, 884 P.2d 592 (1994) and Rental Housing Association of Puget Sound v. City of Des Moines, 165 Wn.2d 525, 199 P.3d 393 (2009). Additionally, because the County withheld records, without providing a claim of exemption or a privilege log, the agency further violated the PRA entitling him to seek judicial review of the County's actions pursuant to RCW 42.56.550(3).

B. ISSUES PRESENTED FOR REVIEW

On January 7, 2016, this Court granted Belenski's Petition for Review without modifying or limiting the issues presented. As set forth in the Petition for Review, the issues for review are:

1. Is RCW 42.56.550(6) the applicable statute of limitation to be applied to the September 27, 2010 public records request for Internet Access Logs (IALs)?

2. If RCW 42.56.550(6) is not the applicable statute of limitations involving the September 27, 2010 request, should the "Discovery Rule" be applied to the accrual of the "catch all" statute of limitations, RCW 4.16.130?

3. Did the County conceal or silently withhold IALs responsive to the September 27, 2010 public records request?

C. STATEMENT OF THE CASE

The relevant facts are set forth in Belenski's Petition for Review, which is incorporated herein. A few are repeated here. On September 28, 2010, only one day after Belenski made his request for IALs, Jefferson County Internet Technician Chris Grant wrote an email (CP 138) to County Deputy Prosecuting Attorney David Alvarez and County Public Records Officer Lorna Delaney which stated:

> David,
>
> **We have Internet access logs**, but they are not natively viewable. They must be pulled out of a database and generated in a human readable format by the firewall reporting system (Viewpoint). Since this is not something we normally do, do we need to generate this report specifically for him?
>
> (CP 138, emphasis added).

A follow up conversation involving the September 27, 2010 request occurred on March 21, 2011, between Belenski and Jefferson County Deputy Prosecuting Attorney David Alvarez. During this conversation, DPA Alvarez advised Belenski that the reason he did not receive the IALs was because "*we don't use them for anything so we don't have to keep them*" (CP 194, 631).

D. ARGUMENT

The PRA is a "*strongly worded mandate for broad disclosure of public records.*" Hearst Corp. v. Hoppe, 90 Wn.2d 123, 127, 580 P.2d 246 (1978). The PRA is to be "*liberally construed and its exemptions narrowly construed....to assure the public interest will be fully protected.*" RCW 42.56.030. Our

interpretation of the PRA's provisions will continue to be grounded in the PRA's underlying policy and standard of construction. We will also avoid absurd results. Hangartner v. City of Seattle, 151 Wn.2d 439, 448, 90 P.3d 26 (2004).

The PRA is to be liberally interpreted to promote full disclosure of government activity. Yousoufian v. Office of Ron Sims, 168 Wn.2d 444, 462, 200 P.3d 232 (2010) ("We interpret the [PRA] liberally to promote full disclosure of government activity that the people might know how their representatives have executed the public trust placed in them and so hold them accountable.", citing Spokane Research & Defense Fund v. City of Spokane, 155 Wn.2d 89, 100, 117 P.3d 1117 (2005)).

The decision by the Court of Appeals is contrary to the mandates of the PRA, and discourages rather than encourages the disclosure and production of records. Courts have a duty to construe and apply statutes of limitation in a manner that furthers justice. And to allow the County, or any other agency, to silently withhold records, and materially affect the rights of a requestor to seek judicial review is in direct conflict with the PRA and any sense of justice.

Despite its arguments to the contrary, the County violated the PRA by silently withholding IALs, and failing to make a claim of exemption and produce a privilege log. These actions denied Belenski his rights under the PRA to evaluate if the IALs were being properly withheld and to seek judicial review.

This Court's holdings in Rental Housing Association and PAWS make clear that RCW 42.56.550(6) is the correct statute of limitation when records have

been silently withheld under the PRA and Rental Housing Association makes clear what an agency must do to trigger that statute of limitations.

1. Is RCW 42.56.550(6) the applicable statute of limitations that should be applied to Petitioner's September 27, 2010 public records request for IALs

The statue of limitations for PRA litigation is found in RCW 42.56.550(6) and it is plain on its face. This one-year statute of limitations is triggered by either of two occurrences: (1) the agency's claim of exemption or (2) the agency's last production of a record on a partial or installment basis.

More pointedly, this Court has made it clear that withholding records under the PRA is only valid when and if the agency makes a "claim of exemption" and provides a "privilege log" or "withholding index". Rental Housing Association of Puget Sound v. City of Des Moines, 165 Wn.2d 525, 537-540, 199 P.3d 393 (2009). ("RHA").

