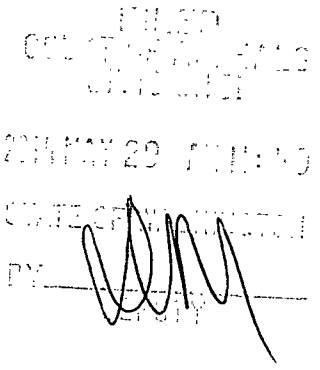

No. 45739-3-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

Hartstene Pointe Maintenance Association, Plaintiff/Respondent,

v.

John E. Diehl, Respondent/Appellant

RESPONSIVE BRIEF OF HARTSTENE POINTE MAINTENANCE ASSOCIATION

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I. Assignments of Error

Respondent Hartstene Pointe Maintenance Association (hereafter "HPMA"), assigns no error to the trial court findings, conclusions and order, and requests the same be affirmed.

Appellant Diehl (hereafter "Diehl") has explicitly accepted all of the trial court's factual findings, and therefore has produced no verbatim report of proceedings. Diehl's issues framed on appeal appear to pertain to **(a)** Diehl's asserted right to formal appeal proceedings before the HPMA Board with respect to all HPMA Board policy/management actions; **(b)** Diehl's assertion that on the facts presented Diehl was entitled to participate in closed executive Board sessions called for the purpose of considering legal communications, consulting with legal counsel, and discussing likely / pending litigation threatened by Diehl against HPMA; and **(c)** Diehl's multiple arguments regarding the content and validity of HPMA's Hazard Tree Policy.

II. Statement of Case

HPMA is a Washington nonprofit corporation and homeowners association governed by Chapter 64.38 RCW. CP 4. HPMA is the governing association for the community called Hartstene Pointe, located on the north tip of

Hartstene Island in Mason County, Washington. CP 4. John Diehl (hereinafter "Appellant" / "Diehl") is an owner of two lots located within the Hartstene Pointe development, and is therefore a member of the Hartstene Pointe Maintenance Association. CP 4.

Diehl sued Hartstene Pointe Maintenance Association (hereinafter "HPMA") in 2009 (Mason County Superior Court Cause No. 09-2-01009-8), challenging the vegetative management plan adopted by the HPMA Board to provide for management of HPMA's vegetated common areas. The case resolved through entry of a stipulated order that explicitly authorized HPMA to continue to develop and implement policies to address vegetative management in the extensive vegetated common areas adjacent to developed portions of Hartstene Pointe. CP 228, paragraph 4.

In 2011, HPMA approved and sought to implement an "Interim Hazard Tree Management Policy," to enable HPMA to address and respond to hazardous trees located within the vegetated common areas surrounding the circular platted lots in the Hartstene Pointe community. On September 17, 2011, over the dissenting vote of Diehl, the HPMA Board adopted the "Interim Hazard Tree Policy" proposed by the HPMA Natural Resources Committee. CP 4.

Diehl, an owner/member within the HPMA community, and a Board member at the time of the HPMA Board's adoption of the Interim Hazard Tree Management Policy, opposed the Board's action to adopt the policy. Diehl asserted that HPMA's governing instruments afforded him the right to file a formal appeal with the HPMA Board and the right to be afforded a formal appeal hearing by the HPMA Board regarding the Board's adoption of the policy.

It became clear to HPMA that Diehl was likely to bring litigation against HPMA in the event HPMA attempted to move forward to implement the Interim Hazard Tree Management Policy. CP 8. In light of Diehl's history of initiating legal action, HPMA sought declaratory judgment from the trial court in order to clearly define **(a)** whether HPMA is entitled and authorized, pursuant to RCW 64.38.035, to convene in closed executive session(s) to consider legal communications, consult with legal counsel, and discuss likely / pending litigation threatened by Diehl against HPMA; **(b)** whether Diehl is required to recuse himself from such closed executive session(s); and **(c)** whether HPMA's governing instruments vest Diehl with any "right of appeal" to the HPMA Board regarding the Board's adoption of the Interim Hazard Tree Policy or similar management/policy decisions and actions by the HPMA Board. Diehl initiated numerous counterclaims against HPMA, including

multiple claims regarding the content of HPMA's Hazard Tree Policy. *See* HPMA Hazard Tree Policy, EX 1.

