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SUPREME COURT
OF THE STATE OF WASHINGTON

LOUISE LAUER and DARRELL deTIENNE,

Respondents,

v.

PIERCE COUNTY and MIKE AND SHIMA GARRISON,

Appellants.

PETITIONERS LAUER AND DETIENNE'S SUPPLEMENTAL BRIEF

GORDON THOMAS HONEYWELL LLP
Margaret Y. Archer
Attorneys for Petitioners Lauer and
deTienne

Suite 2100
1201 Pacific Avenue
P.O. Box 1157
Tacoma, WA 98401-1157
(253) 620-6500
WSBA No. 21224

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I. ISSUE RAISED IN PETITION FOR REVIEW – GARRISON MAY NOT CLAIM VESTED RIGHTS BASED UPON ITS SUSPENDED BUILDING PERMIT

On October 22, 2004, Pierce County issued a Cease and Desist Order “suspending” the building permit issued to respondents Garrison earlier that year. (Appendix A, at AR 169.) The Cease and Desist Order was issued because Garrison, cleared vegetation, excavated and poured a foundation in a regulated stream and the associated 35-foot stream buffer without first applying for and receiving a fish and wildlife variance as required by Title 18E of the Pierce County Code (PCC). Without a variance, the building permit provides no authorization for development within the stream buffer. The Pierce County Hearing Examiner sustained the Cease and Desist Order on February 4, 2005. (AR 78,) The status of the building permit thus remained “suspended.”

Though the Examiner’s decision was issued before Pierce County amended its critical areas ordinance, Garrison chose not to apply for a variance. Instead, Garrison commenced a Land Use Petition Act (LUPA) appeal to again challenge the Cease and Desist Order. Ultimately, Garrison voluntarily dismissed that LUPA appeal and finally applied for a variance in 2007. (AR 45, 335.) Remarkably, the belated application was submitted under the prior critical areas ordinance; Garrison claimed that its suspended building permit

conferred vested rights. The vested status of the suspended building permit did not seem to flow from any analysis that the building permit application – which failed to include the requisite variance application, failed to identify the 35-foot stream setback on the associated site plan, and, depicted “existing” improvements in the buffer that did not actually exist – qualified as a complete application. Rather, Garrison reported in his application that the vested rights purportedly flowing from the suspended building permit were “pursuant to an agreement between the applicant and Pierce County.” (AR 54.) The vested status of the suspended building permit was “one of the carefully bargained for terms of settlement” between Garrison and the County when the prior LUPA appeal was dismissed. (AR 335.) Garrison now claims that their application was vested all along, by operation of law, causing one to question the necessity of the “carefully bargained for” settlement term.

The process surrounding the vested status of Garrison’s suspended building permit is replete with irregularities. The application was based upon a site plan that, most generously, contained incomplete and inaccurate information, and most probably was intentionally misleading. Since the application failed to include

the requisite fish and wildlife variance, the proposed construction in the 35-foot stream buffer was inconsistent with the local zoning code.

RCW 19.27.095 only accords vested rights to a “valid and fully complete building permit structure that is permitted under the zoning or other land use control ordinances in effect on the date of the application.” The Garrison application far from qualifies. See *Kelly v. Chelan*, 157 Wn. App. 417, 426-27, 237 P.3d 346 (2010).

“A proposed development which does not conform to newly adopted laws is, by definition, inimical to the public interest embodied in those laws.” If a vested right is too easily granted, the public interest is subverted.

Abbey Road Group LLC v. Bonney Lake, 167 Wn.2d 167, 251, 218 P.3d 180 (2009) quoting *Erickson & Associates, Inc. v. McLerran*, 123 Wn.2d 864, 873-74, 872 P.2d 1090 (1994). This Court should conclude that no vested rights flow from the suspended building permit application.

A. The Record Does Not Support Garrison’s Contention That He Unwittingly Misrepresented His Application Or Unwittingly Omitted The Requisite Variance Application.

Garrison asserts that the record will not support a claim that he knowingly misrepresented his application. There is no dispute, however, that Garrison knew there was a regulated stream on his property protected by a 35-foot buffer and, further, that he could not clear, much less develop within that protective buffer. Just one year

before submitting his incomplete and misleading building permit application, Garrison was subject to another code enforcement action for clearing the same area without the requisite fish and wildlife variance. (Appendix B, AR 162-65.)

