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SUPREME COURT
STATE OF WASHINGTON

Supreme Court No. ~~80584-9~~ 2008 SEP -9 P 4: 20

BY RONALD P. CLARK, CLERK

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SUPREME COURT OF THE STATE OF WASHINGTON
CLERK

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION,

Respondent,

v.

BLAKELEY VILLAGE, LLC,

Appellant.

APPENDIX TO APPELLANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO RESPONDENT'S MOTION TO SUPPLEMENT
RECORD

5808

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,

Plaintiff,

THE HONORABLE LINDA LAU

NO. 06-2-03941-6 SEA

vs.

BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington;

DEFENDANT BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN COMPLAINT AS "BLAKELEY COMMONS, LLC") OPPOSITION TO PLAINTIFF BLAKELEY COMMONS CONDOMINIUM ASSOCIATION'S MOTION TO SET TRIAL DATE

Defendants,

And

BLAKELEY VILLAGE, LLC, a Washington corporation and INTRACORP REAL ESTATE, LLC, a Washington Corporation,

Third Party Plaintiffs,

vs.

ACCURATE SIDING, INC., a Washington corporation, *et al.*

I. RELIEF REQUESTED

COMES NOW Defendant Blakeley Village LLC (incorrectly identified in complaint as "Blakeley Commons, LLC" and referred to hereafter as "Blakeley Village"), by and through its undersigned counsel of record, and submits this Opposition to Plaintiff Blakeley Commons Condominium Association's (the "HOA") Motion to Set Trial Date. For the

DEFENDANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET TRIAL
DATE - Page 1 of 9

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1 reasons discussed below, including that this Court lacks jurisdiction because this case is
2 currently before the Washington Supreme Court, Blakeley Village respectfully requests that
3 the HOA's motion be denied.

4 INTRODUCTION

5 The Washington Supreme Court accepted review of this Court's August 3, 2007 Order
6 Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration
7 of its WCA Claims (the "Order Granting Motion to Lift Stay") and August 17, 2007 Order
8 Granting Defendant Blakeley Village, LLC's (Incorrectly Identified in the Complaint as
9 "Blakeley Commons, LLC") Motion for Clarification of [the Order Granting Motion to Lift
10 Stay] (the "Clarification Order").¹ Review by the Supreme Court of the Order Granting
11 Motion to Lift Stay and the Clarification Order has been consolidated with two other appeals
12 concerning the same or similar issues, Satomi Owners Association v. Satomi, LLC and The
13 Pier at Leschi Condominium Assoc., LLC v. Leschi Corp.² Oral argument is set for
14 September 23, 2008.³

15 Pursuant to RAP 7.2(a), the pendency of the Supreme Court appeal divests this Court of
16 jurisdiction and authority to act in this litigation. The few exceptions to RAP 7.2(a)'s ban on
17 trial court activity during an appeal are narrow and do not apply here. RAP 7.2 plainly does
18 not make an exception to the general stay on trial court proceedings for the purpose of setting
19 a new trial date. The pendency of the Supreme Court appeal of this lawsuit, and this Court's
20 consequent lack of jurisdiction, requires that the HOA's motion be denied.

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22
23 ¹ See Declaration of Daniel Dvorkin in Support of Blakeley Village, LLC's (Incorrectly Identified in the
24 Complaint as "Blakeley Commons, LLC") Opposition to Plaintiff Blakeley Commons Owners Association's
25 Motion to Set Trial Date ("Dvorkin Decl."), Exh. 1.

² See Id.

³ See Dvorkin Declaration, Exh. 2.

DEFENDANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET TRIAL
DATE - Page 2 of 9

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1 Although this Court lacks jurisdiction to address the substance of the HOA's motion, we
2 note that the primary issue argued by the HOA in the instant motion, namely, whether
3 arbitration provisions in the Purchase and Sale Agreements entered into by the original unit
4 purchasers at the Blakeley Commons Condominium (the "Project") are binding upon the unit
5 owners and the HOA in this litigation, has already been argued before, and ruled on by, this
6 Court. The HOA argues in the instant motion that the arbitration provisions are not binding
7 because signatures on the Warranty Addendum to the Purchase and Sale Agreement, which
8 contains the arbitration provisions, cannot immediately be located for a few of the 106 units
9 at the Project.⁴ This issue was already argued by the parties and ruled on by this Court.⁵ The
10 HOA is essentially requesting reconsideration of the Order Granting Motion to Lift Stay and
11 the Clarification Order, which were entered on August 3, 2007 and August 17, 2007
12 respectively.⁶ Local Rule 7(b)(5) requires that a motion for reconsideration be filed within
13 10 days of entry of the order in question. The time passed long ago for reconsideration by
14 this Court of the Order Granting Motion to Lift Stay and the Clarification Order.

15 Blakeley Village respectfully requests that this Court deny the HOA's instant motion, for
16 lack of authority and jurisdiction pursuant to RAP 7.2(a). If this Court were to find that has
17 jurisdiction, it should deny the HOA's motion as an untimely motion for reconsideration
18 pursuant to LR 7(b)(5).

19 ///

20 ///

22 ⁴ See Plaintiff's Motion to Set Trial Date at pp.2:19-21 and 4:5-6.

23 ⁵ See Declaration of Lis Soldano in Support of Blakeley Village, LLC's Motion to Compel Arbitration. For the
24 Court's convenience, a copy of Ms. Soldano's declaration is attached hereto as Exhibit A. For the sake of
25 economy, the exhibits attached to Ms. Soldano's declaration, which are already in the Court records and files,
are not included with this brief.

⁶ For the Court's convenience, copies of the Order Granting Motion to Lift Stay and the Clarification Order are
attached hereto as Exhibits B and C, respectively.

1 of the State of Washington for Direct Review.¹¹ The Washington Supreme Court accepted
2 review on April 2, 2008.¹² The appeal has been consolidated with two other others appeals
3 concerning the same or similar issues, Satomi and Leschi.¹³ Oral argument before the
4 Washington Supreme Court in the consolidated appeal is set for September 23, 2008.¹⁴

5 **III. ISSUE STATEMENT**

6 1. Whether, because of the pending Supreme Court appeal and pursuant to RAP 7.2(a),
7 this Court lacks authority or jurisdiction to set a new trial date at this time and should
8 therefore deny the HOA's instant motion.

9 2. In the alternative, whether the HOA's Motion to Set Trial Date should be denied,
10 pursuant to LR 7, as an untimely motion for reconsideration.

