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ARGUMENT

The Plaintiff has received two different briefs submitted by the Defendant. One is dated October 30, 2010, with a Court of Appeals date stamp of November 1, 2010. The other is dated November 6, 2010, but has no Court of Appeals date stamp.

First, the Plaintiff would ask the court to disregard portions of the submittals as being outside the record.

As to the submittal dated October 30, 2010, the Plaintiff would identify two such instances. On the third page (the pages are not numbered), with a heading, "Statement/Conclusions", Mrs. Trotzer talks about her limited funds, etc. This is not relevant nor is it a part of the record. It disregards she is related to Mr. Nichols and the financial condition of the Plaintiffs and the burdens they have been placed under. This should all be disregarded.

Exhibits B1-B3 are not a part of the record.

As to the submittal dated November 1, 2010, the Plaintiff would ask the following be stricken as being outside the record:

- pp. 7-8, the last half of 7 and the continuing paragraph onto page 8.
- p. 10, last paragraph.

- p.11, lines 5-7, and last paragraph continuing onto p. 12.
- p.13, first paragraph, and first paragraph of her conclusion.
- Exhibits B1-B3.

Throughout this matter the procedural irregularities perpetuated by the Defendants have been rampant. They have asked the court to issue rulings on matters they did not brief or were not included in the complaint. They attempted to submit documents for the courts consideration after summary judgment had been granted, issues would be raised at hearings outside the pleadings, misrepresentations were made as to what happened in the District Court, and misrepresentations were made as to when the insurance policy in question was provided to the Defendants. The record is full of Plaintiff's counsel's objections (CP 18-63, 64, 94, 110, 161, 162, 215, 216, RP 54-61, 98, 103, 105-106, 122-123, 158-159, 170).

At some point RAP 9.12 provides relief to the Plaintiffs.

It should be noted that in discussing the issue of the Statute of Frauds, that issue only comes into play as to the claim that the encumbrance runs with the land. It is the only issue herein that involves an encumbrance on real property. Johnson v. Mt. Baker Park Presbyterian Church, 113 Wash. 458, 194 P. 536 (1920). In addition, this case holds that knowledge alone is sufficient to create an estoppel, even an estoppel affecting a

servitude on real property.

Before the trial court and before this court, the Trotzers have submitted no substantive argument to rebut the position of the Plaintiffs other than to assert the Statute of Frauds (with an exception to a minor reference to RCW 64.38.010(1)).

For years Mrs. Trotzer received copies of the notices and minutes, not only telling her the association was maintaining the roadway but also maintaining Lot 13, include the dock. (CP 295, 300, 302, 304, 307, 308, 309, 312, 313, 315, 318, 319, 320, 321, 323, 324, 325, 326). She knew from the beginning the association was determining the amount of dues and that the dues she was paying (and on some occasions voting on), were going to maintain Lot 13.

CONCLUSION

The decision of the trial court should be reversed, Mrs. Trotzer deemed a member of the association, and attorney's fees determined both before this court and the Superior Court.

DATED this 6 day of November, 2010.



STEPHEN WHITEHOUSE, WSBA #6818
Attorney for MAPLE BEACH

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DECLARATION OF MAILING

I declare:

On the 6th day of December, 2010, I mailed a true and correct copy of Appellant's

Reply Brief in a properly stamped envelope by regular mail addressed as follows:

Virginia Trotzer
343 W. Insels Road
Shelton, WA 98584

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Shelton, Washington on December 6, 2010.



SANDRA L. BACA