Turning to Belenski's request for IALs, the facts and circumstance involving Belenski's September 27, 2010 public records request for IALs fall squarely within Rental Housing Association.

The County never made a claim of exemption for the requested IALs, nor did it produce a privilege log and this Court has overwhelmingly ruled that the RCW 42.56.550(6) one-year time limit will not shield agencies that don't make timely and sufficient efforts to advise records requestors what records are being withheld and why.

In its decision, this Court answered the question of when the one-year statute of limitations clock starts to run (RHA 165 Wn.2d at 535-540). The key issue is when a "claim of exemption" under RCW 42.56.550(6) is effectively made. And it can't be effectively made, wrote Justice Stephens, when the agency is engaged in what the Court had earlier described in PAWS v. University of Washington, 125 Wn.2d 243, 270, 884 P.2d 592 (1994), as "silent withholding" by not adequately identifying the record(s) it is refusing to turn over and explaining why it is not disclosing the record(s). By law, she wrote, withholding records under the PRA is only valid when and if the agency provides a "privilege log" or "withholding index". Justice Stephens wrote (RHA at 540) that "Without the information a privilege log provides, a public citizen and a reviewing court cannot know (1) what individual records are being withheld, (2)which exemptions are being claimed for individual records, and (3) whether there is a valid basis for a claimed exemption for an individual record. Failure to provide the sort of identifying information a detailed privilege log contains defeats the very purpose of the PRA to achieve broad public access to agency records. ". (CP 168-169).

The Rental Housing Association Opinion and its analysis of the PAWS case make it clear that RCW 42.56.550(6) is the statute of limitations that controls in circumstances where records are concealed or silently withheld from a requestor, or where an agency has failed to make a claim of exemption for the records and provide a privilege log, which are exactly the circumstances involving the instant case.

Conversely, arguments presented by the County regarding RCW 42.56.550(6), ignore a plain reading of the statute and the mandate to make a "claim of exemption" and provide a "privilege log" or "withholding index" for records that are being withheld.

At the trial court level (CP 470-471, with reference back to CP 469), the County stated: "The "clock" on Statute of Limitations runs down without interruption regardless of how the agency chooses to handle PRA requests.". And appeared to argue that because more than 25 months had passed since the County advised Belenski that it had "no responsive records" involving his September 27, 2010 request for IALs, that his litigation was time barred. This analysis is flawed because the triggering of the statute involves either a "claim of exemption" or the production of records. When the statute of limitations begins to accrue, depends not on when the agency responds to the request pursuant to RCW 42.56.520, but when it discloses the existence of withheld records or finishes producing records to the requestor.

A plain reading of the statute reveals that a response of "no responsive records" does not trigger RCW 42.56.550(6). The County apparently is trying to put words into the statute that are not there.

The County then goes on to argue that if the Court decides that RCW 42.56.550(6) does not apply because neither an exemption log nor a record was provided to Belenski, the Court can apply RCW 4.16.130, because this statute was

applied to Johnson v. State Dept. of Corrections, 164 Wn. App. 769, 265 P.3d 216 (2011).

In Johnson, the requestor was provided a single document which was all the DOC had involving the request at the time Johnson made his request.

The issue before the Court of Appeals was whether an agency triggers the running of RCW 42.56.550(6) when the timely response to a PRA request is a single document. The Court did not determine the applicability of RCW 42.56.550(6) to a response involving a single document. Instead it concluded even under RCW 4.16.130, the 2 year "catch-all" statute of limitations, Johnson's action was time-barred. The Court distinguished Johnson from Rental Housing Association, noting that Johnson involved the production of a single record, while in Rental Housing Association, the Supreme Court had held that, in order to trigger RCW 42.56.550(6), an agency's exemption claim must describe each individual withheld record and explain the particular exemption that applied to each record. No records were found to have been silently withheld from Johnson.

The County also argued that Bartz v. State Dept. of Corrections PDU, 173 Wn. App. 522, 297 P.3d 737 (Div. 2) (2013) is controlling in this case (CP 590 – 592). As with Johnson, this case involved a requestor who was provided records. In that case, the Court of Appeals concluded that the legislature intended a single production of records to fall within the scope of "last production of a record on a partial or installment basis". And since more than a year had passed between the

date he received the records and when he filed suit, it held the requestor's claim was time-barred No records were found to be silently withheld from Bartz.

