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**COURT OF APPEALS
DIVISION 1
OF THE STATE OF WASHINGTON**

SHANGRI-LA COMMUNITY CLUB, Inc., Craig Sjostrom, #21149
a Washington nonprofit corporation Attorney for Respondent
Respondent, 1204 Cleveland Avenue
Mt. Vernon. WA 98273
(360) 848-0339

vs.

MELVIN STRUCK and MARY STRUCK Melvin E. Struck, Pro Se
h/w, 12024 8th Avenue, NW
Appellants. Seattle, WA 98177
(206) 255-5379, Cell

APPELLANT'S BRIEF
Appellate Court: #66611-8-1

FILED
COURT OF APPEALS DIVISION 1
STATE OF WASHINGTON
2011 SEP -6 PM 3:48

ORIGINAL

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

TABLES

JANUARY 3, 2011: REPORT OF PROCEEDINGS

RP-1 thru RP-20 - VERBATIM REPORT

Court Hearing 1-3-11, cause numbers 09-2-02464-5 and

[09-2-02466-1, Judge Dave Needy. Corrected copy sent to Skagit

Superior Court and Appellate Court on or after May 9, 2011.]

A. INTRODUCTION:

Clerks Papers: CP-64; CP-52 and CP-53; CP-54 and CP-55;

CP-46 thru 48; CP-1 thru CP-5; CP-47; CP-49 thru

CP-51; RP; CP-41 and CP-42

Judge Needy: RP-11 and RP-12

1-3-11 transcription

B. ASSIGNMENT OF ERROR: None

C. STATEMENT OF THE CASE:

Clerks Papers: CP-12; CP-75; CP-77; CP-78 and CP-79; CP-41 and

CP-42; CP-20 and CP-21

D. ARGUMENT:

Judge Needy: RP-12, Page 12

1-3-11 transcription

E. CONCLUSION:

Clerks Papers: CP-64

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB, INC	APPEALS COURT # 66661-8
	SKAGIT COUNTY # 09-2-02464-5
Plaintiff	
Vs.	
MELVIN & MARY STRUCK	Clerk's paper requested by
Defendant	MELVIN STRUCK, PRO SE

AFFIDAVIT/DCLR/CERT OF SERVICE
Filed 08/24/2011 72

AFFIDAVIT/DCLR/CERT OF SERVICE
Filed 08/24/2011 74

AMENDED DESIGNATION OF CLERK'S PAPERS
(ACTUALLY SUPPLEMENTAL)
Filed 08/24/2011 71

AMENDED DESIGNATION OF CLERK'S PAPERS
(ACTUALLY SUPPLEMENTAL)
Filed 08/23/2011 59-70

DECLARATION OF PREJUDICE DEMAND FOR TRIAL DATE
Previously designated 20-21

DESIGNATION OF CLERK'S PAPERS AMENDED TO INCLUDE
DOCS FROM 09-2-02466-1
Filed 08/24/2011 73

NOTICE OF APPEARANCE
ANSWER & COUNTER CLAIM
STRUCK, MELVIN
Previously designated 1-5

ORDER AUTHORIZING SVC BY PUBLICATION/COPY FROM 09-2-02466-1
ORIGINALLY FILED 05-18-2010
Filed 09/02/2011 75-76

ORDER GRANTING SUMMARY JUDGMENT
JUDGE DAVID R. NEEDY
Previously designated 41-42

ORDER OF DEFAULT/ COPY FROM 09-2-02466-1, FILED 09-22-2010
Filed 09/02/2011 77

ORDER ON MT FOR SUMMARY JDGMT COPY FROM 09-2-02466-1
ORIGINALLY FILED 01-03/2011
Filed 09/02/2011 78-79

REPLY TO COUNTER CLAIM
Filed 03/18/2011 57-58

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Appellate Court: #66611-8-1
Skagit Superior court: #09-2-02464-5

WASHINGTON STATE COURT OF APPEALS
DIVISION 1
SEATTLE, WA

SHANGRI-LA COMMUNITY CLUB,)	
Inc., a Washington nonprofit corporation)	
)	
Respondent,)	APPELLANTS' BRIEF
)	
vs.)	
)	
MELVIN STRUCK and MARY STRUCK))	
)	
Appellants.)	
)	

INTRODUCTION

The Struck's and their homeowners association, the Shangri-la Community Club, Inc. (the Club) are engaged in a dispute about the Club's failure to provide water to Lot 16 and to Lot 17, owned by the Struck's, and the Club's liens filed against said lots. And, secondly, on or about October 1, 2009 the Club installed water meters on Lot 16 and Lot 17 and promptly shut off the water and installed locks to deny the

1 Struck's access to potable water. There is no legal basis in the Club's
2 CCR's to deny Struck access to water.

3 The covenants, conditions and restrictions (the CCR's) of the
4 Shangrila Community Club, Inc. in the Skagit County Auditor file 716023
5 is quoted as "...the prevailing party in any action to enforce the provisions
6 hereof shall recover a reasonable cost of searching and abstracting the
7 public record, and reasonable attorney's fees." (CP-64).

8 The facts relevant to this appeal are that the Club filed two liens,
9 numbered 200610300173 (CP-52 and CP-53) and 200610300174
10 (CP-54 and CP-55) against property owned by the Struck's. The first lien,
11 number 200610300173, was filed against the Struck's Lot 17, parcel
12 P69007, on October 30, 2006 (CP-52 and CP-53) The second lien, number
13 200610300174, was also filed, on the same date, against the same lot 17,
14 parcel P69007 (CP-54 and CP-55).

15 The Club later delivered and served, on or about December 14,
16 2009, its Complaint and Summons against Melvin Struck and Mary
17 Struck, cause number 09-2-02464-5 (CP-46 thru CP-48), as the owners of
18 Lot 17. In its Lot 17 Complaint the Club sought to foreclose on lien
19 200610300173. This Complaint on Page 2, at Paragraph 2.3 quotes as:
20 "A lien encumbering Defendant's parcels was duly recorded on October

1 30, 2006 under Skagit County Auditor's File No. 200610300173, in the
2 then-principal amount of \$115.00." (CP-47)

3 The Struck's answered this Lot 17 complaint and counterclaimed
4 (CP-1 thru CP-5), on December 30, 2009.

5 The Club never answered the Lot 17 Struck's counterclaims prior
6 to March 18, 2011.

7 The Club on or about December 14, 2009 also filed a second
8 complaint, on cause number 09-2-02466-1 (CP-49 thru CP-51). The Lot
9 16 complaint in cause number 09-2-02466-1 was against Melvin Struck,
10 Mary Struck and Karen Struck.

11 The Club did not deliver or serve this complaint on the defendants,
12 rather the Club improperly moved for an Order of Service by Publication
13 (CP-75). The Club knew of the Melvin Struck's, Mary Struck's and Karen
14 Struck's location and was then dealing with the Struck's in the other case,
15 09-2-02464-5.

16 The complaint in cause number 09-2-02466-1 on Page 2, at
17 Paragraph 2.3 is quoted as: "A lien encumbering Defendants' parcels was
18 duly recorded on October 30, 2006 under Skagit County Auditor's File
19 No. 200610300173, in the then-principal amount of \$115.00." (CP-50)

1 The Struck's learned of this complaint by the Club in November
2 2010 when Mr. Struck was checking the Skagit County Clerk's file in
3 cause number 09-2-02464-5.

4 When he found the file in cause number 09-2-02466-1 Mr. Struck
5 learned that in an Ex Parte hearing the court granted a Default Order
6 (CP-77) on September 22, 2010 against Karen Struck. Mr. and Mrs.
7 Struck had not received Notice of this Motion.

8 The Default Order was granted without a Certificate of Service of
9 the Summons and Complaint to the Struck's or to the Skagit Superior
10 Court on or before December 31, 2010. This is clear error requiring
11 reversal. Further the granting of the default judgment is in error because
12 Lien 200610300173 does not apply to Lot 16, parcel P69006. Karen
13 Struck does not have any ownership in Lot 17, parcel P69007.

14 The Court entered judgment without an answer to the Lot 17
15 counterclaims or any resolution of Struck's counterclaims.