The trial court found that with respect to the subject fact pattern, Diehl was acting in a capacity as an "owner-member" and was likely to bring litigation against HPMA. CP 8, Finding No. 42; CP 9, Finding No. 61. The trial court concluded that with respect to the subject fact pattern, the HPMA Board was entitled, pursuant to RCW 64.38.035, to convene in closed executive session to consult with legal counsel or to consider communications with legal counsel to discuss the likely or pending litigation and that Diehl, as an adverse "owner member" likely to bring litigation against HPMA, was required to recuse himself from related closed executive session(s). CP 12, Conclusions 10, 11, 12.

With respect to Diehl's argument that Diehl, as an HPMA member, is entitled to full, formal "appeal" proceedings before the HPMA Board following each and every policy/management action by the HPMA Board, the trial court considered testimony and the plain language of HPMA's governing instruments, and made specific findings regarding HPMA Covenants, Article 9 (and Article 10 of Covenants pertaining to Addition No. 1), and HPMA Rules and Regulations Article 2, section 4. CP 6 – 7; Findings 30 – 36. The

trial court found no other governing instrument provisions that provide for membership "appeal" proceedings to the HPMA Board. CP 7, Finding 37. The trial court concluded that sections 1, 2, and 3 of HPMA Covenants Article 9 (and Article 10 of Covenants pertaining to Addition No. 1), and Article 2, section 4 of the Rules and Regulations must be read as a whole; are not ambiguous; and must be given their plain meaning. CP 10 – 11, Conclusions 2, 4. The trial court concluded that all these provisions relate to the interpretation, administration and enforcement of the Covenants and Rules and Regulations, respectively. CP 10 – 11, Conclusions 2, 4. The trial court concluded that these provisions do not provide any basis for the broad "right of appeal" asserted by Diehl in the context of general policy adoption and management actions by the HPMA Board. CP 12, Conclusion 14.

The trial court also affirmed the validity of HPMA's Hazard Tree Policy, making specific related findings regarding the HPMA Board's adoption of the policy; extent of membership notice and opportunity for comment afforded by the policy; authority of the HPMA Board to contract with third parties; and specificity and content of the policy. CP 8, Findings 46, 47, 48, 49, 50, 51, 52, 53.

III. Argument

A) DIEHL'S ASSIGNMENT OF ERROR 1: APPEAL OF BOARD POLICY / MANAGEMENT ACTION

The trial court examined HPMA's governing instruments. EX 5, 7, 8, and 9. The trial court heard extensive testimony regarding the content and application of HPMA's governing instruments. None of that testimony is available for consideration on appeal, as Diehl has declined to produce any portion of the verbatim report of proceedings. Diehl, as the appellant, bears the burden of complying with the Rules of Appellate Procedure and perfecting the record on appeal so the reviewing court has before it all the evidence relevant to deciding the issues before it. *In re Marriage of Haugh*, 58 Wn.App. 1, 6, 790 P.2d 1266 (1990); *Story v. Shelter Bay Co.*, 52 Wn.App. 334, 345, 760 P.2d 368 (1988). When the appellate record does not contain a verbatim report of proceedings, the findings of fact will be accepted as verities. *Rekhi v. Olason*, 28 Wn.App. 751, 753, 626 P.2d 513 (1981). A pro se litigant must comply with procedural rules. *City of Sunnyside v. Wendt*, 51 Wn.App. 846, 848, 755 P.2d 847 (1988). In the absence of a verbatim record of proceedings, the trial court's findings of fact are to be accepted as true, and review limited to examining whether the conclusions follow from the findings.

The trial court concluded that Diehl's interpretation of Article 9 of the HPMA Covenants (CC&Rs); Article 10 (CC&Rs for Addition No. 1), and Article 2 of the HPMA Rules and Regulations is inaccurate. EX 5, 9. The trial court concluded: Sections 1, 2, and 3 of HPMA CC&Rs Article 9 (and Article 10 of the CC&Rs re: Addition No. 1), EX 5, must be read as a whole, are not ambiguous, must be given their plain meaning; and all three relate to the interpretation, administration and enforcement of the Covenants. CP 10, Conclusion 2. The plain language of these instruments does not provide owner/members within HPMA with a broad "right of appeal" that would require formal appeal hearings to be heard by the Board regarding general Board policy / management actions, following adoption of the same by the Board in an open meeting, with prior opportunity for membership comment to the Board. CP 12, Conclusion 14. Diehl cites Covenants Article 9 (and Article 10 regarding HPMA Addition No. 1), EX 5, and Rules and Regulations Article II, section 4, EX 9, as the basis for Diehl's asserted "right of appeal" to the HPMA Board regarding all general policy and management actions by the HPMA Board. However, it is readily apparent that the provisions cited by Diehl authorize formal appeal proceedings before the Board only where an owner/member has been directly affected by adverse enforcement or regulatory action initiated by HPMA against the particular owner/member.

