

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
BY  _____
DEPUTY

WASHINGTON STATE COURT OF APPEALS
DIVISION TWO AT TACOMA

CASE NO. 40490-7-11

MAPLE BEACH ESTATES PROPERTY
OWNERS' ASSOCIATION and JOHN EASTERLY & CHERYL
EASTERLY,
Plaintiffs,

v.

NORMAN TROTZER (deceased) & VIRGINIA TROTZER,
Defendants/Respondent

DEFENDANTS BRIEF

VIRGINIA TROTZER
PRO SE

343 W. Insel Road
Shelton, WA 98584
(360) 426-5480

Dated this 6th. Day of November, 2010

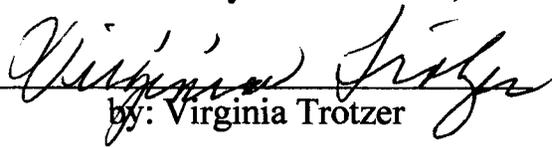

by: Virginia Trotzer

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(Peter J. Nichols,P.S.)

E. Motion for Reconsideration, dated 5/17/2010 E1-3
(Peter J. Nichols, P.S.), signed by Judge Foscue

I. INTRODUCTION

The defendant property is located in Maple Beach plat located in Mason County. Mrs. Trotzer had not paid past road maintenance fees to Maple Beach HOA (MBHA) for a few years. This was due to an increased amount that MBHA requested for improvements to Lot 13 and other items that were not “roadway maintenance” related. These other fees were related to the MBHA dues which were not an obligation of the defendant, since they were not a part of the association. Per defendant’s deed of sale and plat they owed only for “roadway maintenance” at a rate of \$50.00 per year. MBHA decide to hire Steven Whitehouse to represent MBHA plaintiff’s interests.

The defendant the Trotzer’s selected Peter Nichols, an attorney to take counter-actions, claiming that they had no obligation to pay MBHA dues, because they were not legally a part of MBHA.

The case moved from Mason District to Superior Court.

The result was that the Superior Court found in favor of the defendant Trotzers. They found that the Trotzers were not members of the MBHA, but were required to pay the per owner “road maintenance” and “roadway”

insurance premium. They were not responsible for Lot 13 expenses. The court also ruled that no awards for Attorney Fees, Costs & Other Recovery Amounts or Interest.

As such the defendants Trotzer's were ordered to make restitution for the back payments of roadway maintenance and insurance in the amount of \$244.32. Based on the judgement of the Superior Court the defendants Trotzer's through their prior attorney Peter Nichols has paid the amount of \$450.00 as their contribution towards the assessment for roadway maintenance and roadway insurance fee. Therefore they are still owed an outstanding refund for overpayment of \$60.30. This overpayment should be used to credit the 2010 roadway fee of \$50.00 and the pro-rated portion of roadway insurance of \$9.01 for a total of \$59.01.

The defendants understand that the plaintiffs council has filed for a new trial with Washington State Court of Appeals Division II. The defendants had never received any copies of any documents or filings of this current action until copies of the Appellant brief was picked up on the 5th day of November 2010, at the Clerks Office of the Washington State Court of Appeals Division II.

Note to the court that defendant Norman Trotzer is deceased as of May 19th.
2010.

II. ASSIGNMENTS OF ERROR

I believe there was no error in the Superior Court ruling and I request the Appeals Court to uphold the Superior Court rulings at the previous hearing. At the previous hearing the court, on February 08, 2010 which consolidates the final result of hearings held on January 26, 2009, March 19, 2009, and November 5, 2009, for each parties' Motion for Summary Judgment and Motions for Reconsideration, is as follows:

1. Defendants are not members of the Maple Beach Homeowner's Association.
2. Defendants have an obligation to participate in the maintenance of the roadway, including the pro-rated cost of insurance for the roadway portion only, and are bound by the covenants in the plat.
3. Defendants have no obligation to contribute to the maintenance of Lot 13, within Maple Beach, including the cost of insurance specifically for Lot 13 or other HOA insurance fees.