Statute of limitation arguments by the County also state that RCW 42.56.550(6) does not apply if an agency provides a "no responsive records exist" response to a request (CP 618-621), but the County provides no authority to support this contention. This argument ignores the absurd result of allowing an agency to withhold records without providing a claim of exemption or a privilege log, misleading the requestor into thinking there are no records relevant to his request, and denying the requestor an opportunity to seek judicial review of the agency's actions.

The County has misapprehended the holdings of Johnson and Bartz. There are no parallels between these cases and the instant case. In both cases, the Court was trying to determine the intent of the legislature relating to the single production of record(s) and the applicable statute of limitations. Belenski's request for IALs is easily distinguishable from Johnson and Bartz because the County failed to produce even one record, failed to make a claim of exemption for the records withheld, and failed to provide a privilege log.

Since the trial court made no rulings relating to statute of limitations, arguments relating to it were not included in Belenski's Opening Brief. The County argued statute of limitations in its Response Brief (pages 46 to 49) and Belenski argued it in his Reply Brief (pages 20-21, CP 170-172).

The reliance by the Court of Appeals on RCW 4.16.130, conflicts with the construction clause of the PRA (RCW 42.56.030) which states: "In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern." It also conflicts with this Court's decision in O'Neill v. City of Shoreline, 170 Wn.2d 138, 149, 240, 240 P.3d 1149 (2010) ("[W]hen there is the possibility of a conflict between the PRA and other acts, the PRA governs".) Therefore, RCW 42.56.550(6) should be the controlling statute of limitations for Belenski's request, not RCW 4.16.130.

Lastly, the Court of Appeals applied the wrong statute of limitations to the September 27, 2010 request because the two-year "catch all" statute of limitations, RCW 4.16.130, states "An action for relief not hereinbefore provided for, shall be commenced within two years after the cause of action shall have accrued." Because "an action for relief" under the PRA is hereinbefore provided for in RCW 42.56.550(6) for concealed or silently withheld records, or the failure to make a claim of exemption and provide a privilege log, RCW 4.16.130 is not an applicable statute of limitations involving the request for IALs. (CP 170-171).

2. The Court of Appeals strict application of RCW 4.16.130 is contrary to this Court's rulings involving the "Discovery Rule" and conflicts with the mandates of the PRA

The Court of Appeals ruled that because more than two years had passed between the instant the County responded to the September 27, 2010 request for IALs and the date the litigation was filed, the two-year "catch-all" statute of limitations contained in RCW 4.16.130 barred this claim. (Opinion, 12-13).

While it is correct that more than two years had passed between the date the County responded to the request (October 4, 2010) and the date the litigation was filed (November 19, 2012), statutes of limitation under Chapter 4.16 do not begin to run until a cause of action accrues. RCW 4.16.005 ("actions can only be commenced within the periods provided in this chapter after the cause of action has accrued.").

Usually a cause of action accrues when the party has the right to apply to a court for relief. In many instances, an action accrues immediately when the wrongful act occurs, but in circumstances where the plaintiff is unaware of the harm sustained, a "literal application of the statute of limitations" could "result in grave injustice." To avoid this injustice, courts have applied a discovery rule of accrual, under which the cause of action accrues when a plaintiff discovers, or in the reasonable exercise of diligence should discover, the elements of the cause of action. This does not mean that the action accrues when the plaintiff learns that he or she has a legal cause of action; rather, the action accrues when the plaintiff discovers the salient facts underlying the elements of the cause of action. 1000 Virginia Ltd. P'ship v. Vertecs Corp 158 Wn.2d 566, 575-576, 146 P.3d 423 (2000)(citations omitted).

In determining whether to apply the discovery rule, the possibility of stale claims must be balanced against the unfairness of precluding justified causes of action. That balancing test has dictated the application of the rule where the plaintiff lacks the means or ability to ascertain that a wrong has been committed.

US Oil v. Department of Ecology, 96 Wn.2d 85, 93, 633 P.2d 1329 (1981) (citations omitted). The existence of the IALs responsive to the September 27, 2010 request was known only to the County and it has not explained how Belenski had the means or ability to ascertain that a wrong had been committed. Nor has the County provided the date or dates that he discovered the salient facts underlying the elements of his cause of action.