11 3. Whether the HOA's Motion to Set Trial Date should be denied, as the HOA failed to
12 provide timely service of an executed Note for Motion, as required by LR 7(b)(4).¹⁵

13 **IV. EVIDENCE RELIED UPON**

14 Blakeley Village relies upon the Declaration of Daniel L. Dvorkin and the Court record
15 and files herein. For the Court's convenience, the following Court records and files are
16 attached hereto.

- 17 • **Exhibit A:** Declaration of Lis Soldano in Support of Blakeley Village, LLC's
18 Motion to Compel Arbitration;
- 19 • **Exhibit B:** Order Granting Plaintiff's Motion to Lift the Stay on Proceedings and
20 Deny Mandatory Arbitration of its WCA Claims;

21
22 ¹¹ See Blakeley Village, LLC's (Incorrectly Identified in the Caption as "Blakeley Commons LLC") Notice of
Appeal to the Supreme Court of the State of Washington for Direct Review, which, for the Court's convenience,
23 is attached hereto as Exhibit D.

24 ¹² See Dvorkin Decl., Exh. 1.

25 ¹³ See *id.*

¹⁴ See Dvorkin Decl., Exh. 2.

¹⁵ See Dvorkin Decl. at ¶ 4.

- Exhibit C: Order Granting Defendant Blakeley Village, LLC's (Incorrectly Identified in the Caption as "Blakeley Commons, LLC") Motion for Clarification of [the Order Granting Motion to Lift Stay]; and
- Exhibit D: Blakeley Village, LLC's (Incorrectly Identified in the Caption as "Blakeley Commons LLC") Notice of Appeal to the Supreme Court of the State of Washington for Direct Review

V. AUTHORITY AND ARGUMENT

A. Acceptance of Review by the Washington Supreme Court of the Order Granting Motion to Lift Stay and the Clarification Order Divests this Court of Authority or Jurisdiction to Issue a New Trial Date.

RAP 7.2(a) reads, in relevant part, as follows:

After review is accepted by the appellate court, the trial court has authority to act in a case only to the extent provided in this rule, unless the appellate court limits or expands that authority as provided in rule 8.3.

None of the narrow exceptions to RAP 7.2(a)'s general divesting of the trial court's jurisdiction of appealed issues applies here. Under RAP 7.2(a), once the Washington Supreme Court accepts review of a case, the trial court does not have the authority to act without permission from the Supreme Court. See In re Marriage of Hughes, 128 Wn.App. 650, 654, 116 P.3d 1042 (2005); King v. Olympic Pipeline Co., 104 Wn.App. 338, 376, 16 P.3d 45 (2000) ("...in granting a protective order to a nonparty witness while this review was pending, the trial court decided a matter pending on appeal in violation of RAP 7.2."); RAP 7.2 is "intended to keep a case from 'develop[ing] branches' in the absence of an appropriate order of the appellate court," Burton v. Clark, 91 Wn.App. 505, 513, 958 P.2d 343 (1998).

Review of the Order Granting Motion to Lift Stay and the Clarification Order has been accepted by the Washington Supreme Court, which has not issued permission for the trial

1 court to act in this matter.¹⁶ This Court does not have the authority or jurisdiction to create
2 separate "branches" in this lawsuit by granting the HOA's motion and setting a trial date
3 while review by the Supreme Court is pending.

4 B. The Issue of Whether the Arbitration Provisions in the Purchase and Sale
5 Agreements is Binding Upon the HOA in this Lawsuit Has Already Been Ruled on
6 by This Court and the Deadline for Reconsideration has Long Since Passed.

7 LR 7(b)(5) reads, in relevant part, as follows:

8 Motions to Reconsider. (A) Motion and Notice of Hearing.
9 Motions for reconsideration of an order or judgment must be
10 filed no later than 10 days after the date of entry of the order or
11 judgment. The form of motion and notice of hearing shall
12 conform to LR 7(b)(4).

13 In support of its request for a trial date, the HOA argues that the Warranty Addendum to
14 the Purchase and Sale Agreements entered into by the original unit purchasers at the Project
15 was not signed by a few of the homeowners.¹⁷ This Court has already issued a ruling
16 concerning this issue, and the time for reconsideration has passed.

17 Signature pages for the Warranty Addendum applicable to the original sales of 103 of 106
18 units at the Project were attached to the July 13, 2006 Declaration of Lis Soldano in Support
19 of Blakeley Village, LLC's Motion to Compel Arbitration.¹⁸ Ms. Soldano's declaration was
20 attached to, and incorporated by reference in, Blakeley Village's Response to Motion to Lift
21 Stay and Cross Motion to Compel Arbitration.¹⁹ The Order Lifting Stay and the Clarification
22 Order, issued on August 3, 2007 and August 17, 2007, respectively, decided the issue

23 ¹⁶ See Dvorkin Decl., Exh 1.

24 ¹⁷ See Plaintiff's Motion to Set Trial Date at pp.2:19-21 and 4:5-6.

25 ¹⁸ For the Court's convenience, a copy of Ms. Soldano's declaration is attached hereto Exhibit A. For the sake
of economy, the exhibits to Ms. Soldano's declaration, which are already a part of the Court record, are not
attached hereto.

¹⁹ See Defendant Blakeley Village, LLC's (Incorrectly Identified in Complaint as "Blakeley Commons, LLC")
Response in Opposition to Plaintiff's Motion to Lift Stay and Cross Motion to Compel Arbitration (the
"Renewed Motion to Compel Arbitration") at pp.3:19-23 and 6:5-12.

DEFENDANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET TRIAL
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1 concerning homeowner signatures on the Warranty Addendum, ruling that HOA's non-WCA
2 claims are arbitrable.²⁰ The deadline for a motion for reconsideration by the HOA was
3 August 27, 2007. The HOA failed to meet the deadline for moving for reconsideration, and
4 its arguments regarding homeowner signatures on the Warranty Addendum are not properly
5 before this Court. Accordingly, should this Court find that it retains jurisdiction over this
6 matter, despite the acceptance of review by the Supreme Court, Blakeley Village respectfully
7 requests that the HOA's motion be denied as an untimely motion for reconsideration.