Rules and Regulations Article II, EX 9, is in fact titled "Procedure for Enforcement." The HPMA Board's action to adopt general management decisions and to implement generally applicable policies is separate and distinct from the HPMA Board's action to initiate enforcement or regulatory action directed at a particular owner/member. The right of appeal that arises in the context of enforcement or regulatory actions by the HPMA Board against specific owner/members does not arise in the context of the HPMA Board's own validly adopted management decisions and policy implementation actions. Diehl's narrow reading and selective interpretation of the language in these sections leads to a strained, unworkable and unreasonable result, where the HPMA Board would be required to consider, through formal appeal proceedings, each and every objection by each and every HPMA owner/member regarding all of the Board's validly adopted management decisions and actions to implement policies. Upon consideration of the content of the governing instruments and testimony offered at trial, the trial court reached the conclusion that owner / members are not afforded a broad formal "right of appeal" with respect to validly adopted management decisions and policy implementation actions by the HPMA Board. CP 12, Conclusion 14.

The conclusion by the trial court was based on explicit findings by the trial court. Article 9 of the HPMA CC&Rs or Article 10 (CC&Rs for Addition No. 1) is within an Article entitled "Interpretation, Administration, and Enforcement of Covenants." CP 6, Finding 30. This Article makes provision for an owner adversely affected by an action of the Architectural Control Committee ("ACC") to appeal to the Board. Prior to the present case and related fact pattern, the ACC was dissolved and ceased to exist following Diehl's prior and separate legal challenges regarding committee formation and operating procedures. The HPMA Board now, and at all times relevant to the current fact pattern, directly administers matters that were formerly within ACC jurisdiction. The HPMA Board itself directly reviews complaints of noncompliance filed by owner/members, and as necessary, takes action regarding specific enforcement and regulatory matters. The trial court found that the only provisions regarding "appeal" to the HPMA Board are contained in sections of the governing instruments that pertain to enforcement of violations and regulatory action directed at specific owner/members, and that no other provisions exist that would grant an owner member a broad right to formally appeal to the Board general policy / management decisions by the Board. CP 6 – 7, Findings 30 – 37.

The trial court found that the HPMA governing instruments afford any owner who objects to action by a Board member a process through which the Board member or entire Board may be removed, with or without cause. CP 7, Finding 38. Therefore, the trial court concluded that no owner/member is left without sufficient remedy in the event he or she takes issue with action or inaction by a Board member or entire Board. CP 11, Conclusion 7. However, the trial court also concluded that owner/members are not vested with the ability to substantially complicate and tie the hands of the Board by requiring that the Board entertain formal "appeals" from all owners/members regarding every policy and management decision adopted by the Board in open meeting following opportunity for member comment. Extensive trial testimony was presented regarding HPMA's open meeting forums and opportunity for member involvement and input.

While the governing instruments do explicitly provide for appeals to the Board in specific and limited contexts (for example, appeal by an individual subject to an enforcement action), the governing instruments cannot be interpreted as vesting all owner/members with the "right" to formal appeal proceedings regarding every policy and management decision adopted by the Board in open meeting following opportunity for member comment.

Diehl's argument regarding the need to afford an administrative remedy to owner-members who may have received no notice of an impending decision before it was made is misleading and should not be considered. Had Diehl produced a verbatim report of proceedings, testimony considered by the trial court would be before this Court. Such testimony establishes that all owner/members are afforded full opportunity to present their views and opinions during open Board meetings prior to Board actions.

Diehl's assertion regarding the HPMA Board's handling of the Larry Wendt appeal, presented as Footnote 2 in Diehl's appellate brief, should not be considered on appeal in the absence of a verbatim record of proceedings. Testimony established that the Larry Wendt matter pertained to an enforcement action by the HPMA Board against a particular owner/member, and that the situation was factually distinguishable from Diehl's attempt to appeal the Board's broad management action / adoption of the hazard tree policy.