In that action, the County ordered Garrison to “[s]top all activity within 35 feet of the stream drainage course located on this parcel” and further ordered Garrison to prepare and implement a stream buffer restoration plan. (AR 162-63.) This prior code enforcement action was not closed until Garrison submitted and received approval of the re-vegetation plan and provided proof of planting consistent with the plan. (Appendix C, AR, 180, 182.) Even then, Garrison was advised that the County would monitor plan implementation to ensure compliance. (AR 182.)

Likewise, it is not disputed that the site plan submitted with the building application just a few months later did not depict the 35-foot setback as required. (AR 263, 132-33, PCC 15.04.160.) It is also not disputed that, contrary to the depiction on the site plan, there is no “existing drive” in close proximity to the regulated stream. (AR 97-98.) Significantly, though Mike Garrison testified before the Hearing Examiner (RP 7-12), he made no attempt to explain the false depiction

of the "existing drive" on the site plan or the omissions of the buffer and building setback.

Without doubt, Garrison knew that it was the County's position that his property contained a regulated stream and that clearing or development was not allowed within 35 feet of that stream. He may have silently and subjectively disagreed with the County's position, but he made no attempt to address the stream's status prior to submitting an application that omitted the stream buffer or prior to completely excavating both the stream and the entire buffer and covering it with a concrete foundation.

Lauer and deTienne carried their burden under LUPA. The Examiner's finding that the application was complete, even though everything "except" the required variance application was included with the application and the site plan failed to depict the stream and buffer (AR 35-36) is not supported by the record.

B. Petitioners Do Not Advocate A Review Process That Erects Unfair Hurdles.

Citing *West Main Associates*, Garrison argues that petitioners' argument, if accepted, will serve to erect unfair hurdles to developers that seek to establish vested rights. Garrison's argument lacks merit.

Petitioners do not advocate that Garrison was required to receive a variance approval or any other permit approval before it

could submit a building permit application and vest their rights. Rather, petitioners merely argue that, consistent with the applicable Pierce County Code, Garrison was required to include a variance application along with the building permit application. Inclusion of the variance application would have rendered the building permit application "fully complete" and consistent with the applicable code. It is not an onerous burden to require that the building permit application be accompanied by the variance application.

C. Deeming A Misleading And Inaccurate Application Vested By Operation Of Law Under RCW 36.70B.070 Would Sanction Manipulation And Abuse Of The Expedited Permit Review Process.

Garrison relies heavily upon RCW 36.70B.070 to advocate that their misleading application, which led to the issuance of a building permit that was necessarily suspended, is beyond challenge because the County did not declare it incomplete within 28 days. The statute, however, certainly must presume that the application is submitted without fraud and without misrepresentation.

The building permit has already effectively been deemed illegal and without affect as a result of the Cease and Desist Order. A suspended permit should not confer vested rights. Public policy will not be served if applicants are allowed to submit false and misleading information and hope that the County will not notice - at least for a

period of 28 days. Garrison states that RCW 36.70B.070 places the burden on government to review applications for completeness promptly. The statute cannot be read, however, to impose on government to detect false representations. Government should be allowed to assume that applications are honestly submitted.

RCW 36.70B.070 does not save this tainted application.

**II. THE ADDITIONAL ISSUES RAISED BY RESPONDENTS
GARRISON DO NOT PROVIDE A BASIS TO SUSTAIN THE
COURT OF APPEALS OR THE HEARING EXAMINER**

**A. The Trial Court Properly Concluded That Lauer And deTienne
Have Standing To Bring This LUPA Appeal.**

In the proceeding before the trial court, respondents Garrison challenged Lauer and deTienne's standing to file this LUPA appeal through a motion to dismiss. (CP. 36-48.) Garrison sought to strike paragraph 8 of the LUPA petition which set forth factual allegations intended to establish standing, claiming that the factual allegations are not supported by the record. (CP 40-42.) Thereafter, Garrison asserted that Lauer and deTienne do not have standing under the criteria set forth in RCW 36.70C.060. (CP 42-48.) Trial court concluded that Lauer and deTienne properly established standing and denied Garrison's motion. (CP 134.)

1. The standing requirements under LUPA.

LUPA provides that "a person aggrieved or adversely affected by the land use decision" has standing to bring a LUPA appeal. RCW 36.70C.060(2). A person is aggrieved or adversely affected when the following conditions are met:

- (a) The land use decision has prejudiced or it likely to prejudice that person;
- (b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision.
- (c) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
- (d) The petitioner has exhausted his or her administrative remedies to the extent required by law. *Id.*

2. The facts demonstrating standing are but need not be supported by the record; and the trial court properly denied Garrison's motion to strike.