8 **VI. CONCLUSION**

9 Review of this lawsuit is pending at the Washington Supreme Court. Pursuant to RAP
10 7.2(a), this Court lacks authority or jurisdiction to set a new trial date in this matter. The
11 instant motion by the HOA requests reconsideration of rulings made by this Court in August,
12 2007. The time for reconsideration has long passed. If this Court finds that it retains
13 jurisdiction in this matter for the purpose of setting a new trial date, despite the pendency of
14 review by the Supreme Court, the HOA's motion should be denied as an untimely motion for
15 reconsideration.

16 **VII. PROPOSED ORDER**

17 For the Court's convenience, the proposed form of order is attached hereto.

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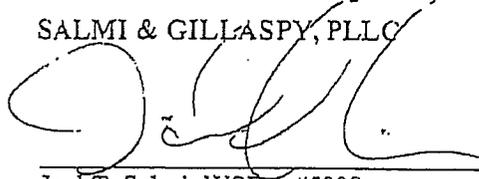
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25 ²⁰ For the Court's convenience, copies of the Order Granting Motion to Lift Stay and the Clarification Order are
attached hereto as Exhibits C and D, respectively.

DEFENDANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET TRIAL
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3 RESPECTFULLY SUBMITTED this 16th day of July, 2008.

4 SALMI & GILLASPY, PLLC



5
6 Joel T. Salmi, WSBA #5808
7 Daniel L. Dvorkin, WSBA #32776
8 Attorneys for Blakeley Village, LLC

REPRODUCED FROM THE NATIONAL ARCHIVES

CONFIDENTIAL

EXHIBIT A

EXHIBIT A

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,

THE HONORABLE LINDA LAU

Plaintiff,

NO. 06-2-03941-6 SEA

vs.

BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington;

DECLARATION OF LIS SOLDANO IN SUPPORT OF BLAKELEY VILLAGE, LLC'S MOTION TO COMPEL ARBITRATION

Defendants.

I, Lis Soldano, am over the age of eighteen and, subject to the laws of perjury of the State of Washington, do hereby state and declare as follows:

1. I am a Project Manager for Intra-Corp Real Estate, LLC, which provided services to Blakeley Village, LLC, as the construction and sales manager on what is now known as the Blakeley Commons project.

2. One of the requirements of Blakeley Village, LLC for selling the condominium units was that purchasers agree to the terms and conditions of the Warranty Addendum to the Purchase and Sales Agreement, which contains an arbitration provision. I reviewed the records pertaining to the Purchase and Sales Agreements for the Blakeley Commons project

DECLARATION OF LIS SOLDANO IN SUPPORT OF BLAKELEY VILLAGE, LLC'S MOTION TO COMPEL ARBITRATION - 1 OF 2

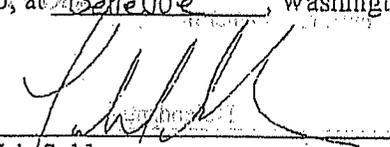
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1 and located signed Warranty Addendums for 103 of the 106 residential units at the project.
2 Missing from the records are signed Warranty Addendums for units 101, 307 and 501.

3 3. Attached hereto as Exhibit 1, is a true and correct copy of the fully-executed
4 Warranty Addendum for unit 333. Attached hereto as Exhibit 2, are true and correct copies
5 of the executed Warranty Addendum signature pages for the additional 102 units at the
6 project for which signed Warranty Addendums were located.

7 4. It was Blakeley Village, LLC's standard practice to require signed Warranty
8 Addendums as a prerequisite to completing the sales transaction for each of the units at the
9 project. The transaction for the sale of each unit would not have been completed without a
10 signed Warranty Addendum. The signed Warranty Addendums for units 101, 307 and 501
11 appear to have been misplaced since the time of sale.

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14 Signed this 13 day of July, 2006, at Bellevue, Washington.

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Lis Soldano

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DECLARATION OF LIS SOLDANO IN SUPPORT OF
BLAKELEY VILLAGE, LLC'S MOTION TO COMPEL
ARBITRATION - 2 OF 2

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

EXHIBIT B

RECEIVED

JUL 16 2007

JUDGE LINDA LAU
DEPARTMENT 49

RECEIVED
AUG 17 2007
SALMI & CILLARNEY PLLC

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington non-profit corporation,

Plaintiff,

vs.

BLAKELEY VILLAGE LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 through 35, entities conducting business in Washington;

Defendants.

NO. 06-2-03941-6SEA

ORDER GRANTING (PROPOSED) PLAINTIFF'S MOTION TO LIFT THE STAY ON PROCEEDINGS AND DENY MANDATORY ARBITRATION OF ITS WCA CLAIMS

RECEIVED

without oral argument

This matter having come before the Court on Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of Its WCA Claims, the Court without having heard oral argument, considered the pleadings and files herein, and:

ORDER GRANTING PLAINTIFF'S MOTION TO LIFT THE STAY ON PROCEEDINGS AND DENY MANDATORY ARBITRATION OF ITS WCA CLAIMS

CASEY & SKOGLUND PLLC
114 West McGraw Street
Seattle, Washington 98119
Phone (206) 284-8165

1 1. Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration
2 of Its WCA Claims;

3 2. The Declaration of Adil A. Siddiki and the Exhibits attached thereto;

4 3. Defendant Blakeley Village LLC's Response and
5 Cross Motion To Compel Together with its sepearate
6 and Motion to Compel Arbitration and supporting Declarations
7 with Exhibits

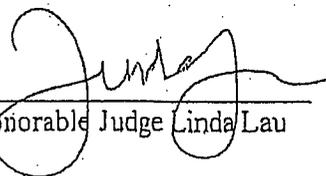
8 4. Plaintiff's Reply with Supporting Declaration and Exhibits

9 5. Defendant Blakeley Village LLC's Reply In
10 Support of Cross Motion To Compel
11 Arbitration

12 The Court having considered itself fully advised in the premises, it is hereby
13 ORDERED, ADJUDGED AND DECREED that the August 8, 2006 stay on proceedings is
14 lifted and defendants request for mandatory arbitration on the Association's claims for breach
15 of implied and express warranties of the Washington Condominium Act is denied. The

16 Satomi decision controls. The parties
17 shall agree upon a new trial date. The Court will
18 issue amended case schedule upon receipt of a
19 stipulated Order setting the new trial date.