Diehl does appear to point out one legitimate issue regarding the "appeal" issue. It does appear that the trial court's order (specifically order paragraph number 2), while intended to address only the question of owner/members' "right to appeal" Board policy and management decisions (as the issue was

presented by HPMA in the underlying complaint for declaratory judgment), might be read as applying broadly to preclude *all* categories of appeal (including appeals that the trial court explicitly found are authorized by specific governing instrument sections, such as in the context of violation actions). CP 14, Order Paragraph 2. It is clear from the content of the pleadings and from the trial court's conclusions, particularly Conclusion No. 6, that the trial court intended its order to provide that the governing instruments "do not vest an owner member with any right to appeal to the Board the Board's adoption of the interim hazard tree policy or similar Board decisions" (as opposed to the outright prohibition on all owner member appeals that Diehl is asserting based on the language used in the trial court's order section). CP 10, Conclusion 3; CP 11, Conclusions 5 and 6. Diehl's argument in this respect contradicts the trial court's findings and conclusions, and if this Court deems necessary, the trial court's order paragraph 2 should simply be clarified as follows: "HPMA's request for Declaratory Judgment that HPMA's governing instruments do not grant owner-members a right to appeal to the Board the Board's adoption of the interim hazard tree policy or similar general management or policy decisions by the Board is GRANTED."

B) DIEHL'S ASSIGNMENT OF ERROR 2: EXECUTIVE SESSION PURSUANT TO RCW 64.38.035 AND ATTORNEY-CLIENT COMMUNICATIONS PROVIDED IN THAT CONTEXT

Diehl has failed to provide an adequate record to enable this Court to review Diehl's arguments regarding whether he was or was not positioned as an adverse party poised to initiate litigation against HPMA. Diehl has explicitly agreed to accept the trial court's findings as verities, and has declined to produce any verbatim report of proceedings. The trial court heard testimony regarding Diehl's posture as an adverse owner/member threatening litigation against HPMA as a result of Diehl's personal dissatisfaction with the hazard tree policy and regarding Diehl's demand for formal appeal proceedings before the HPMA Board regarding the HPMA Board's adoption of the policy. The trial court entered explicit findings and conclusions that Diehl was an HPMA owner likely to bring litigation against HPMA in his capacity as an "owner-member," and that the communications that the HPMA Board intended to address in closed executive session involved the issue of Diehl's likely litigation against HPMA and communications from HPMA's legal counsel regarding the same. CP 8, Findings 42, 43; CP 9, Findings 60, 61.

Washington's Homeowners' Association statute, Chapter 64.38 RCW, provides that the board of directors of a homeowners association may convene

in closed executive session to, among other things, consult with legal counsel or consider communications with legal counsel and discuss likely or pending litigation. RCW 64.38.035(2) [now RCW 64.38.035(4)]. The trial court concluded that although Diehl was an HPMA Board member, Diehl was acting in an "owner-member" capacity when threatening litigation against HPMA, and Diehl was therefore required to absent himself from an executive HPMA Board meeting session called pursuant to RCW 64.38.035(2) [now RCW 64.38.035(4)] for the purpose of enabling the Board to consider legal counsel and discuss legal communications regarding Diehl's litigation. CP 8, Finding 42; CP 9, Finding 61; CP 11, Conclusion 9; CP 12, Conclusion 10, 11, 12. The trial court concluded that "the analysis in terms of whether a [homeowners' association] Board is entitled to convene in closed executive session and require a particular Board member to absent himself from such session is dependent upon which "hat" the particular Board member is wearing with respect to the issue presented. CP 11, Conclusion 8. The trial court concluded that "[w]here the particular Board member has his owner-member hat on and is acting in the capacity as an owner-member, and is involved in litigation or likely to be involved in litigation with the Board, and where that individual is also a Board member, that individual must absent himself from an executive Board meeting session called for the purpose of considering advice of legal counsel and discussing legal communications

regarding the likely or pending litigation involving the individual." CP 11, Conclusion 8 and 9.

The trial court's resolution of this matter makes sense given the specific factual findings by the trial court in this case. The trial court specifically found that Diehl was acting in the capacity as an adverse owner-member posed to initiate litigation against HPMA. Boards of directors in most homeowners' associations will be comprised of owner-members. Where an owner-member sitting as a board member takes a position that serves as the basis for litigation against the association itself, the unique and case-specific facts will dictate whether the individual is functioning in a capacity as an adverse owner-member, or as an adverse board-member. In the present case, the trial court found that Diehl was acting as an adverse owner-member and resolved the case on that basis. In the absence of a verbatim record, the trial court's findings of fact are accepted as verities. *Rekhi v. Olason*, 28 Wn.App. at 753.