4. Assessment may be allocated and determined on a per owner basis since that is what the Plaintiffs have historically done and this has been acquiesced in by the Defendants.
5. No awards for Attorney Fees, Costs & Other Recovery Amounts or Interest.

III. ISSUES

- A. Mrs. Trotzer should not be deemed a member of the Maple Beach Estates Property Owner's Association based on her deed.

1. Mrs. Trotzer, was invited to the annual meetings over a period of fifteen years and attended only approximately four meetings. This was due to the fact that the roadway maintenance fee issues were not held at a separate meeting. She went to find out about the road maintenance fees, that she agrees she did owe. She also attended these meetings to find out how the roadway maintenance money was being spent, since rarely during the years was any gravel added to the roadway

or maintenance done. Mrs. Trotzer who has lived in her home for twenty-eight years is unaware of acceptance of any Maple Beach benefits, since she does not use the roadway to gain access to her home, or has had any use of lot 13, or the boat ramp and dock.

2. RCW 64.38.010 does not apply since she did not join the association on it's incorporation, nor was it a requirement under her deed.

- B. Mrs. Trotzer is not liable for any expenses in maintaining Lot 13.
- C. Mrs. Trotzer is not liable for any attorney's fees, pursuant to the association documents since she is not a member of the association.
- D. Mrs. Trotzer is not liable to the association for attorney's fees for this appeal.

IV. STATEMENT OF CASE

This case should never have taken up the time of two prior courts and now the Court of Appeals. This is based on the true facts that Mrs. Trotzer per her deed was never part of or had joined as a member of the Maple Beach Estate Homeowners Association. Mrs. Trotzer has not benefited from the common interest of the Association as she has always stated she was not a member of the Association. Mrs. Trotzer has never disputed the facts that she owes for the road maintenance or the road insurance. Her disagreement with the Association has always been over the implied additional fees for work and improvements that were not road related, but were included in the increased fees.

V. FACTS

Mrs. Trotzer original purchased her home under the name of Virginia Colloran with the deed that only showed her to owe the additional \$50.00 road maintenance fees, and access to ingress & egress to and from the waters of Lake Isabella over and across Lot 13 of said Plat of Boad's Maple Beach Tracts. This was prior to her marriage to Norman Trotzer. After her marriage she conveyed the property to herself by a Quit Claim Deed to show her then married name of Trotzer.

In 1986, a Declaration of Road Maintenance Agreement was created .
Mrs. Trotzer never signed that document.

In 1988, a group of owners got together and agreed to form a
homeowner's association. Mrs. Trotzer never attended these meetings,
never signed any documents of membership to the Association.

On Jul 1, 1989, the first meeting of the association occurred. Mrs.
Trotzer attended and participated in the meeting due to the fact that it
concerned road work maintenance issues. She voted to pass the proposal for
the road maintenance. During the meeting they were asked to vote to
receive Lot 13 for water access and were told that if they did not vote to
receive it, it would be sold by Boad to the county. It was presented at the
time that if this lot went to the county that their private roadway could be
used by the public to access the lot/water. She voted yes to this since it
would effect the road, and she also knew per her deed she already had access
to the Lot/water.

Mrs. Trotzer, was invited to the annual meetings over a period of fifteen years and attended only approximately four meetings. This was due to the fact that the roadway maintenance fee issues were not held at a separate meeting. She went to find out about the road maintenance fees, that she agrees she did owe. She also attended these meetings to find out how the roadway maintenance money was being spent, since rarely during the years was any gravel added to the roadway or maintenance done. Mrs. Trotzer also received minutes of the annual meetings since they included the information on how roadway maintenance issues were being addressed and how the dues were being spent for the roadway.

Mrs. Trotzer is unaware of why the 1993 separate water system assessment was incorporated into the \$50.00 original roadway fees and increased to \$100.00, since she is on another shared well and not the one being assessed.

Mrs. Trotzer states she does not remember being present at the 2000 annual meeting and did not vote to increase the road maintenance fees from \$50 to \$75, as she never votes for any increased costs. Mrs. Trotzer received

minutes of that meeting which stated that these increases were for the roadway and also were for other projects.