16 Struck offered proof of facts in dispute (RP-11, Page 11). And in
17 the Judge Needy Summary Judgment Order (CP-41 and CP-42) as it was
18 entered on January 3, 2011 the disputed facts were not considered. The
19 summary judgment must be reversed because it was in error to say there
20 was no genuine issue of material fact in dispute.

21

1 | complaints, cause number 09-2-02464-5 and cause number 09-2-02466-1.

2 | Attorney Sjostrom was able to get four separate orders from Skagit

3 | County Superior Court based on these facts:

4 | 1.) Judge Rickert, Ex Parte, Order for Publication (CP-75) on

5 | Karen Struck, May 18, 2010.

6 | 2.) Judge Cook, Ex Parte, Order of Default (CP-77) on Karen

7 | Struck, September 22, 2010.

8 | 3.) Judge Needy, Summary Judgment Order(CP-78 and CP-79) on

9 | Melvin Struck, Mary Struck and Karen Struck, January 3, 2011.

10 | 4.) Judge Needy, Summary Judgment Order(CP-41 and CP-42) on

11 | Melvin Struck and Mary Struck, January 3, 2011.

12 | Melvin Struck, Mary Struck and Karen Struck were never served

13 | or notified of the Lot 16 complaint and/or the Ex Parte legal actions in

14 | 2009 and 2010 even though all of the Struck's address's in Skagit County

15 | Records have always been the same:

16 | Melvin Struck, Mary Struck and Karen Struck

17 | 12024 8th Avenue, NW

18 | Seattle, WA 98177

19 | (206) 365-9081 Home

20 | Prior to the January 3, 2011 hearing date Struck asked for a

21 | "roving judge" from another county (i.e. - a change of venue) but was

1 denied or ignored by the Skagit County Superior Court system.(CP-20 and
2 CP-21).

3 **ARGUMENT**

4 Entry of 09-2-02466-1 Order of Default on lien 200610300173 of
5 September 22, 2010 against Karen Struck and other owners of Lot 16,
6 parcel P69006, was an error of law and fact because Karen Struck is not
7 the owner of Lot 17 and is not responsible for lien 200610300173 on
8 Lot 17:

9 1.) The 09-2-02466-1 Complaint on Page 2, Paragraph 2.3 quotes
10 as Skagit County lien 200610300173 is the foreclosed upon lien. Karen
11 Struck is not the owner of Lot 17 and is not responsible for lien
12 200610300173 on Lot 17.

13 2.) Karen Struck did not and does not own any part of Lot 17,
14 parcel P69007.

15 3.) Skagit County lien 200610300173 recorded October 30, 2006
16 only applies to Lot 17, parcel P69007 which is owned by Melvin Struck
17 and Mary Struck.

18 Entry of 09-2-02464-5 Summary Judgment Order on lien
19 200610300173 on January 3, 2011 against Melvin Struck and Mary
20 Struck, owners of Lot 17, parcel P69007, was an error of law and fact
21 because Karen Struck, and other Lot 16 owners, all ready have a Default

1 Order granted on September 22, 2010 using lien 200610300173:

2 1.) The 09-2-02464-5 Complaint on Page 2, Paragraph 2.3 is
3 quoted as Skagit County lien 200610300173 is the foreclosed upon lien.
4 Karen Struck is not the owner of Lot 17 and is not responsible for lien
5 200610300173. Also, she all ready has a Default Order granted by Judge
6 Cook against her on September 22, 2010.

7 2.) Skagit County lien 200610300173 recorded October 30, 2006
8 only applies to Lot 17, parcel P69007 which is owned by Melvin Struck
9 and Mary Struck. However, the owners of Lot 16, parcel P69006 are now
10 responsible for lien 200610300173 as granted by court order on
11 September 22, 2010 .

12 3.) Skagit County lien 200610300174 recorded October 30, 2006
13 does not apply to Lot 17, parcel P69007 which is owned by Melvin Struck
14 and Mary Struck. This lien was recorded against Lot 17, Parcel P69007,
15 which was the wrong property in 2006 and never corrected.

16 4.) Attorney Sjostrom comments at the Struck Summary Judgment
17 Hearing did little to clarify the record before the court. In the Judge
18 Needy transcript attorney Sjostrom is quoted as:

19 "Then under Lot 17 there was a separate lien filed the same day
20 October 30th, '06. Look's like the auditor's number is sequential to the
21 first one (200610300173). And, again, that was also 115; so there were

1 two liens, one against each lot, one recorded on each lot, each time. But
2 they are two separate liens because they are separate lots.”

3 (RP-12, Page 12).

4 Therefore, the new corrected lien for Lot 17, parcel P69007 used
5 the next lien number in sequence after lien 200610300173, which clearly
6 means lien 200610300174. Attorney Sjostrom made this 200610300174
7 quote for the record on Lot 17, parcel P69007 rather than admit in open
8 court that lien 200610300173 was applied to both cause 09-2-02464-5 and
9 cause 9-2-02466-1 as quoted in there respective complaints.

10 5.) Attorney Sjostrom did not correct the proposed order to Judge
11 Needy referencing lien 200610300174. Therefore, the Summary
12 Judgment order is incorrect in using lien 200610300173.

13 6. Judge Needy granted the 09-2-02464-5 Summary Judgment
14 Order (CP-20) and ordered the property sold on the courthouse steps.
15 Struck paid the full amount of the judgment, \$4,235.63, to the Skagit
16 County Court Clerk pending outcome of this appeal.

17 CONCLUSION

18 The Summary Judgment Order as it was entered on January 3,
19 2011 must be reversed because it was in error to say there was no genuine
20 issue of material fact in dispute.

21 Order that the \$4,235.63 deposited into the Skagit County Superior

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Court by Struck be released to Struck.

Reverse the Summary Judgment entered by the lower court on
January 3, 2011.

Reverse the January 3, 2011 award of attorney fees and allow this
case to go to jury trial.

Award attorney fees to the Struck's as quoted in the Shangrila
Community Club, Inc. CCR's 716023. (CP-64).

Respectfully submitted,

x  Date: Sept 6, 2011

Melvin Struck, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

1 assessment. They are claiming that there's no material,
2 genuine issue of material fact that the bills have been
3 given to you, and no money has been received in response.
4 And your response seems to be focussed on roadway
5 right-of-way and other issues and service issues. But I
6 don't see anything about the assessment shouldn't be paid
7 because of someone actually providing you a location of the
8 water hookup.

9 MR. STRUCK: Your Honor, may I add something?

10 THE COURT: Yes.

11 MR. STRUCK: The original document that I
12 received from them, I didn't receive a copy of this piece of
13 paper either; that probably wasn't required. But the one as
14 far as the 66-1 was never delivered to my house or to my
15 wife. But the point I want to make here if you look at the
16 original complaint when I finally got the complaint on the
17 other lot, on the 66-1 and you read through it on lot 64-5
18 the complaint that they say the 173 was the document or the
19 lien that they were collecting on then they issued the other
20 66-1. And then they collect on the same lien. And then
21 they charged to Karen, even though she doesn't have anything
22 to do with that lien on the 64-5 lot. So essentially that's
23 double dipping. They sit there and they do both of them. It
24 was the same lien. There is no lien on lot 16.

25 THE COURT: Mr. Sjostrom, any response to that?

JENNIFER C. SCHROEDER, OFFICIAL COURT REPORTER, CCR, RPR
(360) 419-3366

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RP-11 Page 11

1 MR. SJOSTROM: One minute, Your Honor. There
2 were two liens recorded one under Lot 16 and one against Lot
3 17.

4 THE COURT: 16 was under the 2456-1?

5 MR. SJOSTROM: Should have been. Let me double
6 check with the complaint, Cause Number 2466-1 there was a
7 lien recorded against that lot, which is Lot 16, recorded
8 October 30th, '06 under Skagit Number 2006, 10300173. The
9 lien amount was \$115, that's what was owed at that time.

10 Then under Lot 17 there was a separate lien filed
11 the same day October 30th, '06. Look's like the auditor's
12 number is sequential to the first one. And, again, that was
13 also 115; so there were two liens, one against each lot, one
14 recorded on each lot, each time. But they are two separate
15 liens because they are separate lots.