20 DATED August 3, 2007

21
22
23 
24 Honorable Judge Linda Lau

25 ORDER GRANTING PLAINTIFF'S
MOTION TO LIFT THE STAY
ON PROCEEDINGS AND DENY
MANDATORY ARBITRATION OF ITS
WCA CLAIMS

CASEY & SKOGLUND PLLC
114 West McGraw Street
Seattle, Washington 98119
Phone (206) 284-8165

1
2 **CASEY & SKOGLUND PLLC**

3
4 **Todd K. Skoglund, WSBA #30403**
5 **Adil A. Siddiki, WSBA #37492**
6 **Attorneys for Plaintiffs**

7 **AGREED AS TO FORM AND CONTENT BY:**

8 **SALMI & GILLASPY, PLLC**

9
10 **Besty A. Gillapsy, WSBA #21340**
11 **Daniel L. Dvorkin, WSBA #32776**

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**ORDER GRANTING PLAINTIFFS
MOTION TO LIFT THE STAY
ON PROCEEDINGS AND DENY
MANDATORY ARBITRATION OF ITS
WCA CLAIMS**

CASEY & SKOGLUND PLLC
114 West McGraw Street
Seattle, Washington 98119
Phone (206) 284-8165

EXHIBIT C

Counsel for Blakeley Village LLC shall promptly mail a copy of this order to all other counsel/parties

SALMI & GILLASPY, PLLC

RECEIVED

AUG - 9 2007
JUDGE LINDA LAU
DEPARTMENT 49

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

<p>9 BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,</p> <p>10</p> <p>11 Plaintiff,</p> <p>12 vs.</p> <p>13 BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington;</p> <p>14</p> <p>15 Defendants.</p> <p>16</p> <p>17</p>	<p>NO. 06-2-(03941)-6 SEA</p> <p>ORDER GRANTING DEFENDANT BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN COMPLAINT AS "BLAKELEY COMMONS, LLC") MOTION FOR CLARIFICATION OF ORDER GRANTING PLAINTIFF'S MOTION TO LIFT THE STAY ON PROCEEDINGS AND DENY MANDATORY ARBITRATION OF ITS WCA CLAIMS</p> <p>(PROPOSED) </p>
--	--

THIS MATTER having come before the Court upon Defendant Blakeley Village, LLC's (incorrectly identified in above-captioned lawsuit as "Blakeley Commons, LLC") Motion for Clarification of Order Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of its WCA Claims, and this Court having considered the following:

- Defendant Blakeley Village, LLC's (incorrectly identified in above-captioned lawsuit as "Blakeley Commons, LLC") Motion for Clarification of Order

ORIGINAL

SALMI & GILLASPY, PLLC
500 - 108th Ave NE, Ste 215
Bellevue, Washington 98004

ORDER GRANTING BLAKELEY VILLAGE, LLC'S MOTION FOR CLARIFICATION (PROPOSED)

1 Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory
2 Arbitration of its WCA Claims;

3 Reply Declaration of Daniel L. Dworkin
4 _____;

5 " _____;

6 " _____;

7 " _____;

8 " _____;

9 " _____;

10 " _____;

11 " _____;

12 _____;

13 and the Court records and files herein, and

14 having been fully advised in the premises and being familiar with the particulars herein,

15 NOW, THEREFORE, IT IS HEREBY ORDERED:

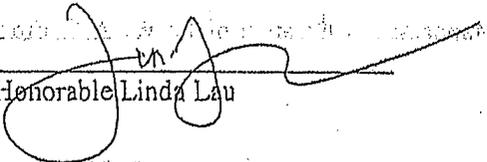
16 (1) The Motion is GRANTED;

17 (2) The Court clarifies its August 3, 2007 Order Granting Plaintiff's Motion to Lift the Stay
18 on Proceedings and Deny Mandatory Arbitration of Its WCA Claims (the "August 3, 2007
19 Order") as follows:

- 20 • The Court clarifies that its statement in the August 3, 2007 Order that the Court issued
21 the August 3, 2007 Order "without having considered the pleadings and files herein"
22 or the other related briefing and supporting materials is a typographical error. In
23 issuing the August 3, 2007 Order, this Court considered the pleadings and files in this
24 lawsuit and the related briefing and materials listed in the August 3, 2007 Order.

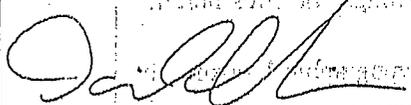
1 Plaintiff Blakeley Commons, LLC's claims against Defendant Blakeley Village, LLC
2 in the above-captioned lawsuit that are not based on the Washington Condominium
3 Act, Chapter 64.34 RCW, are hereby stayed pending arbitration of those non-
4 Washington Condominium Act claims, based on (1) the arbitration provisions in the
5 Warranty Addendums to the Purchase and Sale Agreements entered into by the
6 Blakeley Commons owners and (2) the holding in Satomi Owners Association v.
7 Satomi, LLC, 159 P.3d 460 (2007).
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16 DATED this 17 day of August, 2007.

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19 
The Honorable Linda Lau

20 Presented by:

21 SALMI & GILLASPY, PLLC

22 
23 Betsy A. Gillaspy, WSBA #21340
24 Daniel L. Dvorkin, WSBA #32776
Attorneys for Blakeley Village, LLC

ORDER GRANTING BLAKELEY VILLAGE, LLC'S
MOTION FOR CLARIFICATION (PROPOSED)

SALMI & GILLASPY, PLLC
500 - 108th Ave NE, Ste 215
Bellevue, Washington 98004

EXHIBIT D

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,

Plaintiff,

vs.

BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington;

Defendants,

And

BLAKELEY VILLAGE, LLC, a Washington corporation and INTRACORP REAL ESTATE, LLC, a Washington Corporation,

Third Party Plaintiffs,

vs.

ACCURATE SIDING, INC., a Washington corporation; CUSTOM ALUMINUM, INC., a Washington corporation; DAN BROWN ENTERPRISES, INC., a Washington corporation; EDMONDS ROOFING CO., INC., a Washington corporation; MY-LAN CO., INC., a Washington corporation; PACIFIC RIM FRAMING CO., INC., a Washington corporation; PETER ROSS, INC., a

THE HONORABLE LINDA LAU

NO. 06-2-03941-6 SEA

BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN THE CAPTION AS "BLAKELEY COMMONS LLC") NOTICE OF APPEAL TO THE SUPREME COURT OF THE STATE OF WASHINGTON FOR DIRECT REVIEW

BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN THE CAPTION AS "BLAKELEY COMMONS LLC") NOTICE OF APPEAL TO THE SUPREME COURT OF THE STATE OF WASHINGTON FOR DIRECT REVIEW - 1 OF 4

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

1 Delaware corporation; PROFESSIONAL
2 HOMEBUILDERS, LLC, a Washington
3 corporation; and SNYDER ROOFING OF
WASHINGTON, LLC a Washington corporation,

4 Third Party Defendants.

5 Defendant/Third Party Plaintiff Blakeley Village, LLC ("Blakeley Village") seeks direct
6 review by the Washington Supreme Court of the portion of this Court's August 3, 2007 Order
7 Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration
8 of its WCA Claims (as clarified by the Court's August 17, 2007 Order Granting Blakeley
9 Village, LLC's (Incorrectly Identified in the Complaint as "Blakeley Commons, LLC")
10 Motion for Clarification of Order Granting Plaintiff's Motion to Lift the Stay on Proceedings
11 and Deny Mandatory Arbitration of its WCA Claims) that denies arbitration of plaintiff's
12 Washington Condominium Act claims and denies a stay of those claims pending arbitration.