It is reasonable to anticipate that homeowners' association boards will be subject to litigation in which owner-members are the adverse litigants. It seems clear that when the adverse owner-member litigant is not also sitting as a director on the association's board, the adverse owner-member can properly be excluded from an executive session, called pursuant to RCW 64.38.035(2)

[now RCW 64.38.035(4)], for the purpose of evaluating the litigation and legal counsel. But when an adverse owner-member litigant is also sitting as a director on the association's board at the time of the litigation, the question becomes whether the association board is entitled to meet in executive session, pursuant to RCW 64.38.035(2) [now RCW 64.38.035(4)], to evaluate the litigation and legal counsel without the adverse litigant (board member) being present. It makes sense to analyze such a situation just as the trial court did in this case: first determine whether the adverse owner-member is acting in his or her capacity as an "owner-member" or in his or her capacity as a "director." If the adverse owner-member is acting in his or her capacity as an "owner-member," the board should be able to meet for the purposes defined in RCW 64.38.035(2) [now RCW 64.38.035(4)] without the adverse litigant being present. That is as far as the trial court went in terms of findings and analysis in the present case, Diehl has not challenged the trial court's findings that he was acting in his capacity as an "owner-member" initiating litigation against HPMA, and in the absence of a verbatim report of proceedings, this is where the review should end on appeal.

Diehl has failed to provide an adequate record to enable this Court to review Diehl's argument regarding broader questions framed on appeal by Diehl as follows: (a) "*may a minority of corporate directors be excluded from a*

meeting of the corporate board, even when they have no beneficial interest in a matter before the board, if the board majority believes that the minority may potentially be adverse parties in litigation with the corporation;" and (b) "*when members of a corporate board of directors disagree about a matter of policy or an interpretation of law, does the majority have a right to use corporate funds to secure a legal opinion, but not to disclose this opinion to the minority*?" (Diehl's Assignments of Error 2).

The trial court addressed and resolved the issue of whether Diehl was entitled to be present in the executive session called pursuant to RCW 64.38.035, as detailed in the trial court's specific findings and conclusions. The findings and conclusions do not pertain in any way to the question now framed on appeal by Diehl regarding majorities and minorities of corporate boards and beneficial interests. Diehl, as the appellant, bears the burden of complying with the Rules of Appellate Procedure and perfecting the record on appeal so the reviewing court has before it all the evidence relevant to deciding the issues before it. *In re Marriage of Haugh*, 58 Wn.App. at 6; *Story v. Shelter Bay Co.*, 52 Wn.App. at 345. When the appellate record does not contain a verbatim report of proceedings, the findings of fact will be accepted as verities. *Rekhi v. Olason*, 28 Wn.App. at 753. A pro se litigant must comply with procedural rules. *City of Sunnyside v. Wendt*, 51 Wn.App. at 848. In the

absence of a verbatim record of proceedings, the trial court's findings of fact are to be accepted as true, and review limited to examining whether the conclusions follow from the findings. This Court should decline to reach the merits of the expanded issue now framed by Diehl on appeal, as Diehl declined to produce any portion of the verbatim report of proceedings. The findings and conclusions of the trial court fully resolve the issue regarding the executive session called pursuant to RCW 64.38.035, and the findings and conclusions do not address, in any way, Diehl's expanded issue now presented on appeal.

C) DIEHL'S ASSIGNMENT OF ERROR 3: HAZARD TREE POLICY

The hazard tree policy that is relevant in the context of this appeal is the final Hazard Tree Policy adopted by the HPMA Board on December 15, 2012. EX 1. The trial court made specific findings regarding this policy, and determined the policy to be valid and sufficient. Diehl's Assignment of Error 3 challenges the trial court's conclusions that the policy is (a) valid and sufficient, (b) is not vague or ambiguous, and (c) does provide HPMA owner/members adequate notice regarding proposed hazard tree management actions.