16 MR. STRUCK: Your Honor. That is not correct.

17 THE COURT: What isn't correct about it?

18 MR. STRUCK: When you pull up the liens I have on
19 my property both liens show up on Lot 17, which is 64-5.
20 When you pull up the liens that are on Lot 16, which is 66-1
21 there are no liens on that property.

22 THE COURT: I can't pull that up.

23 MR. STRUCK: I have it where I pull it up.

24 THE COURT: Do you want to show that to Mr.

25 Sjostrom? When did you run that reference?

JENNIFER C. SCHROEDER, OFFICIAL COURT REPORTER, CCR, RPR
(360) 419-3366

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ORIGINAL

IN THE SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB, Inc., a
Washington nonprofit corporation

Plaintiff

vs.

MELVIN STRUCK & MARY STRUCK,
h/w; KAREN STRUCK, as her separate
property if married

Defendants

Nº 09-2-02466-1

ORDER OF DEFAULT

THIS MATTER having come on ex parte, the Court having reviewed the motion and declaration for default and the records and files herein, and deeming itself fully advised, now, therefore, IT IS HEREBY ORDERED AS FOLLOWS:

That defendant Karen Struck be and hereby is adjudged in default.

DATED 9-22-10

Susan K Coob
JUDGE / COMMISSIONER

Presented by:

Craig Sjostrom
CRAIG SJOSTROM #21149
Attorney for Plaintiff

ORIGINAL

ORDER OF DEFAULT
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Page 1 of 1

CRAIG D. SJOSTROM
Attorney at Law WBA 021149
1204 Cleveland Ave., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
cdsjostrom@comcast.net

CP-77

MELVIN STRUCK, Pro Se
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ORIGINAL

IN THE SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB,
Inc., a Washington nonprofit corporation

Plaintiff

vs.

MELVIN STRUCK & MARY STRUCK,
h/w; KAREN STRUCK, as her separate
property if married

Defendants

N^o 09-2-02466-1

ORDER ON MOTION
FOR SUMMARY JUDGMENT

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THIS MATTER came on regularly for hearing on this date, on Plaintiff's motion for summary judgment. Plaintiff appeared by and through counsel and Defendants Melvin and/or Mary Struck appeared *pro se*.

The Court reviewed the following documents in connection with this motion:

- Motion & Memorandum for Summary Judgment;
- Declaration of Craig Sjostrom (re Covenants), with exhibit;
- Declaration of Craig Sjostrom (re Attorney's Fees and Costs), with exhibit;
- Declaration of James Hewett, with exhibit;
- Motion to Dismiss Claims, etc., filed by Defendant Melvin Struck.

Based on the foregoing documents and the arguments presented, the Court FINDS that there are no disputed issues of material fact and that Plaintiff's motion should be granted.

ORDER ON MOTION
FOR SUMMARY JUDGMENT
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ORIGINAL

CRAIG D. SJOSTROM
Attorney at Law WASH 021149
1204 Cleveland Ave., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
cdsjostrom@comcast.net

Page 1 of 2

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CP-78

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

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Now, therefore, IT IS HEREBY ORDERED AS FOLLOWS:

1. Judgment shall be entered in favor of Plaintiff and against Defendant in the principal amount of \$2,312.94.
2. Plaintiff's lien shall in addition be foreclosed in the manner provided by law.
3. Plaintiff shall further be awarded its costs in the amount of \$948.10 and attorney's fees in the amount of \$830.50, both amounts adjudged to be reasonable.
4. The above judgments shall bear interest at the legal rate from January 3rd, 2011.
5. OTHER:

CS

Defendant shall have 30 days, to Feb. 4th 2011 at 4:30pm, to file a specific counterclaim concerning the alleged refusal on the part of the plaintiff to provide information as to the location of the water hookup on the subject property.

CS

DONE IN OPEN COURT on January 3rd, 2011

Shawn Moody

 JUDGE

Presented by:

Approved as to form:

Craig Sjostrom

 CRAIG SJOSTROM #21149
 Attorney for Plaintiff

Left - did not sign

 Defendant

** IF NO SUCH filing is made, plaintiff may present for entry a judgment & decree of foreclosure without further notice.*

CS

CRAIG D. SJOSTROM

Attorney at Law WSPA #21149
 1204 Cleveland Ave., Mt. Vernon, Wash. 98273
 (360) 848-0339 FAX (360) 336-3488
 cdsjostrom@comcast.net

ORDER ON MOTION
 FOR SUMMARY JUDGMENT
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Page 2 of 2

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ORIGINAL

IN THE SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

<p>SHANGRI-LA COMMUNITY CLUB, Inc., a Washington nonprofit corporation</p> <p>Plaintiff</p> <p>vs.</p> <p>MELVIN STRUCK & MARY STRUCK, h/w</p> <p>Defendants</p>
--

Nº 09-2-02464-5
ORDER ON MOTION
FOR SUMMARY JUDGMENT

J

THIS MATTER came on regularly for hearing on this date, on Plaintiff's motion for summary judgment. Plaintiff appeared by and through counsel and Defendants Melvin and/or Mary Struck appeared *pro se*.

The Court reviewed the following documents in connection with this motion:

- Motion & Memorandum for Summary Judgment;
- Declaration of Craig Sjostrom (re Covenants), with exhibit;
- Declaration of Craig Sjostrom (re Attorney's Fees and Costs), with exhibit;
- Declaration of James Hewett, with exhibit;
- Motion to Dismiss Claims, etc., filed by Defendant Melvin Struck.

Based on the foregoing documents and the arguments presented, the Court FINDS that there are no disputed issues of material fact and that Plaintiff's motion should be granted.

20

ORDER ON MOTION
FOR SUMMARY JUDGMENT
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ORIGINAL

Page 1 of 2

CRAIG D. SJOSTROM
Attorney at Law WBA 01149
1204 Cleveland Ave., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
cdsjostrom@comcast.net

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CP-41

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

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Now, therefore, IT IS HEREBY ORDERED AS FOLLOWS:

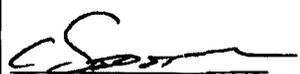
1. Judgment shall be entered in favor of Plaintiff and against Defendant in the principal amount of \$2,312.94.
2. Plaintiff's lien shall in addition be foreclosed in the manner provided by law.
3. Plaintiff shall further be awarded its costs in the amount of \$317.50 and attorney's fees in the amount of \$787.50, both amounts adjudged to be reasonable.
4. The above judgments shall bear interest at the legal rate from January 3rd, 2011.
5. OTHER:

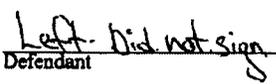
DONE IN OPEN COURT on January 3rd, 2011


JUDGE

Presented by:

Approved as to form:


CRAIG SJOSTROM #21149
Attorney for Plaintiff


Defendant

ORDER ON MOTION
FOR SUMMARY JUDGMENT
C:\S.L.ORDON\Tech\Stang\LA CD\Struck\judgments-17&1 order.rpt

CRAIG D. SJOSTROM
Attorney at Law WSA 421149
1204 Cleveland Ave., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
odsjostrom@comcast.net

Page 2 of 2

CP-42

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Hearing date: 1-3-11 @ 1:30pm

SUPERIOR COURT OF WASHINGTON
IN AND FOR SKAGIT COUNTY

SHANG RI LA COMMUNITY)
CLUB INC., (a Washington nonprofit corp.))

Plaintiff,)

vs.)

MELVIN STRUCK,)
ET ANO,)

Defendants.)

09-2-02464-5

DECLARATION OF PREJUDICE
DEMAND FOR TRIAL DATE

DECLARATION

I, Melvin Struck, a defendant to the above cause of action involving real property in Skagit County, depose and state that all defendants cited in this action are residences of King County. Nevertheless, I did serve and file a counterclaim against the plaintiff. This presents a problem with jurisdiction and venue for a judge in Skagit County to preside over this cause of action concerning real property. The filing of this action should have been in King County Superior Court in Seattle, WA. Subject matter jurisdiction must be

DECLARATION OF PREJUDICE 1 of 2

ORIGINAL

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CP-20

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

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DECLARATION OF PREJUDICE -2-

entered in the court where the subject matter of the cause arose.