An appeal of a final land use decision is commenced by filing a land use petition. LUPA sets forth the requisite content for the petition initiating the appeal and included in the content required are facts demonstrating the petitioner's standing to seek judicial review under RCW 36.70C.060. RCW 36.70C.070(6). Consistent with that requirement, petitioners alleged facts demonstrating standing at paragraph 8 of their petition, which provides in part:

Petitioners each own real property adjacent to respondent Garrison's property which is the subject of the Examiner's Decision. Petitioner deTienne owns real property located immediately west of Garrison's property and petition Lauer owns and occupies real property located immediately east of the Garrison's property. The proposed development on the Garrison's property, as approved by the Examiner's decision, will negatively impact petitioner's property. Impacts include, but are not limited to, impacts related to development near and alteration of an existing stream that crosses Garrison's property, including erosion caused to altered surface water flow and increased turbidity in Henderson Bay. (CP 2-3.)

Garrison moved to strike paragraph 8 of the petition, claiming that the facts alleged are not supported by the record before the hearing examiner. Contrary to Garrison's assertion, the facts alleged in the petition are supported by the record.

Ms. Lauer testified that Garrison's development within the stream and removal of the vegetative buffer has caused erosion and increased turbidity in Henderson Bay, interfering with habitat and her enjoyment of the adjoining beach and tidelands that front her property. (RP at 28:8-9, 21-22; 29:14-15, 31:20-32:14.) The disturbance of the stream and protective vegetation has also caused flooding on her property and caused Garrison's bulkhead, along with her conjoined bulkhead to fail. (RP at 29:20-23;¹ AR 325; AR 119.) Public comment

¹ The verbatim transcript of the proceeding before the Examiner contains a clerical error. Approximately midway through Ms. Lauer's testimony, the transcriber erroneously refers to Ms. Lauer as "Garrison." (See RP 29.)

letters submitted on Lauer's behalf by her son Mark Von Walter also supported the allegations in paragraph 8. (RP 21:4, 22:24-23:2;AR 115-16.) Mr. deTienne likewise submitted evidence in the record that his property was negatively impacted by Garrison's disturbance of the stream and removal of the protective vegetative buffer. (RP at 35:7-15; AR 119.)

Moreover, LUPA does not require that the facts demonstrating standing be included in the administrative record, but only requires that facts establishing standing be alleged in the petition. RCW 36.70C.070(6). The statutory provision that sets forth the prerequisites for standing likewise does not state that supporting facts must be in the administrative record. Finally, the closed record review provision of LUPA, RCW 36.70C.120 does not create a requirement that facts establishing standing be included in the record. RCW 36.70C.120(1) provides:

When the land use decision being reviewed was made by a quasi-judicial body or officer who made factual determinations in support of the decision and the parties to the quasi-judicial proceeding had an opportunity consistent with due process to make a record on the factual issues, judicial review of factual issues and the conclusions drawn from the factual issues shall be confined to the record created by the quasi-judicial body or officer, except as provided in subsections (2) through (4) of this section. (Emphasis added.)

This provision only confines review to the record with regard to review of the substantive decisions of the Examiner. The Examiner was not required to and did not make findings regarding petitioners' standing. As a result, the limitations of RCW 36.70C.120 have no application to the court's determination of standing.

Notably, courts have determined the issue of standing in LUPA cases through consideration of supporting affidavits. *See, Suquamish Indian Tribe v. Kitsap County*, 92 Wn. App. 816, 831, 965 P.2d 636 (1998) (reviewing the affidavits of petitioners for purposes of establishing standing). Lauer and deTienne submitted to the trial court declarations attesting to the injuries they have suffered and will continue to suffer if the Examiner's decision is allowed to stand. (CP 109-111; 114-121.) The trial court properly denied Garrison's motion to strike paragraph 8 of the petition.