13 The portion of the Order that denies arbitration of plaintiff's Washington Condominium
14 Act claims and denies a stay of those claims pending arbitration is appealable as a matter of
15 right. RAP 2.2(a)(3); *Herzog v. Foster & Marshall, Inc.*, 56 Wn.App. 437, 440-45, 783 P.2d
16 1124 (1989).

17 Direct review by the Washington Supreme Court is appropriate under RAP 4.2(a) for the
18 reasons Blakeley Village will explain in its statement of grounds for direct review.

19 Copies of the August 3, 2007 Order Granting Plaintiff's Motion to Lift the Stay on
20 Proceedings and Deny Mandatory Arbitration of its WCA Claims and the August 17, 2007
21 Order Granting Blakeley Village, LLC's (Incorrectly Identified in the Complaint as "Blakeley
22 Commons, LLC") Motion for Clarification of Order Granting Plaintiff's Motion to Lift the
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BLAKELEY VILLAGE, LLC'S (INCORRECTLY
IDENTIFIED IN THE CAPTION AS "BLAKELEY
COMMONS LLC") NOTICE OF APPEAL TO THE
SUPREME COURT OF THE STATE OF WASHINGTON
FOR DIRECT REVIEW - 2 OF 4

SALMI & GILLASPY, PLLC
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Bellevue, Washington 98004
Phone (425) 646-2956, Fax (425) 462-4995

APPENDIX, page 23

1 Stay on Proceedings and Deny Mandatory Arbitration of its WCA Claims are attached to this
2 notice.

3 DATED this 4th day of September, 2007.

4 SALMI & GILLASPY, PLLC

5 

6 Betsy A. Gillaspay, WSBA #21340
7 Daniel L. Dvorkin, WSBA #32776

8 DLA PIPER US LLP

9 /s/ Stellman Keehnel

10 Stellman Keehnel, WSBA No. 9309
11 701 Fifth Avenue, Suite 7000

12 Seattle, WA 98104-7044

13 Telephone: 206.839.4800

14 Fax: 206.839.4801

15 E-mail: stellman.keehnel@dlapiper.com

16 Attorneys for Defendant/Third Party Plaintiff

17 Blakeley Village, LLC

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BLAKELEY VILLAGE, LLC'S (INCORRECTLY
IDENTIFIED IN THE CAPTION AS "BLAKELEY
COMMONS LLC") NOTICE OF APPEAL TO THE
SUPREME COURT OF THE STATE OF WASHINGTON
FOR DIRECT REVIEW - 3 of 4

SALMI & GILLASPY, PLLC
500 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

COUNSEL OF RECORD

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Casey & Skoglund
114 W McGraw Street
Seattle, WA 98119-2646
Phone: 206-284-8165; Fax: 206-770-6427

Representing Snyder Roofing:

John Dippold, WSBA No: 25658
Carney, Badley Spellman
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Phone: 206-622-8020; Fax: 206-467-8215

Representing Edmonds Roofing:

Steven G. Wraith, WSBA No: 17364
Lee Smart Cook Martin & Patterson
701 Pike St Ste 1800
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Phone: 206-624-7990; Fax: 206-624-5944

Representing Mv-Lan Co, Inc:

Patrick N. Rothwell, WSBA No: 23878
Davis Rothwell Earle & Xochihua P.C.
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Representing Custom Aluminum:

Joanne Thomas Blackburn
David S. Colnair
Jackson & Wallace LLP
1201 Third Avenue, Suite 3080
Seattle, WA 98101
Phone: 206-386-0214; Fax: 206-386-0216

Representing Dan Brown Enterprises and Custom Aluminum:

Scott Clement, WSBA No: 16243
Clement & Drotz
2801 Alaskan Way, Suite 300
Seattle, WA 98121-1128
Phone: 206-448-2565; Fax: 206-448-2235

Representing Professional Homebuilders and Accurate Siding:

Gregory Turner, WSBA No: 20085
Lee Smart Cook Martin & Patterson
701 Pike Street, Suite 1800
Seattle, WA 98101-3929
Phone: 206-624-7990; Fax: 206-624-5944

Representing Edmonds Roofing:

W. John Sinsheimer, WSBA No: 2193
Sinsheimer & Meltzer, Inc., P.S.
1001 - 4th Avenue, Suite 2120
Seattle, WA 98154
Phone: 206-340-4700; Fax: 206-464-9555

Representing Blakeley Village, LLC:

Betsy A. Gillaspay, WSBA #21340
Daniel L. Dvorkin, WSBA #32776
Salmi & Gillaspay, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone: 425-646-2956; Fax: 425-462-4995

BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN THE CAPTION AS "BLAKELEY COMMONS LLC") NOTICE OF APPEAL TO THE SUPREME COURT OF THE STATE OF WASHINGTON FOR DIRECT REVIEW - 4 OF 4

SALMI & GILLASPY, PLLC

500 - 108th Ave. NE, Ste. 215

Bellevue, Washington 98004

Phone (425) 646-2956 Fax (425) 462-4995

APPENDIX, page 25

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JUL 16 2007

JUDGE LINDA LAU
DEPARTMENT 49

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM
ASSOCIATION, a Washington non-profit
corporation,

Plaintiff,

vs.

BLAKELEY VILLAGE LLC, a Washington
Corporation; INTRACORP REAL ESTATE,
LLC, a Washington Corporation; JOHN
AND JANE DOES 1 through 20, individuals;
CONTRACTOR DOES 21 through
35, entities conducting business in
Washington;

Defendants.