As this Court stated in US Oil v. Department of Ecology, 96 Wn.2d 85, 93, 633 P.2d 1329 (1981) "We have a duty to construe and apply limitation statutes in a manner that furthers justice." Allowing the County to conceal records from Belenski and then permitting the County to use the statutes of limitations as shields to his legitimate claims does not further justice. Without application of the discovery rule, agencies like Jefferson County can conceal or silently withhold records from requestors, and escape the consequences and remedial provisions of the PRA, as long as they can keep their illegal conduct a secret from the requestor for two years. That is not the intent of the legislature.

The Court of Appeals ruling that the statute of limitations begins to run the instant an agency responds to a public records request, no matter how dishonest, deceitful or underhanded the agency is in concealing the existence of records, is contrary to the rulings of this Court, the mandates of the PRA, and common sense. Applying the discovery rule to RCW 4.16.130 levels the playing field between agency and requestor, and takes away the incentive to silently withhold records.

Additionally, the County has the burden of proving a statute of limitations defense. Wallace v. Lewis County, 134 Wn. App. 1, 13, 137 P.3d 101 (Div. 2) (2006) ("Whether the plaintiff has exercised due diligence under the discovery rule is a question of fact, which is the defendant's burden to prove." citing Mayer v. City of Seattle, 102 Wn. App. 66, 76, 10 P.3d 408 (2000) (defendant has burden of proving a statute of limitation defense)) and the County has provided no arguments, explanation or evidence as to how Belenski failed to exercise due diligence, or when he knew or should have known records were being silently withheld from him, or when he discovered or should have discovered salient facts underlying the elements of a cause of action. Therefore, the County has failed to prove a statute of limitations defense.

Belenski argued the "Discovery Rule" to the trial court (CP 170-172), but as was previously mentioned, the court made no ruling regarding statutes of limitation. Since review by the Court of Appeals is de novo (RCW 42.56.550(3)), that Court was referenced to CP 170-172, (Reply Brief page 20). However, the Court of Appeals made no mention of the discovery rule in its analysis of the statutes of limitation regarding the September 27, 2010 request for IALs.

The Court of Appeal's Opinion (copy attached), in Section D "Statute of Limitations on Request #1" (Opinion 12-13) stated that the September 27, 2010 public records request, for Internet Access Logs (IALs) from February 1, 2010 to September 27, 2010, was time barred by either the Public Records Act's (PRA)

one-year statute of limitations, RCW 42.56.550(6), or by the two-year "catch-all" statute of limitations contained in RCW 4.16.130. Request #1 was submitted on September 27, 2010, and the County responded on October 4, 2010, that it had "no responsive records". The Court of Appeals went on to state that Belenski did not file his complaint until November 19, 2012, over two years after the County responded to Request #1 and that his claim regarding Request #1 was barred by the statute of limitations contained in RCW 4.16.130. (Opinion 13).

The Court of Appeal's strict application of the two-year time period found in RCW 4.16.130, does not take into account that on October 4, 2010, when the County responded "no responsive records" Belenski was unaware that he had been harmed, due to the County silently withholding IALs relevant to his request, and failing to provide a claim of exemption and a privilege log for these IALs.

Due to the deception and silent withholding orchestrated by the County, and that Belenski could not immediately know of his injury, the discovery rule is applicable in this case. In re Estates of Hibbard, 118 Wn.2d 737, 749-750, 826 P.2d 690 (1992), ("Application of the rule is limited to claims in which the plaintiffs could not have immediately known of their injuries due to professional malpractice, occupational diseases, self-reporting or **concealment of information** by the defendant. Application of the rule is extended to claims in which plaintiffs could not immediately know of the cause of their injuries."). (emphasis added).

It was not until January 3, 2012, more than 15 months after Belenski's September 27, 2010 request for IALs that Jefferson County Information Services Manager David Shambley advised Belenski that the reason the he did not receive the IALs involving this request was because "Chris Grant decided that you didn't have the software to look at them." (CP 195-196). This was the first time Belenski had notice that records had been concealed from him and that he had been injured. (CP 166, CP 124). Although the County now claims that the reason the IALs were silently withheld was because it believed the IALs were not public records (Answer to PFR 2), this comment was the first indication IALs had been silently withheld. Since this litigation was filed on November 19, 2012, it was filed well within one year of the discovery of the County's deception.

When enforcing a statute, a court is to determine and enforce the intent of the legislature. "The meaning of a statute is inherently a question of law and our review is de novo." Department of Labor and Industries v. Gongyin, 154 Wn.2d 38, 41, 109 P.3d 816 (2005) (citations omitted). "The primary goal of statutory interpretation is to ascertain and give effect to the legislature's intent and purpose." Id.