3. Lauer and deTienne are 'aggrieved persons.'

Washington courts apply the "injury in fact" test to this standing requirement under LUPA. *Chelan County v. Nykreim*, 146 Wn.2d 904, 935, 52 P.3d 1, 16 (2002); *Suquamish Indian Tribe v. Kitsap County*, 92 Wn. App. at 829-830. This test requires the petitioner to allege that the land use decision will lead to a specific as opposed to abstract injury. *Id.* "[A] party need not show a particular level of injury in order

to establish standing to bring an action under LUPA.” *Nykreim*, 146 Wn.2d at 934-35, *quoting Suquamish Indian Tribe*, 92 Wn. App. at 832. “In general, parties owning property adjacent to a proposed project and who allege that the project will injure their property have standing.” *Nykreim*, 146 Wn.2d at 934-35, *quoting Suquamish Indian Tribe*, 92 Wn. App. at 829-30. *See also, Biermann v. City of Spokane*, 90 Wn. App. 816, 820, 960 P.2d 434, 436 (1998) (holding neighbor challenging construction of garage without building permit had standing under LUPA because her “health, safety and comfort are directly affected by this garage.”)

Petitioners have clearly demonstrated standing under this standard. Garrison’s excavation and development in the stream and removal of the protective vegetative buffer has resulted in significant erosion on the beach accessed and used by Lauer and deTienne, which erosion has cause Garrison’s and Lauer’s conjoined bulkhead to fail and had further caused flooding on Lauer’s property. The erosion has also increased the turbidity in Henderson Bay, to include the area of the tidelands owned by Lauer and deTienne, interfering with their enjoyment of their waterfront properties. Garrison’s excavation and development also has shifted the location of the stream closer to the deTienne property, increasing the buffer and reducing the buildable

area on the deTienne property (CP 109-21; RP 28:8-9, 21-22; 29:14-15, 20-23; 31:20-32:14; 35:7-15; AR 15, AR 325.) Garrison's development activity has caused injury to Lauer and deTienne. The Examiner's vesting decision which basically serves to relieve Garrison of the responsibility to restore the stream and full buffer area has only served to continue that injury.

4. Lauer and deTienne are among those that the local jurisdiction was required to consider when it made the land use decision.

This second prong of the LUPA standing requirements is evaluated under the "zone of interest test." *Nykreim*, 146 Wn.2d at 937; *Suquamish Indian Tribe v. Kitsap County*, 92 Wn. App. at 829-830. "[A]lthough the zone of interest test serves as an additional filter limiting the group which can obtain judicial review of an agency decision, the 'test is not meant to be especially demanding.'" *Nykreim*, 146 Wn.2d at 937, quoting *Seattle Bldg. & Constr. Trades Council v. Apprenticeship & Training Council*, 129 Wn.2d 787, 797, 920 P.2d 581 (1996). "The test focuses on whether the Legislature intended the agency to protect the party's interest when taking the action at issue." *Nykreim*, 146 Wn.2d at 937.

Lauer and deTienne are within the zone of interests to be protected. To begin, the Examiner's decision with regard to vesting

necessarily is a decision affecting the public interest. As noted by this Court in *Abbey Road Group, LLC*:

Development interests can often come at a cost to the public interest. The practical effect of recognizing a vested right is to potentially sanction a new nonconforming use. "A proposed development which does not conform to newly adopted laws is, by definition, inimical to the public interest embodied in those laws." If a vested right is too easily granted, the public interest is subverted.

167 Wn.2d at 251, quoting *Erickson & Associates, Inc. v. McLerran*, 123 Wn.2d at 873-74. The Examiner recognized that his vesting decision impacts the neighboring property owners when he rejected Garrison's argument that they could bargain for vested rights through a settlement agreement. (AR 35-36 at Finding 10.) The Examiner acknowledged Lauer and deTeinne's interest in the vesting issue and correctly noted:

A private party and the County cannot subvert a potential vesting issue by negotiating that issue. Any interested party has a right to argue against vesting such as was done with this case. (AR 36.)

This finding was not challenged by petitioners (CP 9-10), nor was it challenged by Garrison. The variance decision criteria avoided by the vesting decision called for a determination that the variance will not be materially detrimental to the public welfare or that impacts have been avoided and mitigation provided to the maximum practical extent. PCC

18E.20.070(d)(3). Application of those criteria would have required consideration of petitioners' interests.

Finally, review of both the prior and current critical areas ordinance further substantiates that petitioners are within the zone of interests to be considered in the Examiner's decision. Both the prior and current critical area ordinances provide that fish and wildlife variances may only be granted following a public hearing in which notice is provided to property owners within 300 feet of the proposed project. (Former PCC 18E.10.070(C),(D) at AR 137 and current PCC 18E.10.070(C),(D); 18E.20.060(C),(D); PCC 19.80.020.) Thus, consideration of input from and impacts to neighboring property owners is contemplated under the statutory framework. Lauer and deTienne were among the neighboring property owners that were required to receive notice of the fish and wildlife variance application. (AR 45, 56-57, 61.) Lauer and deTienne are within the zone of interests to be considered and protected with regard to the Examiner's vesting interest.