In terms of "notice" to owner/members regarding proposed hazard tree management activities, the hazard tree policy provides that the HPMA

Manager shall, after reviewing the arborist's report, generate a "Manager's Notice of Proposed Action." This, along with the arborist's report, shall be posted in the HPMA Clubhouse and on the HPMA website for 15 days. CP 8, Finding 47. The trial court concluded that the posting requirement in the hazard tree policy constitutes reasonable notice. CP 12, Conclusion 13. The trial court properly rejected Diehl's argument that HPMA's governing instruments define "notice" in a manner that would require first-class mail and/or personal service to each and every owner/member regarding proposed hazard tree management actions in the expansive wooded common areas surrounding developed areas. Diehl cites to HPMA's Rules and Regulations in an attempt to support Diehl's "notice" argument. However, this argument is flawed for the same reason that Diehl's argument regarding the "right of appeal" is flawed. With respect to both arguments, Diehl is attempting to improperly extend and apply terms and provisions that apply only in the context of enforcement of violations and regulatory actions directed at specific owner/members by the HPMA Board. Diehl's attempt to apply these terms and provisions to broad management and policy actions by the HPMA Board is not well founded, and would lead to unreasonable and unworkable restraints that would substantially hinder the Board's ability to properly manage the common areas under Board jurisdiction.

The policy provides for two separate categories of "hazardous trees": "imminent hazard" and "non-imminent hazard." With respect to "non-imminent hazard" trees, any owner may file a written notice of intent that the owner is retaining an independent, professionally qualified arborist to prepare a second opinion. CP 8, Finding 48. Any owner may submit any written comments, objections, related information, or written alternative proposal that the owner wishes. CP 8, Finding 49. The trial court concluded that the policy affords owners with adequate notice and opportunity to be heard, is broad enough to enable any owner input, and is not unreasonably vague or biased. CP 12, Conclusion 13, 15, 17.

The trial court found that the hazard tree policy provides considerable specificity regarding the Manager's associated directives and duties. CP 8, Finding 51. The trial court found that the HPMA Board is vested with authority under RCW 64.38.020(3) to hire and discharge with managing agents to perform as required under the hazard tree policy, found that testimony by Managers indicated that no manager felt confused or inadequately guided by the hazard tree policy requirements, and that managers had ample opportunity to consult directly with the HPMA Board regarding any related questions or issues. CP 8, Finding 50, 52, 53. The trial court

concluded that HPMA's hazard tree policy does not grant unreasonable discretion, and does not grant overly broad powers to the HPMA manager.

Separate and apart from findings and conclusions by the trial court, Diehl attempts to raise on appeal the question of whether the policy is inconsistent with Mason County's Resource Ordinance. Diehl has failed to provide an adequate record to enable this Court to review Diehl's argument regarding broader questions framed on appeal regarding the Mason County Resource Ordinance. The Ordinance is not presented as an Exhibit in the record, and no related testimony has been presented in the absence of any verbatim report of proceedings. The trial court addressed and resolved issues regarding the validity of the hazard tree policy, as detailed in the trial court's specific findings and conclusions. The findings and conclusions do not pertain in any way to the question now framed on appeal by Diehl regarding the separate and distinct Mason County Resource Ordinance. Diehl, as the appellant, bears the burden of complying with the Rules of Appellate Procedure and perfecting the record on appeal so the reviewing court has before it all the evidence relevant to deciding the issues before it. *In re Marriage of Haugh*, 58 Wn.App. at 6; *Story v. Shelter Bay Co.*, 52 Wn.App. at 345. When the appellate record does not contain a verbatim report of proceedings, the findings of fact will be accepted as verities. *Rekhi v. Olason*, 28 Wn.App. at 753. A pro se litigant

must comply with procedural rules. *City of Sunnyside v. Wendt*, 51 Wn.App. at 848. In the absence of a verbatim record of proceedings, the trial court's findings of fact are to be accepted as true, and review limited to examining whether the conclusions follow from the findings. This Court should decline to reach the merits of the expanded issue regarding the Mason County Resource Ordinance framed by Diehl on appeal, as Diehl declined to produce any portion of the verbatim report of proceedings. Diehl's action to attempt to attach to his appellate brief certain text from the Mason County Resource is improper. The findings and conclusions of the trial court fully resolve all issues regarding validity of the hazard tree policy, and the findings and conclusions do not address, in any way, Diehl's expanded issue regarding the Mason County Resource Ordinance.

IV. CONCLUSION

HPMA respectfully requests that this Court deny review and/or affirm the order entered by the trial court.

DATED this 27th day of May, 2014.

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Proof of Service

On this date, May 27, 2014, a copy of this document was mailed first class and was hand-delivered to Appellant Diehl at the following address:

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