DECLARATION OF PREJUDICE

Any Superior Court Judge assigned to the bench in Skagit County maintains a conflict of interest with any attorney who maintains his/her practice in Skagit County. Defendants cited in this cause of action would maintain jurisdiction in King County. Nevertheless, defendants of the counterclaim would maintain their action in Skagit County. This action must be ruled on by some other judge from a different county. The other county must not include King County. This type judge is called a "roving" judge.

DEMAND FOR TRIAL DATE

Defendants demand a trial date be set by a roving judge. This cause of action is at issue, which demands a trial. Summary judgement is to separate the issues for trial not as a substitute for the trial.

Respectfully submitted by:

Melvin E. Struck Dec 18, 2010

Melvin Struck
12024 8th Ave. NW
Seattle, WA 98177
(206) 255-5379

DECLARATION OF PREJUDICE 2 of 2

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CP-21

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

FILED

psda

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SKAGIT COUNTY SUPERIOR COURT
SERVICES UNIT
SKAGIT COUNTY CLERK
MOUNT VERNON WA

09-2-02464-5
Acct. Date 12/31/2009 11:47
Receipt/Item # 2009-01-19300/01 1118
Cashier: MTR
Paid By: struck, melvin
Transaction Amount: \$23

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA.
2009 DEC 31 AM 11:49

RECEIVED
COURT OF APPEALS
DIVISION ONE
AUG 22 2011

SUPERIOR COURT OF WASHINGTON
FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY)
CLUB INC., (a Washington nonprofit)
corporation))

Plaintiff,)

vs.)

MELVIN STRUCK & MARY)
STRUCK (and the marital community)
thereof),)

Defendants.)

NO. 09-2-02464-5

NOTICE OF APPEARANCE AND
ANSWER TO CLAIM

NOTICE OF APPEARANCE

TO THE PLAINTIFF AND COUNSEL GRAIG D. SJOSTROM

TAKE NOTICE; Melvin and Mary Struck have appeared as a marital community of which Melvin Struck shall be spokes-person for the community and without waiver of (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) lack of jurisdiction over the property (4) improper venue, (5) insufficiency of process, (6) insufficiency of service of process, (7) failure to state

APPEARANCE/ANSWER 1 of 5

ORIGINAL

CP-1

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

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APPEARANCE/ANSWER -2-

a claim upon which relief can be granted, (8) failure to join a party under rule 19.

All future documents, motions, etc., MUST be addressed to Melvin E. Struck
12024 8th Ave. NW, Seattle, WA 98177.

DEFENDANT'S ANSWER

The defendants answer the following claim under CR 8(b) to wit:

Page 1 under I. *Parties, Jurisdiction & Venue* item 1.1 first sentence is admitted.

The second sentence the defendant is without sufficient knowledge as to the truth
of averment and thus denies the same.

Item 1.2 is admitted.

Item 1.3 is admitted.

Item 1.4 is admitted.

Page 1 under II. *Factual Background & Cause of Action* to wit:

Item 2.1 The first sentence is admitted. The second sentence the defendant is
without sufficient knowledge as to the plaintiff's power to assess charges for
water to defendant's lots and denies the same. Sentence 3 is denied. Sentence 4
is denied.

Page 2

Item 2.2 The first sentence is admitted. The second sentence is admitted with

APPEARANCE/ANSWER -2-

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APPEARANCE/ANSWER -3-

certain ramifications required under chapter 61.24.

Item 2.3 is denied.

Item 2.4 is denied inclusive.

Page 2 III *Prayer for Relief* to wit:

Plaintiff has failed to state a claim upon which relief can be granted, has no jurisdiction over the subject matter and has no jurisdiction over the property. The claimed lien Auditor's number 200610300173 is frivolous and without merit.

DEFENDANT'S COUNTER CLAIM

Comes now the owners of lot 17, Mary and Melvin E. Struck, making the following counter claim; to wit:

1. The *Declaration of Restrictive Covenants and Reservations of Plat of Shangri-La on the Skagit, Division # 1* are not in compliance with the laws of Washington State in the development of real property and the conversion of same.
2. The right-of-ways designated for access to and egress from a particular lot have been assigned to the Department of Roads operating in Skagit County. The date of assignment to and the acceptance of said county entity to control the upkeep of said right-of-way removed any control of any previous deed of ownership of said right-of-way allowing any aforementioned control of Shangri-

APPEARANCE/ANSWER -3-

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APPEARANCE/ANSWER -4-

La covenants with the authority of any liens set forth against any property.

3. The defendants maintain that the covenants are moot as to the plaintiff's claim that a lien is a vehicle which, in their view, may act as an authoritative document to encumber the defendant's lot # 17. Any encumbrance to any said property in the plat must be set forth by deed under RCW 64.04.010. There has never been any signed deed with the defendants and the board of Shangri-La Community Club Inc. that has been filed under registration statute RCW 65.08.070.

NOW THEREFORE defendants make their counterclaim as follows, to wit:

1. The plaintiffs failed to comply with chapter 61.24 RCW in the service of process on foreclosures of real property.
2. The plaintiffs deeded the right-of-ways to Skagit County Department of Transportation before the defendants became a party of ownership in the plat in question. In doing so, the plaintiffs have no private property in any continuous form to honor any lien process against any individual lot.

TO THIS END, defendants make the following claim.

1. This action of the plaintiffs is an act of extortion to gain without just

APPEARANCE/ANSWER -4-

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APPEARANCE/ANSWER

-5-

cause. It affects the due process rights of the property owner.

2. The defendant's are entitled to triple damages under chapter 19.86 RCW for violation of their rights to service of process required under chapter 61.24 RCW involving malicious prosecution to gain property without legal authority.

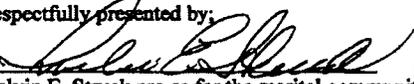
3. Defendants assess the damages for this action to answer, appear and argue their position in a court of law to be in excess of \$20,000.00

4. The defendants further claim damages against Shangri-La water district's refusal to supply water to the property. Said refusal of water is against the original covenants and has rendered the property uninhabitable with loss of consortium with their real property: Assessed value of loss of real property is \$250,000.00.

5. The defendants claim one count of malicious prosecution involving real property is assessed for \$50,000.00.

6. The defendants further claim CR11 sanctions against counsel Craig D. Sjostrom WSBA # 21149 of \$50,000.00.

Respectfully presented by:

 Dec 20, 2009

Melvin E. Struck pro se for the marital community thereof
12024 8th Ave. NW, Seattle, WA 98177
(206) 255-5379

APPEARANCE/ANSWER

5 of 5

CP-5 ..

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MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

FILED

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SKAGIT COUNTY SUPERIOR COURT
SERVICES UNIT
SKAGIT COUNTY CLERK
MOUNT VERNON WA

09-2-02464-5

Act. Date 12/31/2009
Act. Date 12/31/2009
Receipt/Item # 2009-01-19300/01
Cashier: MTR
Trans-Code 111B
Docket-1 \$FR
Paid By: struck, melvin
Transaction amount: \$23

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA.
2009 DEC 31 AM 11:49

RECEIVED
COURT OF APPEALS
DIVISION ONE
AUG 24 2011

SUPERIOR COURT OF WASHINGTON
FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY)
CLUB INC., (a Washington nonprofit)
corporation))

Plaintiff,)

vs.)

MELVIN STRUCK & MARY)
STRUCK (and the marital community)
thereof),)

Defendants.)

NO. 09-2-02464-5

NOTICE OF APPEARANCE AND
ANSWER TO CLAIM

NOTICE OF APPEARANCE

TO THE PLAINTIFF AND COUNSEL GRAIG D. SJOSTROM

TAKE NOTICE; Melvin and Mary Struck have appeared as a marital community
of which Melvin Struck shall be spokes-person for the community and without
waiver of (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction
over the person, (3) lack of jurisdiction over the property (4) improper venue, (5)
insufficiency of process, (6) insufficiency of service of process, (7) failure to state

APPEARANCE/ANSWER 1 of 5

ORIGINAL

CP-1

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2011 JUL -6 PM 4:10

Appellate Court #66611-8-1

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB, Inc.)	No. <u>09-2-02464-5</u>
A Washington nonprofit corporation)	
Plaintiff,)	
vs.)	AMEND CLERKS PAPERS
MELVIN STRUCK & MARY STRUCK)	<i>for cause number</i>
h/w)	<i>09-2-02464-5</i>
Defendants.)	