In 2003 the dues were increased to \$225.00 and reduced in 2004 to \$200.00. Mrs. Trotzer was not present at either meeting and did not vote. Due to the increased homeowners association request for higher & higher dues that were being used for Lot 13 and other projects not related to the roadway maintenance, Mrs. Trotzer on April 7, 2004 responded to the association with a note. The note indicated she would only pay \$50.00 per year for the road maintenance as per her deed. It was at that time she retained attorney Peter Nichols who advised her not to make any additional payments until he advised her to do so.

As to her request to the association to gravel her easement and requests by her neighbors at the time Larry and Nan Brimmer. This request was made to gravel their joint easement, since the association had graveled other easements in the past. This was also requested since they never used the main roadway and thought that since they were paying for road maintenance that it should include their easement.

As to the mailboxes and the construction of the mailbox stand, these mailboxes were installed on county property. No one asked Mrs. Trotzer if they could move her mail box from it's prior location, and they removed it from it's post to the new mailbox location. She did not did not know this was an issue with the association, believing it was possible a requirement from the postal service. Since it appears to be an issue, Mrs. Trotzer will be moving her mailbox to her own post in the general area.

VI. CONCLUSION

I Virginia Trotzer have written this brief myself with the help of my daughters, since my attorney Peter Nichols has withdrawn as counsel. This is due to my lack of funds to continue to pay for his representation in this matter. I am on limited funds with social security and also have several medical and ambulance bills due to my husband's hospitalization and ultimate death.

In closing I agree with the Superior Court's prior decision of items 1-5.

1. Defendants are not members of the Maple Beach Homeowner's Association.

2. Defendants have an obligation to participate in the maintenance of the roadway, including the pro-rated cost of insurance for the roadway portion only, and are bound by the covenants in the plat.
3. Defendants have no obligation to contribute to the maintenance of Lot 13, within Maple Beach, including the cost of insurance specifically for Lot 13 or other HOA insurance fees.
4. Assessment may be allocated and determined on a per owner basis since that is what the Plaintiffs have historically done and this has been acquiesced in by the Defendants.
5. No awards for Attorney Fees, Costs & Other Recovery Amounts or Interest.

I pray that the courts uphold the prior decision and also include that there be no further court actions in this matter.

VI. ATTACHMENTS

- A. Declarations of Maple Beach Road Maintenance Agreement A1. Plat Map**
- B. Two Photos of Trotzer Driveway**
 - B1. Description of photos**
 - B2. Two Photos of Roadway**

**B3. Portion of MBHA July 11, 2010 Annual Meeting
showing no road maintenance has been
completed for 2009-2010.**

C. Declaration of Virginia Trotzer

**D. Motion for Reconsideration, dated 2/18/2019
(Peter J. Nichols, P.S.)**

**E. Motion for Reconsideration, dated 5/17/2010
(Peter J. Nichols, P.S.), signed by Judge Foscue**

CERTIFICATE OF SERVICE

I certify that on this 8th day of November, 2010, I served the
Forgoing Respondent's Brief on Appellant to be served upon:

Stephen Talcott Whitehouse, Attorney at Law,
601 Railroad Ave., Suite 300,
Shelton, WA 98584

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



Place: Shelton, WA

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BY DEPOSY
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COURT REPORTERS

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Rec 364 to 122

Rec 364 to 122

A.

DECLARATION OF ROAD MAINTENANCE AGREEMENT

459842

459842

*This document is being re-recorded to correct notary blocks.

THIS AGREEMENT is made this 1st day of May, 1986, by the undersigned, owners of the lots which comprise the Plat of Boad's Maple Beach Tracts, to hereby establish a maintenance agreement over and across the roadway described as follows:

NATURE OF ROADWAY.

The road which shall be covered by this agreement shall be the "PRIVATE ROAD" which is further shown and described on the Plat of Maple Beach Tracts, recorded in Volume 5 of Plats, page 98, records of Mason County, Washington.

LEGAL DESCRIPTION

The land which shall be covered by this agreement shall be Lots one (1) through twentyeight (28), both inclusive, within the Plat of Boad's Maple Beach Tracts, recorded in Volume 5 of Plats, page 98, records of Mason County, Washington.