It is an untenable argument that the PRA policy of liberal construction and broad disclosure of public records mandated by the legislature would allow an agency to escape sanctions for silently withholding records if the agency is successful in ensuring the silent withholding remained undetected for two years.

A requestor of public records must rely on an agency to provide an honest, non-deceptive and accurate response to a public records request. Since the County used deception to silently withhold the IALs, the discovery rule should be applied to the September 27, 2010 request for IALs.

3. Did the County conceal or silently withhold IALs responsive to the September 27, 2010 public records request?

Silent withholding has been defined by this Court as the failure to disclose the existence of requested records, and it is prohibited under the PRA. ("An undisclosed record results in the prohibited silent withholding discussed in PAWS, 125 Wn.2d at 270") Neighborhood Alliance of Spokane County v. County of Spokane, 172 Wn.2d 702, Footnote 16, 261 P.3d 119 (2011).

Therefore, to be in compliance with the PRA, the County was required to disclose the existence of the IALs because they were records relevant to Belenski's public records request. PAWS v. UW, 125 Wn.2d 243, 270, 884 P.2d 592 (1994) ("The Public Records Act clearly and emphatically prohibits silent withholding by agencies of records relevant to a public records request.") (emphasis added).

Belenski's public records request specifically requested IALs by name (CP 211) and the County has not claimed that it did not know what Belenski was requesting, nor did the County ask Belenski to clarify his request pursuant to RCW 42.56.520. This information, taken in concert with the email sent by Chris Grant to DPA David Alvarez and Public Records Officer Lorna Delaney one day after

Belenski made his request (CP 138 "We have Internet access logs"), leaves no doubt that the County knew it had IALs relevant to Belenski's request and that the silent withholding of the IALs was calculated and deliberate.

In order for the County to have legally withheld these IALs, it was required to make a "claim of exemption" and provide a "privilege log" or "withholding index" Rental Housing Association of Puget Sound v. City of Des Moines, 165 Wn.2d 525, 538-540, 199 P.3d 393 (2009). However, since the County never made a "claim of exemption", or provided a "privilege log" or "withholding index" for these IALs, it violated the PRA.

The County claims it responded "no responsive records" to Belenski's request because it then held the belief that the IALs were not public records (Answer to PFR page 2). Regardless of whether the County believed the IALs were public records or not, it was required to disclose their existence to Belenski because they were records relevant to his request and also the exact records he was seeking.

Further, on at least two other occasions, the County provided a written response to a public records request Belenski had made, with the explanation that the records he sought were not public records (CP 125 lines 11-23, CP 141-142). Oddly, the County did not provide Belenski with a written or verbal explanation revealing it's then held belief that the IALs were not public records, until after the litigation was filed. (CP 125 lines 9-10). This further suggests that the silent withholding was calculated and deliberate.

If the County believed the IALs were not public records, it had multiple opportunities to advise Belenski of its belief. It could have stated its belief in its response to the public records request (CP 214), DPA Alvarez could have conveyed this belief during the conversation in the basement of the Courthouse (CP 194 lines 7-13), Information Services Director Shambley could have shared this belief during the meeting on January 3, 2012 (CP 195 lines 20-27, CP 196 lines 1-11), the County Administrator could have made Belenski aware of this belief if he had "followed up" as directed by the County Commissioners, but he never "followed up" (CP 124 lines 17-26, CP 125 lines 1-4).

The County had also advised Belenski that the reason he didn't get the requested IALs was because it had "no responsive records" (CP 214), "we don't use them for anything so we don't have to keep them" (CP 194, 631), and "Chris Grant decided you didn't have the software to look at them." (CP 196 lines 2-3), so the County could have easily told him that it believed the IALs were not public records.

Additionally, RCW 42.56.520 requires that "Denials of requests must be accompanied by a written statement of the specific reasons therefor." By the County's own admission the specific reason for the denial of Belenski's request was that the County held the belief that the IALs were not public records (Answer to PFR 2), not that it had 'no responsive records". The failure of the County to provide a truthful response gave the misleading impression that there were no

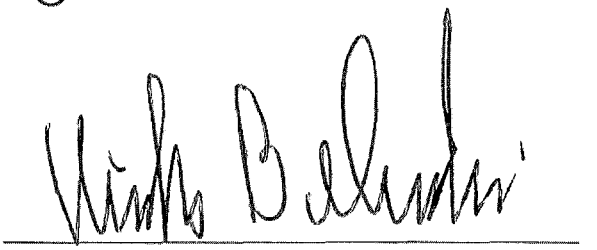
records relevant to his request and denied Belenski his rights under the PRA to seek judicial review pursuant to RCW 42.56.550(3).