Please amend the Struck Clerk's Papers to include the following: *items*

- 1.) COMPLAINT, #09-2-02464-5, *3 pages*
- 2.) COMPLAINT, #09-2-02466-1, *3 pages*
- 3.) Skagit County Lien, #200610300173, *2 pages*
- 4.) Skagit County Lien, #200610300174, *2 pages*
- 5.) *Skagit County Archival Search, 1 page*

Send a new clerkin page to Appellate Court.

Melvin E. Struck, Pro Se

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

CP-45

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MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

ITEM ①

FILED
SKAGIT-COUNTY CLERK
SKAGIT COUNTY, WA
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ORIGINAL

IN THE SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB,
Inc., a Washington nonprofit corporation

Plaintiff

vs.

MELVIN STRUCK & MARY STRUCK,
h/w

Defendants

No **09 2 02464 5**
COMPLAINT TO FORECLOSE
LIEN FOR UNPAID ASSESSMENTS

COMES NOW PLAINTIFF, by and through its attorney, and by way of Complaint
against defendants, alleges as follows:

I. Parties, Jurisdiction & Venue

- 1.1 Plaintiff is a duly-authorized Washington nonprofit corporation. It is the managing entity for a residential/recreational community located in Skagit County, Washington and known as Shangri-La on the Skagit.
- 1.2 Defendants are a married couple, residing in King County, Wash.
- 1.3 Defendants are the record owner of a lot in Shangri-La, particularly described as follows:
 - Lot 17, "Shangri-La on the Skagit, Div. 1", as per plat recorded in Volume 9 of Plats, pages 52 and 53, records of Skagit County, Washington. (P69007)
- 1.4 This Court has jurisdiction over the parties and the subject matter hereof, and venue is proper.

II. Factual Background & Cause of Action

- 2.1 Shangri-La is served by a private water system. Plaintiff is empowered to assess charges against Defendants' lots for provision of water service. Plaintiff has duly imposed regular and special assessments against Defendants' lots. Defendants have failed to pay the amounts due.

ORIGINAL

CRAIG D. SJOSTROM
Attorney at Law
411 Main St., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
sjostrom@fidalgo.net

COMPLAINT
C:\S.L.OMGA\West\Shangri-La CCS\West\pld\ltpg-17\complaint.vpd

Page 1 of 3

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CP-46

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

- 1 2.2 The covenants, conditions and restrictions of the Shangri-La Community Club, as set
2 forth in the instrument recorded in Volume 18 of Recorded Documents, page 762, under
3 Skagit County Auditor's File No. 716023, authorize the recording of liens to secure
unpaid assessments owed to the Community Club. Such liens are foreclosed in the
manner as provided by law for the foreclosure of real estate mortgages.
- 4 2.3 A lien encumbering Defendant's parcels was duly recorded on October 30th, 2006, under
5 Skagit County Auditor's File No. 200610300173, in the then-principal amount of
\$115.00.
- 6 2.4 As of October 17th, 2009, the amount owed for Defendant's parcels, inclusive of accrued
7 interest, was \$1,884.49. Pursuant to the CCR's, interest is charged at the rate of 10% per
8 annum. In addition, the Plaintiff is authorized to add to the amounts due its costs of
collection, including a reasonable attorney's fee.

III. Prayer for Relief

WHEREFORE, Plaintiff prays for relief as follows:

- 11 3.1 For judgment against Defendants in an amount to be proven at trial, but of at least
12 \$1,884.49, plus regular or special assessments coming due hereafter to the date of
judgment, plus prejudgment interest from the date hereof at the rate of 10% per annum.
- 13 3.2 For an order adjudging Plaintiff's lien as a first and prior lien upon the subject real
14 property superior to any right, title, claim, lien or interest on the part of the Defendant or
persons claiming by, through or under the Defendants, other than superior encumbrances.
- 15 3.3 That a Decree of Foreclosure issue, and the lien described herein be foreclosed and said
16 real property be sold in one or more parcels in accordance with and in the manner
17 provided by law; that Plaintiff be permitted to be a purchaser at the sale; that the net
proceeds of said sale be applied first toward the payment of the costs of said sale and then
towards the payment of Plaintiff's judgment.
- 18 3.4 That Plaintiff have and retain deficiency judgments against Defendants, in the event that
19 the bid(s) at the sale(s) are less than the sum of Plaintiff's entire judgments, plus the costs
of sale.
- 20 3.5 That the Decree of Foreclosure provide that after the sale of said properties, all right, title,
21 claim, lien or interest of the Defendants, and of every person (other than holders of
superior encumbrances) claiming by, through or under the Defendants, in or to the said
22 property, including the right of possession thereof from and after said sale, be forever
barred and foreclosed and that the purchaser(s) at said sale be entitled to immediate
23 possession of the premises as allowed by law, subject only to such statutory rights of
redemption as the Defendants may have by law.
- 24 3.6 That in the event Plaintiff is the purchaser at said sale and possession of said premises are
25 not immediately surrendered to the Plaintiff, a writ of assistance be issued directing the
Sheriff of Skagit County, Washington, to deliver possession of said premises to the
26 Plaintiff.
- 27 3.7 For a reasonable sum as attorney's fee, in the amount of \$1,500 if this matter is
28 uncontested and in an amount set by the Court if this matter is contested, including an
29 appropriate award in the event of trial or appeal.

CRAIG D. SJOSTROM

Attorney at Law WWA 021110
411 Main St., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
sjostrom@fidalgo.net

COMPLAINT
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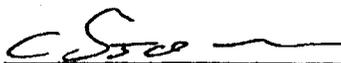
CP-47

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

1

- 1 3.8 For Plaintiff's taxable costs and disbursements herein.
- 2 3.9 For such other and further relief as may be just and equitable in the premises.
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5 DATED this 3rd day of December, 2009.


 CRAIG SJOSTROM #21149
 Attorney for Plaintiff

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COMPLAINT
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Page 3 of 3

CRAIG D. SJOSTROM
 Attorney at Law WMA 02114
 411 Main St., Mt. Vernon, Wash. 98273
 (360) 848-0339 FAX (360) 336-3488
 sjostrom@fidalgo.net

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CP-48

MELVIN STRUCK, Pro Se
 12024 8th Avenue, NW
 Seattle, WA 98177
 (206) 255-5379 Cell

ITEM (2)

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA
2009 DEC -7 AM 10:19

ORIGINAL

IN THE SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

SHANGRI-LA COMMUNITY CLUB,
Inc., a Washington nonprofit corporation
Plaintiff

No 09 2 02466 I

COMPLAINT TO FORECLOSE
LIEN FOR UNPAID ASSESSMENTS

vs.
MELVIN STRUCK & MARY STRUCK,
h/w; KAREN STRUCK, as her separate
property if married
Defendants

COMES NOW PLAINTIFF, by and through its attorney, and by way of Complaint
against defendants, alleges as follows:

I. Parties, Jurisdiction & Venue

- 1.1 Plaintiff is a duly-authorized Washington nonprofit corporation. It is the managing entity for a residential/recreational community located in Skagit County, Washington and known as Shangri-La on the Skagit.
- 1.2 Defendants Melvin Struck and Mary Struck are a married couple, residing in King County, Wash. Defendant Karen Struck is believed to be unmarried, and is believed to be a resident of the State of Michigan.
- 1.3 Defendants are the record owner of a lot in Shangri-La, particularly described as follows:
Lot 16, "Shangri-La on the Skagit, Div. 1", as per plat recorded in Volume 9 of Plats, pages 52 and 53, records of Skagit County, Washington. (P69006)
- 1.4 This Court has jurisdiction over the parties and the subject matter hereof, and venue is proper.