AFFIDAVIT
No. _____
WHICH REAL ESTATE
IS SUBJECT TO
PROPERTY TAX
EXEMPT

SEP 15 1986

DORENE RAE
Treas., Mason County

ASSESSMENT.

Each lot within the plat shall share equally in the maintenance of said PRIVATE ROAD. Additional owners who own land which adjoins the roadway and any subdivisions thereof may join in the road maintenance agreement provided they share equally in the annual assessment. There shall be a \$50.00 annual assessment per landowner and per tract so serviced by the PRIVATE ROAD beginning June 1, 1986. Each owner shall be assessed an equal amount regardless of the size and location of their land. RONALD D and KAREN L. CANNON, husband and wife, shall initially be the management committee who shall collect these assessments beginning June 1, 1986, and shall continue to collect these annual fees until they delegate said duty to another individual who owns one of the lots within the plat.

LEVEL OF MAINTENANCE.

Each owner understands that the roadway will eventually need maintenance to maintain the roadway in a condition equal to or better than it exists March 1, 1986. All improvements shall be limited to maintaining said roadbed in its present location and width.

PROVISIONS RUN WITH TITLE TO THE LAND.

All provisions as stated above shall remain in full force and effect as covenants, restrictions, easements, liens and encumbrances running with the land and shall be binding upon any parts thereof, the owners, their heirs, assigns, personal representatives and successors in interest. Accepting an interest in and to any portion of the within described land shall constitute an agreement to be bound by and subject to the provisions of this agreement and any modifications hereof must be made by majority approval of those owners and successors in interest affected by those sections of this agreement wherein they are bound and encumbered. Each owner of the within described land shall have the right and authority to enforce

PROTECTIVE COVENANTS

As contained in the plat of BOAD'S MAPLE BEACH TRACTS as recorded in Volume 5 of Plats, page 98, records of Mason County, Washington.

1. All property in this plat shall be used for residential purposes only, except Tracts 16, 22 and 23.
2. Easement, not interfering with improvements, across all tracts and the Private Road for water pipes, sewer pipes, and utilities, including right of maintenance, is hereby reserved.
3. The cost of maintenance and future improvement of the Private Road shall be paid by the owners and purchasers of tracts in this plat.
4. No shack or unsightly building shall be erected on this property. Any building started must be completed on the exterior within 3 years of the start of construction.

A.

ON 04:03 PM LAND TITLE CO

FAX NO. 3604278574

Rec. 367 Fr 792

Rec. 364 Fr 123

DECLARATION OF ROAD MAINTENANCE AGREEMENT (continued)

the provisions hereof, and in addition to any other remedy for damages or otherwise, shall have the right to injunctive relief. The prevailing party in any action to enforce any provisions hereof shall recover, in addition to costs, reasonable attorney's fees and reasonable costs of search of public records.

Dated this 25th day of ~~NOV~~^{JUNE} 1986.

Lot No. 5

Dianna M Lovgren

STATE OF WASHINGTON)
COUNTY OF Mason) ss.

On this day personally appeared before me Dianna M. Lovgren to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 25th day of June, 1986.

H. Debra King
NOTARY PUBLIC in and for the State of Washington, residing at 1111 1st St

A1

PLAT OF BOAD'S MAPLE BEACH TRACTS

in Gov't Lot 5 Section 31, Tp. 20 North, Range 3 West, W.M.
Mason County, Washington