NO. 06-2-03941-6SEA

ORDER GRANTING (PROPOSED)
PLAINTIFF'S MOTION TO LIFT THE
STAY ON PROCEEDINGS AND DENY
MANDATORY ARBITRATION OF ITS
WCA CLAIMS

without oral argument
This matter having come before the Court on Plaintiff's Motion to Lift the Stay on
Proceedings and Deny Mandatory Arbitration of Its WCA Claims, the Court without having
heard oral argument, considered the pleadings and files herein, and:

ORDER GRANTING PLAINTIFF'S
MOTION TO LIFT THE STAY
ON PROCEEDINGS AND DENY
MANDATORY ARBITRATION OF ITS
WCA CLAIMS

CASEY & SKOGLUND PLLC
114 West McGraw Street
Seattle, Washington 98119
Phone (206) 284-8165

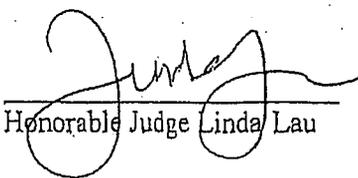
APPENDIX, page 26

1. Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of Its WCA Claims;
2. The Declaration of Adil A. Siddiki and the Exhibits attached thereto;
3. Defendant Blakeley Village, LLC's Response and Cross Motion to Compel Together with its sepeizate and Motion to Compel Arbitration and supporting Declarations with Exhibits
4. _____
5. Plaintiff's Reply with Supporting Declaration and Exhibits
6. _____
6. Defendant Blakeley Village, LLC's Reply In Support of Cross Motion to Compel Arbitration

The Court having considered itself fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED that the August 8, 2006 stay on proceedings is lifted and defendants request for mandatory arbitration on the Association's claims for breach of implied and express warranties of the Washington Condominium Act is denied. The

Satori decision controls. The parties shall agree upon a new trial date. The Court will issue amended case schedule upon receipt of a stipulated Order setting the new trial date.

DATED August 3, 2007


 Honorable Judge Linda Lau

ORDER GRANTING PLAINTIFF'S
 MOTION TO LIFT THE STAY
 ON PROCEEDINGS AND DENY
 MANDATORY ARBITRATION OF ITS
 WCA CLAIMS

CASEY & SKOGLUND PLLC
 114 West McGraw Street
 Seattle, Washington 98119
 Phone (206) 284-8165

1
2 CASEY & SKOGLUND PLLC

3
4 Todd K. Skoglund, WSBA #30403
5 Adil A. Siddiki, WSBA #37492
6 Attorneys for Plaintiffs

7 AGREED AS TO FORM AND CONTENT BY:

8 SALMI & GILLASPY, PLLC

9
10 Besty A. Gillaspay, WSBA #21340
11 Daniel L. Dvorkin, WSBA #32776

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ORDER GRANTING PLAINTIFFS
MOTION TO LIFT THE STAY
ON PROCEEDINGS AND DENY
MANDATORY ARBITRATION OF ITS
WCA CLAIMS

CASEY & SKOGLUND PLLC
114 West McGraw Street
Seattle, Washington 98119
Phone (206) 264-8165

Counsel for Blakeley Village LLC shall promptly mail a copy of this order to all other counsel/parties

SALMI & GILLASPY, PLLC

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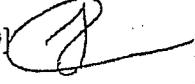
AUG -9 2007
JUDGE LINDA LAU
DEPARTMENT 49

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

<p>BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,</p> <p style="text-align: right;">Plaintiff,</p> <p>vs.</p> <p>BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington:</p> <p style="text-align: right;">Defendants:</p>
--

NO. 06-2-03941-6 SEA

ORDER GRANTING DEFENDANT BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN COMPLAINT AS "BLAKELEY COMMONS, LLC") MOTION FOR CLARIFICATION OF ORDER GRANTING PLAINTIFF'S MOTION TO LIFT THE STAY ON PROCEEDINGS AND DENY MANDATORY ARBITRATION OF ITS WCA CLAIMS

[PROPOSED] 

THIS MATTER having come before the Court upon Defendant Blakeley Village, LLC's (incorrectly identified in above-captioned lawsuit as "Blakeley Commons, LLC") Motion for Clarification of Order Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of its WCA Claims, and this Court having considered the following:

- Defendant Blakeley Village, LLC's (incorrectly identified in above-captioned lawsuit as "Blakeley Commons, LLC") Motion for Clarification of Order

ORDER GRANTING BLAKELEY VILLAGE, LLC'S MOTION FOR CLARIFICATION [PROPOSED]

ORIGINAL

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of its WCA Claims;

Reply Declaration of Daniel L. Duerkin

and the Court records and files herein, and

having been fully advised in the premises and being familiar with the particulars herein;

NOW, THEREFORE, IT IS HEREBY ORDERED:

(1) The Motion is GRANTED;

(2) The Court clarifies its August 3, 2007 Order Granting Plaintiff's Motion to Lift the Stay on Proceedings and Deny Mandatory Arbitration of Its WCA Claims (the "August 3, 2007 Order") as follows:

- The Court clarifies that its statement in the August 3, 2007 Order that the Court issued the August 3, 2007 Order "without having considered the pleadings and files herein" or the other related briefing and supporting materials is a typographical error. In issuing the August 3, 2007 Order, this Court considered the pleadings and files in this lawsuit and the related briefing and materials listed in the August 3, 2007 Order.

ORDER GRANTING BLAKELEY VILLAGE, LLC'S MOTION FOR CLARIFICATION (PROPOSED)

SALMI & GILLASPY, PLLC

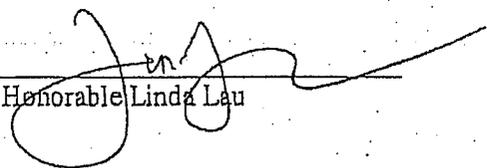
500 - 108th Ave. NE, Ste. 215

Bellevue, Washington 98004

Phone (425) 646-2956 Fax (425) 462-4995

1 • Plaintiff Blakeley Commons, LLC's claims against Defendant Blakeley Village, LLC
2 in the above-captioned lawsuit that are not based on the Washington Condominium
3 Act, Chapter 64.34 RCW, are hereby stayed pending arbitration of those non-
4 Washington Condominium Act claims, based on (1) the arbitration provisions in the
5 Warranty Addendums to the Purchase and Sale Agreements entered into by the
6 Blakeley Commons owners and (2) the holding in Satomi Owners Association v.
7 Satomi, LLC, 159 P.3d 460 (2007).
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16 DATED this 17 day of August, 2007.

