

FILED
COURT OF APPEALS
DIVISION II

80684-5
NO. 34808-0-II

07 MAR 22 PM 1:52

IN THE COURT OF APPEALS

STATE OF WASHINGTON
BY yn
DEPUTY

STATE OF WASHINGTON

DIVISION II

PAUL W. POST

Appellant

v

CITY OF TACOMA, DEPARTMENT OF PUBLIC WORKS,
BUILDING AND LAND USE SERVICES DIVISION;
RISK MANAGEMENT ALTERNATIVES, INC., and
CHARLES SOLVERSON

Respondents

**RESPONDENTS CITY OF TACOMA AND CHARLES
SOLVERSON'S STATEMENT OF ADDITIONAL AUTHORITIES**

ELIZABETH A. PAULI, City Attorney

DEBRA E. CASPARIAN

Attorney for Respondents City of Tacoma and Charles Solverson

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747 Market Street, Suite 1120
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WSB #26354

Respondents submit this Statement of Additional Authorities pursuant to RAP 10.8.

The following additional authorities support the proposition, at pages 20-21 of the Brief of Respondents, that the City ordinance at issue, TMC 2.01.060, is presumed constitutional and that a heavy burden rests on the party challenging its constitutionality. HJS Dev. v. Pierce County, 148 Wn.2d 451, 477 (2003).

The following additional authorities support the proposition, at pages 20-24 of the Brief of Respondents, that the City's decision to impose penalties is reasonable under the City's police power: HJS Dev. v. Pierce County, 148 Wn.2d 451, 476-77 (2003); Edmonds Shopping Ctr. v. Edmonds, 117 Wn. App. 344, 351-52 (2003); see also TMC 2.01.060.D.4b (first penalty for substandard buildings), 4c (second penalty), 4d (third penalty), 4e (fourth penalty), 4f (daily penalties), and 5 (penalties until all violations have been corrected); TMC 2.01.060.E.3b (first penalty for derelict buildings), 3c (second penalty), 3d (third penalty), 3e (daily

penalties), and 4.2.e (penalties until all violations have been corrected).

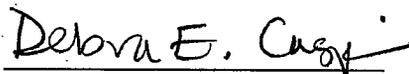
The following additional authority supports the proposition, at page 13 of the Brief of Respondents, that LUPA applies only to final determinations: Samuel's Furniture, Inc. v. Dep't of Ecology, 147 Wn.2d 440, 452-53 (2002).

The following additional authorities support the proposition, at page 13 of the Brief of Respondents, that a LUPA petition must be filed within 21 days of a land use decision: Habitat Watch v. Skagit County, 155 Wn.2d 397, 406 (2005); Samuel's Furniture, Inc. v. Dep't of Ecology, 147 Wn.2d 440, 450 (2002); Wenatchee Sportsmen Ass'n v. Chelan County, 141 Wn.2d 169, 181 (2000).

RESPECTFULLY SUBMITTED this 22nd day of March, 2007.

ELIZABETH A. PAULI, City Attorney

By:



DEBRA E. CASPARIAN
WSB #26354
Assistant City Attorney
Attorneys for Respondents

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Respondents

**AFFIDAVIT OF SERVICE OF RESPONDENTS
CITY OF TACOMA AND CHARLES SOLVERSON'S
STATEMENT OF ADDITIONAL AUTHORITIES**

ELIZABETH A. PAULI, City Attorney

DEBRA E. CASPARIAN

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STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

Molly D. Schmidt, being first duly sworn on oath, deposes
and states:

I am a citizen of the United States over the age of 18 and
competent to be a witness herein.

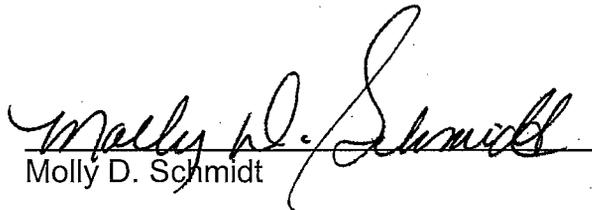
On the 22nd day of March, 2007, I caused to be delivered,
via ABC Legal Messengers, a copy of *Respondents' Statement of*

Additional Authorities to:

EVERETT HOLUM, P.S.
EVERETT HOLUM, #700
633 North Mildred Street, Suite G
Tacoma, WA 98406

and filed the original and one copy with:

The Court of Appeals
Division II
950 Broadway, #300
Tacoma, WA 98402


Molly D. Schmidt

Subscribed and sworn to before me this 22nd day of March,

2007.

Laurie Ann Dougherty
Printed name: Laurie Ann Dougherty
NOTARY PUBLIC in and for the State,
of Washington, residing at Tacoma
My commission expires: 1-6-10