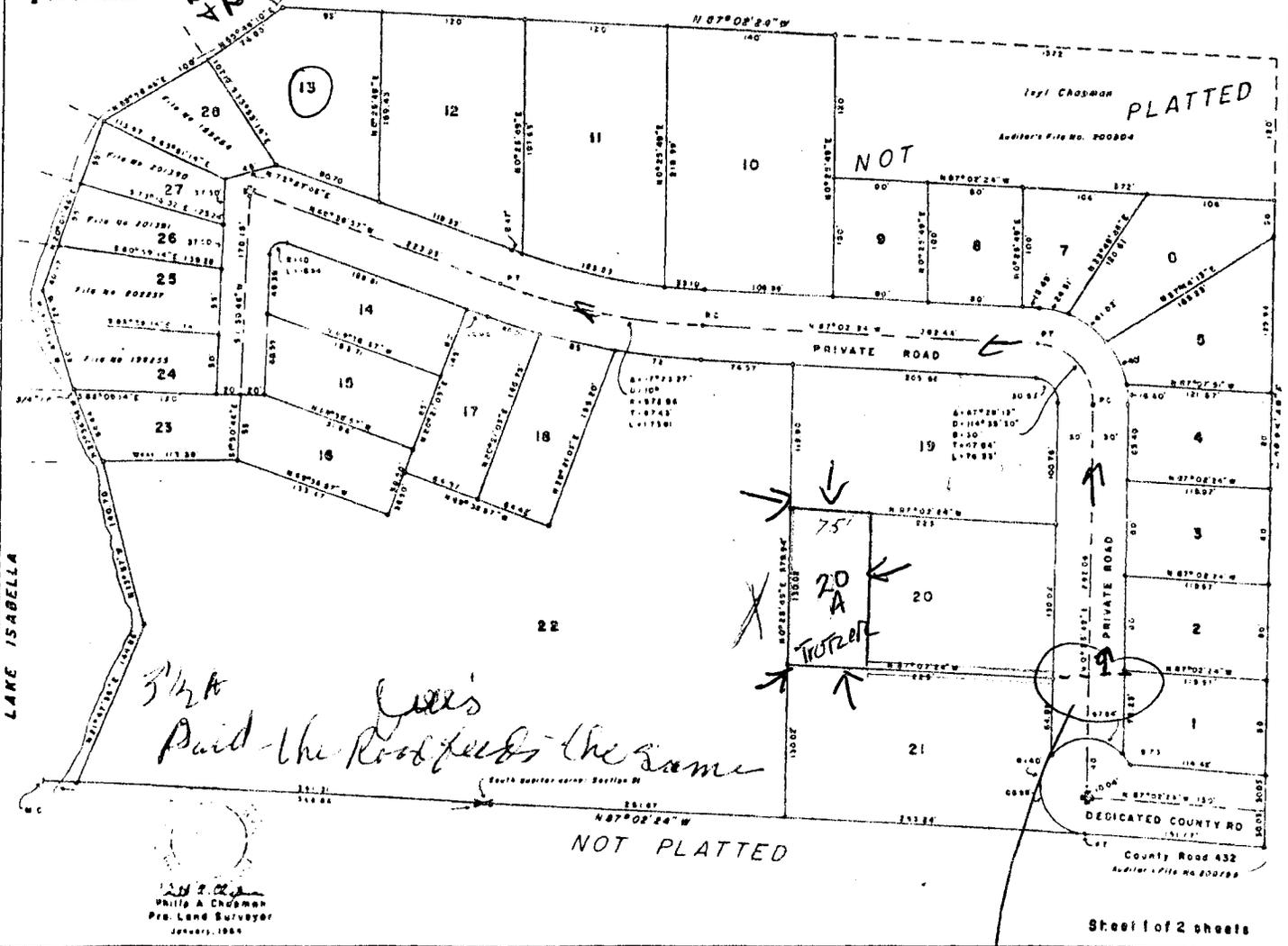
Scale 1" = 40'
O on old corner stake
C Concrete monument

Dark + Beach

NOT PLATTED

PLATTED

NOT



3 1/2 A Paid the Road fees the same

75'
20 A
Trotter

start of Road

Phillip A. Chapman
Prof. Land Surveyor
January, 1904

DEDICATED COUNTY RD
County Road 432
Auditor's File No. 402288

Sheet 1 of 2 sheets

Attachment B:

Two Photos of Trotzer Driveway showing Mason County Roadway goes past the driveway area. The private MBHA gravel roadway starts after the Trotizer's driveway. The defendants does not need to access the private roadway of MBHA to enter either her driveway or home. But Ms. Trotzer does agree that per her plat and deed she does owe the yearly roadway maintenance fee of \$50.00.