II. Factual Background & Cause of Action

- 2.1 Shangri-La is served by a private water system. Plaintiff is empowered to assess charges

CRAIG D. SJOSTROM
Attorney at Law WASH #21142
411 Main St., Mt. Vernon, Wash. 98273
(360) 848-0339 FAX (360) 336-3488
sjostrom@fidalgo.net

ORIGINAL
Page 1 of 3

COMPLAINT
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CP-49

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

1

ITEM 3

When recorded return to:

Craig Sjostrum
411 Main Street
Mount Vernon, Washington 98273

200610300173
Skagit County Auditor
10/30/2006 Page 1 of 2 2:24PM

Grantors: Melvin Struck & Mary Struck, h/w
Grantee: Shangri-La Community Club
Legal Description: SHANGRI-LA, DIV. 1, LOT 17
Additional Legal Description Located Below
Assessor's Property Tax Parcel or Account No.: P69007
Reference Nos of Documents Assigned or Released: N/A
Conveyance: Claim of Lien

SHANGRI-LA COMMUNITY CLUB

Claimant, CLAIM OF LIEN

vs.

MELVIN STRUCK & MARY STRUCK, h/w

Owner.

NOTICE IS HEREBY GIVEN that a lien is claimed upon the real property legally described as follows:

Lot 17, "SHANGRI-LA ON THE SKAGIT, DIV. 1", as per the plat recorded in Volume 9 of Plats, pages 52 and 53, records of Skagit County, Washington.

The lien hereby claimed is pursuant to the terms of the Declaration of Covenants and Restrictions recorded with Skagit County under Auditor's File No. 716023. The amount here claimed is the sum of \$115.00, plus assessments coming due and unpaid following October 16th, 2006, plus interest and attorney fees.

DATED this 30th day of October, 2006.

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CP-52

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

1

SHANGRI-LA COMMUNITY CLUB, Claimant

By *Craig Sjostrom*
Craig Sjostrom #21149
Attorney for Claimant

STATE OF WASHINGTON)
) ss
COUNTY OF SKAGIT

Craig Sjostrom, being first duly sworn, on oath states: I am the attorney for the Shangri-La Community Club and am authorized to execute the foregoing on behalf of said claimant. I have read the foregoing Claim, know the contents thereof, and believe the same to be true and just.

Craig Sjostrom
CRAIG SJOSTROM

SUBSCRIBED AND SWORN TO before me this 30th day of October, 2006.



T. Riedell
NOTARY PUBLIC in and for the
State of Washington, residing
at *Seattle, WA*
My commission expires *8/19/10*
Name: *Tom Riedell*



200610300173
Skagit County Auditor
10/30/2006 Page 2 of 2 2:24PM

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CP-53

MELVIN STRUCK, Pro Se
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

1

ITEM (4)



200610300174
Skagit County Auditor

10/30/2006 Page 1 of 2 2:25PM

When recorded return to:

Craig Sjostrom
411 Main Street
Mount Vernon, Washington 98273

Grantors: (1) Melvin Struck & Mary Struck, h/w
(2) Karen Struck

Grantee: Shangri-La Community Club

Legal Description: SHANGRI-LA, DIV. 1, LOT 16

Additional Legal Description Located Below

Assessor's Property Tax Parcel or Account No.: P69007

Reference Nos of Documents Assigned or Released: N/A

Conveyance: Claim of Lien

SHANGRI-LA COMMUNITY CLUB

Claimant,) CLAIM OF LIEN

vs.

MELVIN STRUCK & MARY STRUCK, h/w;
KAREN E. STRUCK

Owners.)

NOTICE IS HEREBY GIVEN that a lien is claimed upon the real property legally described as follows:

Lot 16, "SHANGRI-LA ON THE SKAGIT, DIV. 1", as per the plat recorded in Volume 9 of Plats, pages 52 and 53, records of Skagit County, Washington.

The lien hereby claimed is pursuant to the terms of the Declaration of Covenants and Restrictions recorded with Skagit County under Auditor's File No. 716023. The amount here claimed is the sum of \$115.00, plus assessments coming due and unpaid following October 16th, 2006, plus interest and attorney fees.

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DATED this 30th day of October, 2006.

SHANGRI-LA COMMUNITY CLUB, Claimant

By [Signature]
Craig Sjostrom #21149
Attorney for Claimant

STATE OF WASHINGTON)
) ss
COUNTY OF SKAGIT)

Craig Sjostrom, being first duly sworn, on oath states: I am the attorney for the Shangri-La Community Club and am authorized to execute the foregoing on behalf of said claimant. I have read the foregoing Claim, know the contents thereof, and believe the same to be true and just.

[Signature]
CRAIG SJOSTROM

SUBSCRIBED AND SWORN TO before me this 30th day of October, 2006.



[Signature]
NOTARY PUBLIC in and for the
State of Washington, residing
at Burien
My commission expires: 8/19/10
Name: Toni Riedell



200610300174
Skagit County Auditor

10/30/2006 Page 2 of 2 2:26PM

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CP-55

ITEM 5



Directory Quick Guide Search

GO

Record Searches

December 15

- [Auditor Home](#)
- [Auditor Recording Home](#)
- [New Recording Search](#)
- [Search Skagit Databases](#)

[Address and](#)

Recording Search Results

Document search criteria:
 Parcel Number = P69007; Recorded between 3/1/1979 and 12/15/2009
 The search returned 6 records.
 Currently displaying page 1 of 1; Records 1 through 6.

View the actual document. View referring documents. View Assessor's information.

File Number, Date Recorded, Document	Grantor	Grantee	Filer	Comment	Legal	Parc PLS Dat Parr #
200810300173 10/30/2008 LIEN	STRUCK MELVIN, STRUCK MARY	SHANGRI LA COMMUNITY CLUB	SJOSTROM LAW OFFICE	-	SHANGRI-LA LOT 17	P69C
200810300174 10/30/2008 LIEN	STRUCK MELVIN, STRUCK MARY, STRUCK KAREN E	SHANGRI LA COMMUNITY CLUB	SJOSTROM LAW OFFICE	-	SHANGRI-LA LOT 17	P69C
200901200126 1/20/2009 NOTICE	STRUCK MELVIN	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	-	SHANGRI-LA LOT 17	P69C
200901220077 1/22/2009 NOTICE	STRUCK MELVIN	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	-	SHANGRI-LA LOT 17	P69C
200901220078 1/22/2009 NOTICE	STRUCK MELVIN	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	-	SHANGRI-LA LOT 17	P69C
200902130076 2/13/2009 PLAN	STRUCK MELVIN	PUBLIC	SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES	-	SHANGRI-LA LOT 17	P69C

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<http://www.skagitcounty.net/AuditorRecording/Applications/Recording/asp/RecordingRe...> 12/15/2009

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CP-56

MELVIN STRUCK, Pro Se
 12024 8th Avenue, NW
 Seattle, WA 98177
 (206) 255-5379 Cell

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FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2011 AUG 23 AM 11:11

Appellate Court #66611-8-1

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR SKAGIT COUNTY

11	SHANGRI-LA COMMUNITY CLUB, Inc.)	No. <u>09-2-02464-5</u>
12	A Washington nonprofit corporation)	
13)	
14	Plaintiff,)	
15)	AMEND CLERKS PAPERS
16	vs.)	FOR CAUSE NUMBER
17)	09-2-02464-5
18)	
19	MELVIN STRUCK & MARY STRUCK)	
20	h/w)	
21)	
22	Defendants.)	

25 Please amend the Struck Clerk's Papers to include the following:

26 1. DECLARATION OF RESTRICTIVE COVENANTS
27 AND RESERVATIONS, SKAGIT COUNTY
28 AUDITOR NUMBER #716023, 8 PAGES

29 NOTE: FEES PAID TO SKAGIT COUNTY
30 CLERK ON 8-23-11. SEE ATTACHED
31 RECEIPT.

32 SEND AMENDED CLERK'S PAPERS TO
33 THE APPELLATE COURT 66611-8-1

34
35
36 Melvin E. Struck, Pro Se
37 *Melvin Struck*
38 *Aug 23, 2011*

PAGE 1 of 10

COPY

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CP-59

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716023

DECLARATION OF RESTRICTIVE COVENANTS AND
RESERVATIONS OF PLAT OF SHANGRI-LA ON THE
SKAGIT, DIVISION # 1

The undersigned, owners of all of the interest in the real property situated in Skagit County, Washington included in the Plat of Shangri-La on the Skagit, Division # 1 (with the exception of roads dedicated to the public in said plat) desiring to provide for a plan of development of all of the lots contained in such plat as a part of an entire sub-division, do hereby declare, reserve, and establish the following restrictions, easements, covenants and reservations to run with said land and to be appurtenant thereto:

A. Shangri-La Community Club, Inc.

1. Shangri-La Community Club, Inc., a nonprofit Washington corporation (hereinafter called "Community Club") has been formed by the undersigned and others for the purposes of providing certain services and recreational facilities for the owners of property in the plat. (The word "plat" as used herein shall mean the plat of Shangri-La on the Skagit, Division #1, and any additions to said plat made by any of the undersigned, or their heirs or assigns or successors in interest). Any action or actions to be taken pursuant hereto by the Community Club may be taken by said corporation upon authorization of the Board of Trustees thereof (hereinafter called the "Board").