5. **A judgment in favor of Lauer and deTienne would substantially eliminate or redress the prejudice caused to them.**

Reversal of the Examiner's decision on vesting will substantially redress the prejudice to petitioners. The current critical areas

ordinance imposes a larger stream buffer (65 feet as opposed to 35 feet) and a greater building setback (15 feet as opposed to 8 feet). (Compare AR 43-46 to PCC 18E.40.050, .060, 18E.10.080(H).) These buffers provide greater protection to the stream and better prevent erosion, flooding and turbidity which negatively impacts the adjoining shoreline properties. Moreover, the more stringent variance criteria in the current critical areas ordinance provides greater protection to the neighboring property owners because the focus and objective of the new criteria is to avoid impacts and provide mitigation to the maximum extent practical.

6. Neither a building permit nor a determination of completeness may be administratively appealed, so the exhaustion requirement is satisfied.

RCW 36.70C.060 only requires the petitioner to exhaust available administrative remedies to the extent that they exist. If the local jurisdiction does not provide for administrative appeal of a certain decision, the exhaustion remedy imposes no further duty on the petitioner.² See *Citizens for Mt. Vernon v. City of Mt. Vernon*, 133 Wn.2d 861, 866, 68, 947 P.2d 1028 (1997). Moreover, no exhaustion of administrative remedies arises without the issuance of a

² The exhaustion requirement does not require a petitioner to attempt to judicially overturn a decision once it becomes final. *Phillips v. King County*, 87 Wn. App. 468, 477-78, 943 P.2d 306 (1997), *affirmed on othr grds* 136 Wn.2d 946 (1998).

final, appealable order. *WCHS, Inc. v. City of Lynnwood*, 120 Wn. App. 668, 679, 86 P.3d 1169 (2004); *Valley View Indust. Park v. Redmond*, 107 Wn.2d 621, 633, 733 P.2d 182 (1987).

In this case, there were no administrative appeals available to petitioners. There is no dispute that the Examiner is the highest level decision-maker for the variance determination and no further administrative appeals are available in that regard. Garrison asserts that petitioners should have appealed the County's "determination of completeness" with regard to the building permit or perhaps appealed the building permit. The matters which the Pierce County Examiner may consider, however, are limited and enumerated in PCC 1.22.080(B). Garrison has failed to demonstrate that a determination of completeness constitutes a final, appealable decision. PCC 1.22.080 certainly provides no authority for the Examiner to hear appeals of a determination of completeness made by County staff. For that matter, the Examiner has not been delegated authority to hear appeals of building permits. No administrative remedies were available and the exhaustion requirement is satisfied.

B. Lauer And deTienne Are Not Estopped From Asserting This LUPA Challenge.

Garrison asserts that they are entitled to vested rights because they negotiated the rights as part of a settlement with Pierce County

prior to voluntarily dismissing their prior LUPA appeal of the cease and desist order sustained by the Examiner. Garrison argued that "one of the carefully bargained for terms of settlement was that the applicable buffer requirements would be those that were in effect at the time the Garrisons submitted a complete building application in 2004." (AR 335.) Though Garrison asserts that the "settlement" was memorialized by letters, Garrison chose not to provide the Examiner with those letters. (AR 335-36.)

Garrison provided no legal authority that the County staff was empowered to vest applications as that would not otherwise qualify through a negotiated settlement agreement. Of course, as noted earlier, the Examiner rejected the notion finding: "A private party and the County cannot subvert a potential vesting issue by negotiating that issue." (AR 35-36, Finding 10.) Again, that finding is unchallenged.

On this LUPA appeal, Garrison argues that this illegal agreement, which was negotiated in a separate LUPA appeal to which Lauer and deTienne were not parties³ and was expressly rejected by the Examiner, serves to estop petitioners from challenging the vested

³ LUPA allows an applicant to commence an appeal naming only the local jurisdiction as a respondent. RCW 36.70C.040. LUPA imposes no obligation to join parties who participated in the proceeding below. *Id.*, see also RCW 36.70C.050. Garrison elected not to name Lauer and deTienne in their appeal of the Examiner's decision on the cease and desist order, even though Lauer and deTienne actively participated in that administrative proceeding.

status of Garrison's application in this case. Without citing any legal authority, Garrison asserts that Lauer and deTienne had an affirmative obligation to intervene in the prior LUPA appeal and somehow block a settlement agreement between Garrison and the County. Garrison makes no showing that petitioners could have controlled the outcome of a settlement of another parties' appeal. Garrison chose to exclude Lauer and deTienne from their prior LUPA appeal, they cannot now claim that petitioners' absence in that proceeding prejudiced Garrison. Garrison certainly cannot demonstrate that the elements requisite to invoke estoppel are present in this case. See *Dept. of Ecology v. Theodoratus*, 135 Wn.2d 582, 599, 957 P.2d 1241 (1988).