Dave Shepherd
 July 15, 2010
 Page 2

responsible for her entire share of the insurance even though it, incidentally, covers Lot 13.

The more difficult issue relates to what extent she is responsible for any assessments relating to attorney's fees. Do not charge her anything for that right now. We will resolve that later but I believe she is responsible for her pro rata share.

Sincerely,


 STEPHEN WHITEHOUSE
 Attorney at Law

SW:sb
 Cc: John Easterly

2010-2011 PRESIDENT'S REPORT

July 11, 2010

2010 Meeting was held on July 11, 2010. Existing officers were elected for another term: President is John Easterly, Sec/treasurer is Dave Sheppard, Vice President is Bill Dotson, and Water Commissioner is Meredith Elkins.

Sorry I was sick, doesn't happen very often.

→ No road work done, the legal bill and insurance ate all reserve funds. The suit against Trotzers is still in work, an appeal has been filed, and will not cost us as long as we pay existing bill.. The total bill is in excess of \$12,000. Some good news, some of the back dues owed may be coming in. Hope for a better year.


 John L. Easterly

C

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IN THE MASON COUNTY DISTRICT COURT
IN AND FOR THE STATE OF WASHINGTON

MAPLE BEACH ESTATES PROPERTY
OWNERS ASSOCIATION, Plaintiff,

vs.

NORMAN TROTZER & VIRGINIA
TROTZER, Defendants.

} NO. 5CV1216
DECLARATION OF VIRGINIA TROTZER

VIRGINIA TROTZER, under penalty of perjury of the Laws of the State of Washington
declares the following to be true and correct:

- 1.) That I am of legal age and competent to testify from my own personal knowledge to matters stated herein. That I am the defendant herein.
- 2.) That I purchased the property commonly known as 3431 West Insels Road, Shelton, Washington in June of 1981. Attached hereto as Exhibit "A" is a true and correct copy of the Deed that I received.
- 3.) Attached as Exhibit "B" hereto is a true and correct copy of my title insurance policy for the transaction.
- 4.) In 1989, after I married Norman Trotzer, I quit claimed the property to my new last name. Attached as Exhibit "C" hereto is a true and correct copy of the Quit Claim Deed.

ORIGINAL

LAW OFFICE OF PETER J. NICHOLS, P.S.
2611 NE 113TH STREET
SUITE 300
SEATTLE, WASHINGTON 98125
(206) 440-0879

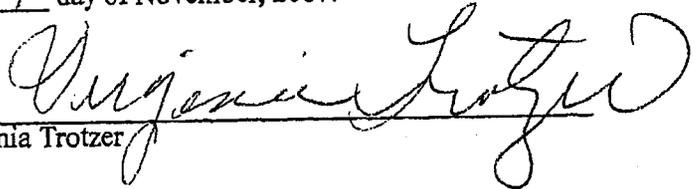
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5.) I realize that I am obligated to pay for my share of the maintenance of the road way. I remain willing to pay for the maintenance of the road way. However, the Plaintiff is attempting to charge me for dock repair, access lot maintenance, lawn mower repair maintenance, the building of a boat ramp, insurance and other miscellaneous items. I never consented or agreed to paying anything other than the fee for the road maintenance. Not only am I not obligated to pay these additional fees I cannot afford them and I do not use the boat ramp or other miscellaneous items.

Dated at Shelton, Washington this 1 day of November, 2007.


Virginia Trotzer

LAW OFFICE OF PETER J. NICHOLS, P.S.
2611 NE 113TH STREET
SUITE 300
SEATTLE, WASHINGTON 98125
(206) 440-0879

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D.

OK

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MASON CO. WA.

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

08-2-1184

MAPLE BEACH ESTATES PROPERTY
OWNERS' ASSOCIATION and JOHN
EASTERLY & CHERYL EASTERLY,
Plaintiff,
vs.
NORMAN TROTZER & VIRGINIA
TROTZER,
Defendants

Case No. 08-2-00293-8
MOTION FOR RECONSIDERATION

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COMES NOW DEFENDANTS, by and through their undersigned counsel and move this Court to reconsider its Order granted on February 08, 2010, requesting the Defendants Norman Trotzer and Virginia Trotzer to pay to the Plaintiff the amount of \$244.32.