2. The owner of each lot in the plat shall be entitled to one share in the community club provided no one person may own more than one share thereof regardless of the number of lots owned, nor shall more than one share be allocated for each lot. Such share shall be appurtenant to the title to and shall be transferable only as a part of the ownership to the lot. Each shareholder shall be entitled to the use and enjoyment of the facilities and services of the community club subject to the rules, regulations and charges as may now or hereafter be established by the community club, which rules, regulations and charges shall apply equally to all shareholders who are owners of property in the plat. Nothing herein shall preclude the community club from making its services and facilities available to others on such terms as it deems best. Each shareholder shall abide by the rules and regulations of the community club as may be adopted from time to time incident to the use of its facilities.

3. Ownership of those areas in the plat of Shangri-La on the Skagit, Division #1 marked "Community Beach" and the private water system to serve the plat when installed will be conveyed to the community club for the use of owners of lots in the plat.

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4. Each lot in the plat shall be entitled to one hookup to the private water system upon its installation. The hookup, including materials and labor shall be arranged and paid for by the owner of the lot.

5. In order to provide for maintenance and improvement of the various properties and facilities of the community club, each grantee and vendee of a lot in the plat, their heirs, successors and assigns, shall and do by the act of accepting a deed or entering into a contract of sale as vendee, jointly and severally agree that they and each of them will pay to the community club the charges assessed by vote of 60% of the Board against the shareholders of the community club. If such charges remain unpaid for a period of sixty (60) days after the due date, then the community club may record a written notice with the Skagit County Auditor that it claims a lien against the lot of the shareholder who is delinquent for the amount of such charges, plus interest at the rate of ten per cent (10%) per annum from the due date until paid and plus reasonable attorneys fees incurred incident thereto. From and after recording such notice, such lot shall be subject to a lien to the community club as security for such assessment, interest and fees and such lien may be foreclosed in the manner of a mortgage on real estate, and in such action the community club shall recover all costs including costs of searching title and reasonable attorneys fees. Until changed by vote of sixty per cent (60%) of the Board, the charge herein referred to shall be Ten Dollars (\$10.00) per lot per annum (or any part thereof) payable in advance under regulations adopted by the Board, PROVIDED said assessment shall in no event be collectable from or become a lien against any lots owned by the community club or by the undersigned.

B. Land Use Restrictions

1. No lot, tract or portion of a lot or tract may be subdivided except tracts owned by the community club.
2. With respect to the Plat of Shangri-la on the Skagit, Division # 1, all lots extending to the river and laying easterly of the tract shown as "Community Beach" on said plat are subject to the following restrictions: Disturbing the river bank by cutting, filling, excavating or constructing means to descend to or ascend from the river for boats or pedestrians is prohibited, unless permission is granted in writing by the Flood Control Engineer of the State Department of Water Resources and the Board. Disturbing the river bank in any way whatsoever without first obtaining written approval from the Board is prohibited on lots number 32 through 39, inclusive in said plat.
3. To insure that sufficient trees remain to protect the natural beauty of the area and to protect against erosion or damage to the plat property in the event of a 100 year frequency elevation flood, no evergreen tree (fir, spruce, hemlock or cedar) or cherry, maple, locust birch or poplar greater than 6 inches in diameter, or Alder or Cottonwood tree greater than 8 inches in diameter (measured 18 inches above average ground level at base of tree) may be cut or otherwise damaged or removed without the owner of the lot

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first obtaining written approval of the Board. For lots that have few (as determined by the Board) trees of above mentioned varieties but primarily vine maple growing on lot, no more than 50% of total area of lot can be cleared without written approval of the Board. To determine the area cleared, that area exclusive of the drip area of remaining trees shall be considered cleared. Removal of brush and pruning limbs to an extent consistent with good tree management is permitted outright without approval.

4. No filling, and no structures or trailers are permitted within the "Floodway" as designated on the Plat map.

5. No structures or trailer are permitted within the "Erosion Control Basement 40 feet in width" as designated on the Plat map.

6. Except for portions of the real property as may be used for recreational purposes or common service facilities by the community club, no lot in the plat of Shangri-La on the Skagit, Division #1 may be used for any purpose other than for residential purposes, provided however; that a temporary real estate office may be maintained by the developer of the plat on any one of such lots.

7. No garbage, refuse, rubbish, junk or out growth shall be permitted to be deposited, left or accumulated on a lot.

8. No animals shall be kept or permitted on the real property in the plat, except for household pets (excluding raising for sale) which shall not unreasonably interfere with the use and enjoyment of any lot in the plat.

9. Except for the temporary real estate office referred to in paragraph 6 above no goods, equipment, trucks, vehicles or paraphernalia used in or connected with any trade or business shall be kept or stored in the open on any lot. Nor shall commercial signs, including "For Sale" sign, be permitted on any lot or structure, except those placed thereon by the developer of the plat.

10. No noxious, or offensive activity shall be permitted on any lot nor shall anything be permitted that may be or become a nuisance or unreasonably interfere with the use and enjoyment of any part of the real property included in the plat.

C. Building Restrictions

1. No structure shall be erected, altered, placed or maintained on a lot unless it shall comply with these restrictions and the following:

(a) Each dwelling structure shall be of permanent construction except trailers shall be permitted (one to a lot) if such trailer is of good design and acceptable to the Board.

(b) The exterior of all structures on a lot shall be constructed of new material.

(c) All structures (including trailers) shall be erected or placed on a lot in position and at elevation in compliance with the zoning and/or building ordinances of Skagit County.

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(d) All bearing walls of a dwelling structure shall be supported on a continuous solid masonry or concrete foundation, unless otherwise specifically approved in writing by the Board.

(e) Prior to erecting or placing of any structure on a lot, the plans and specifications therefor shall be submitted to and must be approved by the Board as hereafter provided, and such structures shall conform to such plans and specifications as well as all county regulations. All plans and specifications required to be submitted to the Community Club shall be in writing, shall contain the names and addresses of the person submitting the same, the description of the property to which they relate, and shall set forth the following with respect to the proposed structure: the location of the structure on the property, the elevation of the structure with reference to the existing and finished lot grade, the general design, the interior layout, the exterior finish materials and color, and such other information as may be required to determine whether such structure conforms to these restrictions. PROVIDED: dwelling structures with an enclosed living area of 400 square feet or over, or accessory buildings having area under roof of 400 square feet or less are not subject to general design approval. Plans and specifications may be delivered in person or by certified mail to the secretary of the Board. Unless written disapproval thereof is mailed within 10 days after receipt of building plans and specifications, approval shall be deemed to have been given.

(f) Construction on any lot shall require a building permit and sewage disposal permit from the respective county agencies.

(g) Construction of private sewage disposal systems shall be in accordance with the requirements of the County Health Department; HOWEVER, under no circumstances shall a privy be maintained longer than one year on a lot.

2. No structure shall be placed or maintained on any lot, except a private dwelling, house trailer, vacation trailer, garage or suitable out-buildings as approved by the Board for the sole use of the owner or occupant thereof.

3. The work of constructing, altering or repairing any structure on a lot shall be diligently prosecuted from its commencement until completion thereof, but in any event the exterior finished appearance shall be completed in one year.

4. No temporary structure, tent, garage, basement or outbuilding shall be maintained on any lot for residential purposes for any extended period, such acceptable time period to be determined by the Board.

5. No fence, wall or hedge along a lot line shall exceed forty-eight (48) inches, except that decorative screening as approved in writing by the Board prior to erection, may be maintained on

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a lot.