Lastly, a court determines whether or not a record is a public record, not the County. The County had no lawful discretion to determine what is or is not a public record. RCW 42.56.550(3) states that a court shall not defer to any determination made by the agency but shall review the matter de novo. see Servais v. Port of Bellingham, 127 Wn.2d 820, 834-35, 904 P.2d 1124 (1995) (agencies not allowed to define the scope of statutory rule making or policy). Also, see Hearst Corp. v. Hoppe, 90 Wn.2d 123, 131, 580 P.2d 246 (1978) ("leaving interpretation of the act to those it was aimed would be the most direct course to devitalization").

E. CONCLUSION

For the reasons set forth above, Petitioner requests this Court to do the following: 1) find summary judgment for the Petitioner with regards to the September 27, 2010 public records request for IALs based on the County's silent withholding / wrongful withholding of IALs responsive to this public records request; 2) remand with an order for discovery as to any remaining issues, including penalties; 3) remand with an order for an award of costs and penalties pursuant to RCW 42.56.550(4); 4) enter an Order granting Petitioner reasonable expenses on appeal as allowed by RAP 18.1; 5) for such other and further relief the Court deems just and equitable.

Respectfully submitted this 8th day of February, 2016.



Mike Belenski, Petitioner
P.O. Box 1132
Poulsbo, WA 98370
(360) 437-9808

DECLARATION OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on the date specified below, I served a copy of the following document upon Respondent and Attorney for Amicus, via e-mail per service agreement of the parties:

SUPPLEMENTAL BRIEF OF PETITIONER

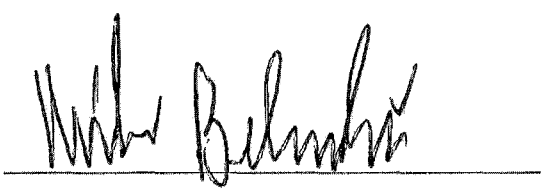
As follows:

Jeffrey Myers
jmyers@lldkb.com

David Alvarez
dalvarez@co.jefferson.wa.us

Michele Earl-Hubbard
michele@alliedlawgroup.com Attorney
for Amici

Dated this 8th day of February, 2016 at Mats Mats, Washington.



Mike Belenski, Petitioner

OFFICE RECEPTIONIST, CLERK

To: Mike Belenski
Cc: jmyers@lldkb.com; dalvarez@co.jefferson.wa.us; 'Michele Earl-Hubbard'
Subject: RE: Supplemental Brief of Petitioner

Received on 02-09-2016

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Mike Belenski [mailto:mbelenski@gmail.com]
Sent: Monday, February 08, 2016 5:14 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: jmyers@lldkb.com; dalvarez@co.jefferson.wa.us; 'Michele Earl-Hubbard' <michele@alliedlawgroup.com>; mbelenski@gmail.com
Subject: RE: Supplemental Brief of Petitioner

Dear Supreme Court,

Attached to my previous email for filing was the Supplemental Brief of Petitioner for Supreme Court case No. 92161-0. **It is also attached to this email.**

Also attached to my previous email was the Opinion from my Court of Appeals Division 2 case #45756-3, and a copy of my Petition for Review. These documents were included because they were referenced in the Supplemental Brief of Petitioner.

I apologize for any confusion I have caused.

If you need addition information, please contact me.

Respectfully,

Mike Belenski

From: OFFICE RECEPTIONIST, CLERK [mailto:SUPREME@COURTS.WA.GOV]
Sent: Monday, February 08, 2016 4:55 PM
To: 'Mike Belenski'
Subject: RE: Supplemental Brief of Petitioner

It is unclear what you are filing. The petition for review has already been filed with this court. Please resend your document with what you intend on filing.

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Mike Belenski [mailto:mbelenski@gmail.com]
Sent: Monday, February 08, 2016 4:49 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: jmyers@lldkb.com; dalvarez@co.jefferson.wa.us; 'Michele Earl-Hubbard' <michele@alliedlawgroup.com>; mbelenski@gmail.com
Subject: Supplemental Brief of Petitioner

Dear Supreme Court,

Please see the attached for filing.

Respectfully,

Mike Belenski, Petitioner