On February 08, 2010, this Court has signed an Order purported to consolidate the final result of the hearings held on January 26, 2009, March 19, 2009, and November 05, 2009. In the Order, the Court entered the findings that the Defendants were not members of the Maple Beach Homeowner's Association, the defendants have no obligation to contribute to the maintenance of the Lot 13, including the cost of insurance specifically for the Lot 13, and

1 that the defendant has an obligation to participate in the maintenance of the roadway,
2 including the cost of insurance.

3 In its Order, the Court ruled that assessments should be allocated on "per owner" basis,
4 as was done historically by the Association. The total cost of the assessment for road
5 maintenance is \$5,138.94. If we divide this amount by 22 (the number of the owners in
6 Maple Beach), we will arrive to \$233.59 due from each owner. This is the amount that the
7 Defendants owed for the road maintenance.

8 The cost of insurance due from the Defendants is more complicated matter. The
9 insurance premium for Maple Beach Estates Homeowners' Association is \$1,918.00 per
10 year. This amount is arrived at by combining the premiums for the following coverage:

11	00900 – Domestic Water Corporation - 40 or fewer users	\$595.00
12	40072 – Beaches – Bathing – not commercially operated	\$626.00
13	48727 – Streets, Roads, Highways or Bridges –	
14	Existence and Maintenance, Hazard Only	\$198.00
15	85000 - Homeowners Associations Products	\$455.00
16	00234 – Employment Practices Liability	\$ 36.00
17	Certified Acts of Terrorism	\$ 8.00
18		

19 The true and correct copy of the insurance policy was submitted to the Court as an Exhibit A
20 to Declaration of Peter J. Nichols on February 04, 2010.

21 Since the Court ruled that the Defendants' only duty is to pay for the road maintenance
22 and insurance, it is clear that this duty is correlated to the coverage 48727, which provides
23 for road existence and maintenance. The Defendants are not responsible for the premiums to
24 coverage 40072 (beaches, bathing), #85000 (Homeowners Association products) and #00234
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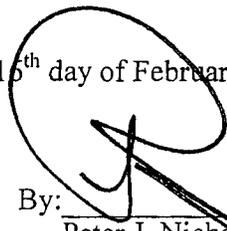
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(employment practices liability), since they do not have the duty to contribute to Lot 13 insurance and are not members of the Homeowners' Association.

The total cost of the coverage #40072, 85000, and 00234 is \$1,117.00 per year. For the six years that the Association maintained the insurance, the total cost is \$1,117 times 6 = \$6,702.00. If we subtract this amount from the total amount of the premium paid by the Association, which is \$10,136.00, we will arrive to \$3,434.00. This is the amount of the premium related to the Defendants' uses, paid by the Association for the period of six years. If divided by 22 (the number of owners), the amount due from the Defendants will be \$156.10. Together with the cost of the road maintenance, the amount totals \$389.69. This is what the Defendants should have paid to fulfill their duty to provide for the road maintenance and related insurance. The Defendants have paid \$450.00 as their contribution towards the assessment. Therefore, they overpaid \$60.30 to the Homeowners' Association.

Based on the reasons stated above, the Defendants respectfully request this Court to reconsider its Order with regards to the amount due to the Homeowners' Association.

Dated this 16th day of February, 2010
By: 
Peter J. Nichols, WSBA#16633
Attorney for Defendants

E

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MAY 17 2010 *TDH*

PAT SWARTOS, Clerk of the
Superior Court of Mason Co. Wash.

APR 1 2010

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

MAPLE BEACH ESTATES PROPERTY
OWNER'S ASSOCIATION, a nonprofit
Corporation, and JOHN EASTERLY and
CHERYL EASTERLY, husband and wife,
Plaintiffs,

vs.