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19 
The Honorable Linda Lau

20 Presented by:

21 SALMI & GILLASPY, PLLC

22 
23 Betsy A. Gillaspay, WSBA #21340
24 Daniel L. Dvorkin, WSBA #32776
25 Attorneys for Blakeley Village, LLC

ORDER GRANTING BLAKELEY VILLAGE, LLC'S
MOTION FOR CLARIFICATION [PROPOSED]

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,

THE HONORABLE LINDA LAU

Plaintiff,

NO. 06-2-03941-6 SEA

vs.

BLAKELEY COMMONS LLC, a Washington Corporation; INTRACORP REAL ESTATE, LLC, a Washington Corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington,

DECLARATION OF SERVICE FOR BLAKELEY VILLAGE, LLC'S (INCORRECTLY IDENTIFIED IN THE CAPTION AS "BLAKELEY COMMONS LLC") NOTICE OF APPEAL TO THE SUPREME COURT OF THE STATE OF WASHINGTON FOR DIRECT REVIEW

Defendants.

On September 4, 2007, I caused to be delivered by ABC Legal Services a right and true copy of the Blakeley Village, LLC's (Incorrectly Identified in the Caption as "Blakeley Commons LLC") Notice of Appeal to the Supreme Court of the State of Washington for Direct Review to the following recipients:

Todd Skoglund
114 West McGraw Street
Seattle, WA 98119

Gregory Turner
Lee Smart Cook Martin & Patterson
701 Pike Street Suite 1800
Seattle, WA 98101

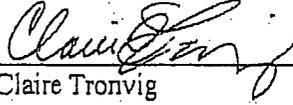
DECLARATION OF SERVICE

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004

Phone (425) 646-2956 Fax (425) 462-4995

1 2 3	Joanne Thomas Blackburn Jackson & Wallace LLP 1201 Third Ave. Suite 3080 Seattle, WA 98101	Thomas Ahearne 1111 Third Ave. Suite 3400 Seattle, WA 98101
4 5	Patrick Rothwell Davis Rothwell Earle & Xochihua 701 5 th Ave. Suite 5500 Seattle, WA 98104	W. John Sinsheimer Sinsheimer & Meltzer 1001 4 th Ave. Suite 2120 Seattle, WA 98154
6 7	John Dippold Carney Badley Spellman 700 5 th Ave. Suite 5800 Seattle, WA 98104	W. Scott Clement Clement & Drotz 2801 Alaskan Way Suite 300 Pier 70 Seattle, WA 98121-1128

8
9
10 DATED this 4th day of September 2007.

11
12 
13 Claire Tronvig
14 Legal Assistant
15 Salmi & Gillaspay, PLLC
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DECLARATION OF SERVICE - 2

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004
Phone (425) 646-2956 Fax (425) 462-4995

SALMI & GILLASPY, PLLC
500 108TH AVE NE, SUITE 215
BELLEVUE, WA 98004
425-646-2956

BANK OF AMERICA
BELLEVUE @ 4TH
BELLEVUE, WA 98004
19-2 1250

6235

September 4, 2007

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ORDER OF

King County Clerk

\$ 250.00

Two hundred & Fifty dollars & 00/100

DOLLARS

MEMO CASE NO. 06-2-03941-6 SEA

Bob A. Williams

AUTHORIZED SIGNATURE

SECURITY FEATURES INCLUDED, DETAILS ON BACK

⑈006235⑈ ⑆250000241⑆ 2224 408⑈

SALMI & GILLASPY, PLLC

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAKELEY COMMONS CONDOMINIUM
ASSOCIATION, a Washington corporation.

THE HONORABLE LINDA LAU

NO. 06-2-03941-6 SEA

Plaintiff,

vs.

DECLARATION OF DANIEL L.
DVORKIN IN SUPPORT OF

BLAKELEY COMMONS LLC, a Washington
Corporation; INTRACORP REAL ESTATE, LLC,
a Washington Corporation; JOHN AND JANE
DOES 1 through 20, individuals; CONTRACTOR
DOES 21 THROUGH 35, entities conducting
business in Washington;

DEFENDANT BLAKELEY VILLAGE,
LLC'S (INCORRECTLY IDENTIFIED
IN COMPLAINT AS "BLAKELEY
COMMONS, LLC") OPPOSITION TO
PLAINTIFF BLAKELEY COMMONS
CONDOMINIUM ASSOCIATION'S
MOTION TO SET TRIAL DATE

Defendants,

And

BLAKELEY VILLAGE, LLC, a Washington
corporation and INTRACORP REAL ESTATE,
LLC, a Washington Corporation,

Third Party Plaintiffs,

vs.

ACCURATE SIDING, INC., a Washington
corporation, *et al.*

I, Daniel L. Dvorkin, am over the age of eighteen, otherwise competent to testify, and,
subject to the laws of perjury of the State of Washington, hereby state and declare as follows:

1. I am an attorney at the law firm of Salmi & Gillaspay, PLLC, counsel of record for
Blakeley Village, LLC in the above-captioned lawsuit.

DECLARATION OF DANIEL L. DVORKIN IN SUPPORT
OF DEFENDANT BLAKELEY VILLAGE, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO SET TRIAL
DATE - PAGE 1 OF 2

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Ste. 215
Bellevue, Washington 98004

1 2. Attached hereto as Exhibit 1, is a true and correct copy of correspondence from the
2 Supreme Court of Washington, dated April 2, 2008, and the enclosed Order by the Supreme
3 Court, also dated April 2, 2008, accepting review of this case and consolidating the appeal
4 with the Satomi and Leschi appeals.

5 3. Attached hereto as Exhibit 2, is a true and correct copy of correspondence from the
6 Washington Supreme Court, dated July 10, 2008, setting oral argument of the appeal in this
7 case for September 23, 2008.

8 4. I received from plaintiff's counsel an electronic copy of an unsigned Note for Motion
9 relative to the instant motion on Tuesday, July 15, 2008. While Plaintiff's counsel has
10 indicated a signed Note for Motion was sent to my office by messenger on Monday, July 14,
11 2008, neither I nor my office has been served with a signed Note for Motion relative to the
12 instant motion. Plaintiff's motion is in violation of LR-7(b)(4) and should be denied.

13 Signed this 16 day of July, 2008, at Kirkland, Washington.

14 

15 Daniel L. Dvorkin

EXHIBIT 1

THE SUPREME COURT OF WASHINGTON

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION, a Washington corporation,

Other Party,

v.