6. All lots and owners of lots are subject to the Articles and By-laws of the Community Club, as the same now exist or are hereafter adopted.

D. Miscellaneous.

1. The covenants, restrictions, easements, rights, liens and encumbrances herein provided for shall run with the land and shall be binding upon the real property described in the above plat, and any and all parts thereof, the parties in interest thereto and their heirs, assigns, personal representatives and successors in interest. Accepting an interest in and to any portion of such real property shall constitute an agreement by any such person, firm, corporation accepting such interest, that they and each of them shall be bound by and subject to the provisions hereof.

2. In the event any provision hereof shall be declared invalid by any court of competent jurisdiction, no other provision hereof shall be affected thereby and the remaining provisions shall remain in full force and effect. No waiver of a breach of any provision hereof shall constitute a waiver of a subsequent breach of the same provision or of any other provisions.

3. The parties in interest in and to any part of the real property included in the above plat, and the community club, for the benefit of such owners and each of them, shall have the right and authority to enforce the provisions hereof and in addition to any other remedy for damages or otherwise shall have the right to injunctive relief. Except for the enforcement of the lien to the community club, the prevailing party in any action to enforce the provisions hereof shall recover a reasonable cost of searching and abstracting the public record, and reasonable attorney's fees.

4. The provisions hereof shall be in full force and effect until July 9, 1983, unless changed by unanimous consent and approval of owners of all of the lots in the plat. Thereafter said provisions will continue in full force and effect unless by vote of sixty-five per cent (65%) of the then owners of lots, computed on the basis of one vote per lot, it is agreed to change the provisions herein, in whole or in part and the same is recorded with the auditor of Skagit County, Washington. For the purposes of this paragraph the word "owner" shall mean any person, firm or corporation holding fee simple or a vendee's interest therein under a real estate contract as shown by the records of Skagit County, Washington, to the exclusion of any lesser interest. Until so terminated these provisions, shall remain in full force and effect.

5. An easement is hereby reserved to the undersigned, their heirs, successors and assigns, five (5) feet in depth along any lot line bordering any public road right of way and also 2 1/2 feet deep along any side lot line for installation, laying, renewing,

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operation and maintenance of underground conduit, cable, wires, equipment and other facilities for electric, telephone, T-V cable and other electric and electronic service together with the right to access at all times to such reserved area for the purposes above stated.

DATED this 5th day of July, 1968.

SOONER LAND DEVELOPMENT CO.
a Washington Corporation

Claude B. Wilson

By Claude B. Wilson
President

Gwendolyn W. Wilson

By Gwendolyn W. Wilson
Secretary

STATE OF WASHINGTON | 53;
COUNTY OF SKAGIT

On this day personally appeared before me, the undersigned, a Notary Public in and for the State of Washington, Claude B. Wilson and Gwendolyn W. Wilson, to me known to be the President and Secretary respectively of Sooner Land Development Company, a Washington Corporation, and to me also known to be said Claude B. Wilson and Gwendolyn W. Wilson, and who executed the within and foregoing instrument in their individual capacity and in their capacity as President and Secretary respectively of Sooner Land Development Company, and acknowledged that they and each of them signed the same as his or her free and voluntary act and deed in their individual capacity and for and on behalf of said Corporation for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 5th day of July, 1968.



[Signature]
Notary Public in and for the
State of Washington,
residing at Anacortes,
AUDITOR, SKAGIT COUNTY, WASH.

Received for record on July 18 1968 1057A
at request of Claude B. Wilson
A. H. JOHNSON, Auditor Skagit Co., Washington

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717620

ADDENDUM TO AND REVISION OF
DECLARATION OF RESTRICTIVE COVENANTS AND
RESERVATIONS OF PLAT OF SHANGRI-LA ON THE
SKAGIT, DIVISION # 1

The undersigned, owners of all of the interest in the real property situated in Skagit County, Washington included in the Plat of Shangri-La on the Skagit (Division #1), pursuant to the provisions of Paragraph D.4., of those certain covenants and reservations contained in that certain instrument filed under Skagit County Auditor's File #716023 and recorded in Volume 18, Official Records, Pages 762 through 767, add to and amend said instrument and declaration as follows:

1. The first sentence of paragraph A. 1. is changed to read:

1. Shangri-La Community Club, Inc., a nonprofit Washington corporation (hereinafter called "Community Club") has been, or will be, formed for the purposes of providing certain services and recreational facilities for the owners of property in the plat.

2. Paragraph B. 6 is changed to read:

Except for portions of the real property as may be used for recreational purposes or common service facilities by the community club, no lot in the plat of Shangri-La on the Skagit, Division #1 may be used for any purpose other than for residential purposes; provided however, that a temporary real estate office may be maintained by the developer of the plat on any one of such lots; provided further that home occupations are permitted in accordance with Skagit County zoning regulations for residential districts with the exception that no commercial signs shall be permitted on the lot relating to such home occupations.

DATED this 29 day of Aug, 1968.

Claude B. Wilson
Claude B. Wilson

SOONER LAND DEVELOPMENT CO.
a Washington corporation

Gwendolyn W. Wilson
Gwendolyn W. Wilson

by Claude B. Wilson
President

Reginald Hoskin
Reginald Hoskin

by Gwendolyn W. Wilson
Secretary

Ray V. Hoskin
Ray V. Hoskin

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STATE OF WASHINGTON)
COUNTY OF SKAGIT) SS

On this day personally appeared before me, the undersigned, a Notary Public in and for the State of Washington, Claude B. Wilson and Gwendolyn W. Wilson, to me known to be the President and Secretary respectively of Sooner Land Development Company, a Washington Corporation, and to me also known to be said Claude B. Wilson and Gwendolyn W. Wilson, and who executed the within and foregoing instrument in their individual capacity and in their capacity as President and Secretary respectively of Sooner Land Development Company, and acknowledged that they and each of them signed the same as his or her free and voluntary act and deed in their individual capacity and for and on behalf of said Corporation for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 30th day of August, 1968.

Claude B. Wilson
Notary Public in and for the State of Washington, residing at *Seattle, Washington*



STATE OF WASHINGTON)
COUNTY OF SKAGIT) SS

On this day personally appeared before me Reginald Hoskin and Ruby P. Hoskin to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 29th day of August, 1968.

Reginald Hoskin
Notary Public in and for the State of Washington, residing at *Seattle, Washington*



Received for record at Aug. 30, 1968 1:45 PM
at the office of Claude B. Wilson
A. H. JOHNSON, Auditor Skagit Co., Washington

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1 Shangrila v. Struck

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5 Appellate Court: 66611-8-1
6 Skagit Superior Court: 09-2-02464-5

7 CERTIFICATE OF SERVICE

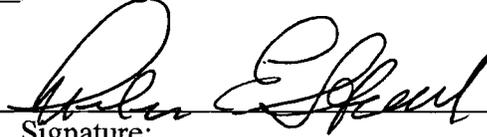
8 The undersigned certifies under the penalty of perjury under the laws of the State of
9 Washington that I am now and at all times herein mentioned, a citizen of the United States, a
10 resident of the State of Washington and over the age of eighteen years.

11 On the date given below I caused to be served the foregoing SEPTEMBER 6, 2011
12 APPELLATE BRIEF, CORRECT COURT PAPER ERRORS on the following individuals in
13 the manner indicated:

- 14
15 (x)Via U.S. Mail
16 () Via Facsimile
17 () Via Hand Delivery
18

19 TO: CRAIG SJOSTROM
20 1204 Cleveland Avenue
21 Mt. Vernon, WA98273
22

23
24 SIGNED this 6th day of SEPTEMBER, 2011, at
25
26 Seattle, Washington.

27
28
29 x 
30 Signature:

31 Print Name: Melvin E. Struck, Pro Se
32 and Address: 12024 8th Avenue, NW
33 Seattle, WA 98177
34 (206) 255-5379 Cell
35

36 **CERTIFICATE OF SERVICE**

ORIGINAL

MELVIN E. STRUCK, PRO SE
12024 8th Avenue, NW
Seattle, WA 98177
(206) 255-5379 Cell

2011 SEP -6 PM 3:48

COURT OF APPEALS
STATE OF WASHINGTON