NORMAN TROTZER and VIRGINIA
TROTZER, husband and wife,
Defendants

No. 08-2-00118-4
10-9-242-1

ORDER ON DEFENDANTS
MOTION FOR
RECONSIDERATION FOR
ATTORNEYS FEES

JUDGMENT SUMMARY

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- | | | |
|----|----------------------------|---|
| 1. | Judgment Creditor: | NORMAN TROTZER & VIRGINIA
TROTZER, husband and wife |
| 2. | Judgment Debtor: | MAPLE BEACH ESTATES PROPERTY
OWNER'S ASSOCIATION, a nonprofit
Corporation, and JOHN EASTERLY AND
CHERYL EASTERLY, husband and wife |
| 3. | Principal Judgment Amount: | \$60.33 |
| 4. | Interest to Date Judgment: | \$ |
| 5. | Attorney Fees: | \$ |
| 6. | Cost | \$ |

ORDER -1

LAW OFFICE OF PETER J. NICHOLS, PS.

2611 NE 113TH STREET
SUITE 300
SEATTLE, WASHINGTON 98125
(206) 440-0879

Property of
Please Return

Virginia Trozger

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Declaration of Stephen Whitehouse
Defendant's Response to Motion for Summary Judgment & Cross Motion for Motion for Summary Judgment
Declaration of Peter Nichols,
Declaration of Virginia Trotzer
Motion for Reconsideration (Defendants)
Response to Motion for Reconsideration (Plaintiff)
Motion for Reconsideration (Plaintiff)
Affidavit of John Easterly
Brief Re: Motion for Reconsideration
Answer to Plaintiff's Motion for Reconsideration
Defendant's Motion for Reconsideration
Declaration of Peter Nichols
Declaration of Peter Nichols Regarding Attorney Fees

Now therefore, it is hereby

ORDERED that the ruling of this court, on February which consolidates the final result of hearings held on January 26, 2009, March 19, 009, and November 5, 2009, for each parties' Motion for Summary Judgment and Motions for Reconsideration, is as follows:

1. Defendants are not members of the Maple Beach Homeowner's Association.
2. Defendants have an obligation to participate in the maintenance of the roadway, including the cost of insurance.
3. Defendants have no obligation to contribute to the maintenance of Lot 13, within Maple Beach, including the cost of insurance specifically for Lot 13.
4. Assessment may be allocated and determined on a per owner basis since that is what the Plaintiffs have historically done and this has been acquiesced in by the Defendants.

ORDER-3

Property of

Please Return

Virginia Trotzer

LAW OFFICE OF PETER J. NICHOLS, PS.
2611 NE 113TH STREET
SUITE 300
SEATTLE, WASHINGTON 98125
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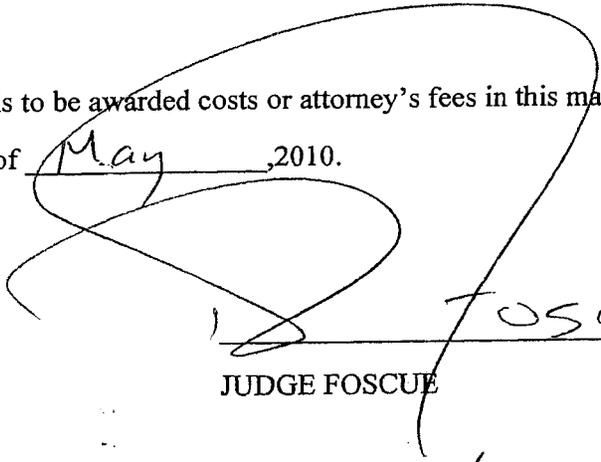
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- 5. Based upon the foregoing, the Plaintiffs are indebted to the Defendants for \$60.33, representing the amount due through the 2008-2009, billing cycle.
- 6. Defendants are prevailing party paravant to RCW 4.84.270 and are entitled to attorneys fees and cost in the amount of \$28,183.29

It is further

ORDERED that neither party is to be awarded costs or attorney's fees in this matter.

DATED this 17 day of May, 2010.



JUDGE FOSCUE

Presented by:

Gekaterina Mogulevskaya
 PETER J. NICHOLS, WSBA #16633
 Attorney for Defendants

Steve Whitehouse
 Steve Whitehouse
 Attorney for Plaintiffs

ORDER-4

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Virginia Trapp