BLAKELEY COMMONS LLC, a Washington corporation; INTRACORP REAL ESTATE, LLC, a Washington corporation; JOHN AND JANE DOES 1 through 20, individuals; CONTRACTOR DOES 21 THROUGH 35, entities conducting business in Washington,

Respondents,

and

BLAKELEY VILLIAGE, LLC, a Washington corporation,

Appellant,

and

INTRACORP REAL ESTATE LLC, a Washington corporation,

Respondent,

v.

ACCURATE SIDING, INC., a Washington corporation; CUSTOM ALUMINUM, INC., a Washington corporation; DAN BROWN ENTERPRISES, INC., a Washington corporation; EDMONDS ROOFING CO., INC., a Washington corporation; MY-LAN CO., INC., a Washington corporation; PACIFIC RIM FRAMING CO., INC., a Washington corporation; PETER ROSS, INC., A Delaware corporation; PROFESSIONAL HOMEBUILDERS, LLC, a Washington

ORDER

No. 80584-9

King County Superior Court
No. 06-2-03941-6 SEA

EXHIBIT

FILED
SUPREME COURT
STATE OF WASHINGTON
2008 APR - 2 A 9:08
BY _____

corporation; and SNYDER ROOFING OF)
WASHINGTON, LLC, a Washington)
corporation,)
)
Respondents.)
)
)
_____)

Department II of the Court, composed of Chief Justice Alexander and Justices Madsen, Chambers, Fairhurst and Stephens (Justice C. Johnson sat for Justice Chambers), considered this matter at its April 1, 2008, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That this court will retain this case for hearing and decision. The Petitioner's Motion for Consolidation is granted. Therefore, this matter is consolidated with Supreme Court No. 81083-4 - The Pier at Leschi Condominium Owners Association v. Leschi Corporation, and Supreme Court No. 80480-0 - Satomi Owners Association v. Satomi, LLC, under Supreme Court No. 80480-0.

DATED at Olympia Washington, this 2nd day of April, 2008.

For the Court

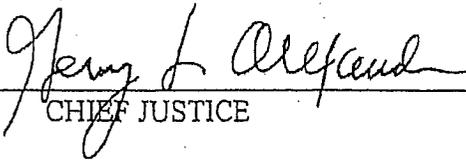

CHIEF JUSTICE

EXHIBIT 2

EXHIBIT 2

[Handwritten signatures and marks]

RONALD R. CARPENTER
SUPREME COURT CLERK

SUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEY

THE SUPREME COURT
STATE OF WASHINGTON



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

July 10, 2008

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JUL 11 2008

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Building Industry Association of WA
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Olympia, WA 98507-1909

Thomas Fitzgerald Ahearne
Foster Pepper PLLC
1411 3rd Avenue, Suite 3400
Seattle, WA 98101-3299

Re: Supreme Court No. 80480-0 - Satomi Owners Association v. Satomi, LLC
(consolidated w/80584-9, & 81083-4)

Counsel & Amici:

The above case has been set for oral argument on September 23, 2008, as the 2nd case; and argument will be held in the Courtroom of the Temple of Justice. Cases 1 and 2 will be heard in the morning session, with Court convening at 9:00 a.m. Cases 3 and 4 will be heard in the afternoon session, with Court convening at 1:30 p.m.

Counsel should report to the bailiff prior to 8:45 a.m. for morning cases and 1:15 p.m. for afternoon cases.

Oral argument will be twenty minutes per side. If a party wishes to request thirty minutes per side for oral argument, the request must be submitted in writing. The Court strongly encourages that, whenever possible, oral argument should be presented by only one or at most two-counsel per side.

If counsel are aware of any potential amicus curiae, they should be advised R.A.P. 10.2(f), as amended effective September 1, 1999, requires that amicus curiae briefs not requested by the court must be served and received by the court not later than 30 days prior to oral argument.

Metered parking is available in the General Administration parking garage located directly east of the General Administration Building on the Capitol campus; and on the entrance roads to the Capitol campus, bracketing the Tivoli Fountain.

Opinions are usually released at 8:00 a.m. on Thursdays. On Wednesdays, a notice will be on the court's homepage, <http://www.courts.wa.gov/home.cfm>, of those opinions that may be released the next morning. *E-mail notification of opinion releases is also available by signing up at the court's web site.* Once the opinion in this case is released, counsel for both parties will be notified by e-mail and a scanned copy of the opinion will be sent as an attachment to e-mail the same day. For this reason, all counsel should provide this office with a current, up-to-date, e-mail address. Hard copies of the opinion will no longer be mailed, unless counsel does not have a viable e-mail address. The opinion is also available on the court's homepage (<http://www.courts.wa.gov/opinions/recent.cfm>)

Counsel should acknowledge receipt of this letter. Please date and sign the attached copy of this letter and return it to the undersigned within five days of receipt, or e-mail acknowledgement to Lisa.Bausch@courts.wa.gov.

Sincerely,



LISA BAUSCH
Office/Case Manager

~~ORIGINAL~~

03838

Supreme Court No. 80584-9

SUPREME COURT OF THE STATE OF WASHINGTON

BLAKELEY COMMONS CONDOMINIUM ASSOCIATION,

Respondent,

v.

BLAKELEY VILLAGE, LLC,

Appellant.

STATEMENT IN LIEU OF STATEMENT OF ARRANGEMENTS

BETSY A. GILLASPY, WSBA #21340
bgillaspy@salmigillaspy.com

DANIEL L. DVORKIN, WSBA #32776
ddvorkin@salmigillaspy.com

SALMI & GILLASPY, PLLC
500 - 108th Ave. NE, Bellevue, WA 98004
Ph: 425-646-2956; Fax: 425-462-4995

Attorneys for Appellant
Blakeley Village, LLC.

I. STATEMENT IN LIEU OF
STATEMENT OF ARRANGEMENTS

Appellant Blakeley Village, LLC, by and through its attorneys of record, Salmi & Gillaspay, PLLC, state that no transcription has been requested because the order that is the subject of this appeal was considered without oral argument.

RESPECTFULLY SUBMITTED this 4th day of October, 2007.

SALMI & GILLASPY, PLLC



BETSY A. GILLASPY, WSBA #21340
DANIEL L. DVORKIN, WSBA #32776
Attorneys for Appellant
Blakeley Village, LLC

SE9102807.1

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ATTACHMENT TO EMAIL

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