III. REQUESTED RELIEF

For the foregoing reasons, petitioners request that this Court reverse Division II of the Court of Appeals. This Court should affirm the decision of the trial court which reversed the Examiner's decision and remanded the application for consideration under the current Pierce County critical areas ordinance.

Dated this 4 day of April, 2011.

Respectfully submitted,

GORDON THOMAS HONEYWELL LLP

By



Margaret Y. Archer
Attorneys for Petitioners
WSBA No. 21224

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APPENDIX A

OCTOBER 22, 2004 CEASE AND DESIST ORDER
AR 167-174

Permit No. 383860

STOP WORK ORDER

(CEASE AND DESIST)

FROM THE OFFICE OF THE PIERCE COUNTY ^{Resource Management} DEVELOPMENT ENGINEERING SECTION

LOCATION: (Pierce County Annex)

^{Pierce County Development Engineering Section}
Pierce County Development Engineering Section of the Planning and Land Services (PALS) Department, 2401 South 35th Street, Tacoma, WA 98409, Room 175

Grading activity, i.e., excavating, filling, clearing, or creation of impervious surfaces within unincorporated Pierce County is subject to the requirements of the Pierce County Development Regulations, Storm Drainage and Site Development, Title 17A (Ordinance 99-24S) and Title 18E (Critical Areas).

The following violations have been identified on your property:

Building within the 35 foot storm/drainage buffer

The above work does not conform and has not been permitted by Pierce County. Therefore, if you have not done so already, **cease all earthwork**. For information relating to the violations identified on this "Stop Work" order please contact

[Signature] (Name) 748-2758 (Phone)

A Correction Notice **will** be mailed certified to the listed property owner as a follow-up to this "Stop Work" order. The certified notice will explain the **permit** requirements to resolve this violation.

Failure to comply with this "Stop Work" order may result in one or more of the following: Civil citation and/or civil penalty (for each day of continued violation), withdraw/withhold development approvals, suspension of building inspections, revocation of site development permits, and forfeiture of financial guarantees submitted to the County.

Effective Date 10/22/04
Z-1605 ADMIN/STOPWORK (Revised 05-08-01)

167
BY ORDER OF THE
Pierce County Council
Pierce County, Washington

ORIGINAL TO ARRIVE VIA CERTIFIED MAIL

October 22, 2004

CORRECTION NOTICE/CEASE AND DESIST ORDER
Planning and Land Services Department, Resource Management Division

Activities to Cease and Desist:

If you have not done so already, cease all clearing and building activity. Stop all activity within 35 feet of the stream drainage course located on this parcel.

Contact SCOTT R. SISSONS, Pierce County Environmental Biologist at (253) 798-2758.

Effective Date: Immediately upon posting, and/or receipt of this notice.

Mike & Shima Garrison
3008 80th Ave. NW
Gig Harbor, WA 98335

Subj: Critical Area Violation Located at 8122 SR302, Pierce County, Washington, on Parcel No. 0122233025, Service Request No. 26236; Problem No. 23216.

Dear Mr. & Mrs. Garrison:

PART I - VIOLATION

Our records indicate that you are the current owner of the site. As the owner, you are responsible for activities that take place on your property. This is a notice to STOP all work.

On October 18, 2004, I conducted a site inspection and determined that clearing and building activities were occurring within a stream and its 35 foot buffer on the property located at 8122 SR302. Initiation of these activities within a stream or its buffer without County review and approval is a violation of Pierce County Code (Title 18E, Critical Areas regulations).

The unpermitted work is specifically in violation of:

- Chapter, 18E.20 - Use and Activity Regulations*
- Chapter, 18E.60 - Fish and Wildlife Habitat Areas*
- Chapter 18.140 - Compliance*

Description of Violation(s):

- Clearing - removing brush, shrub within 35-feet of a regulated drainage course.*
- Building within the required 35 foot buffer*

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The complete list of regulated activities is found within Pierce County Code, Chapter 18E.20. See the attached list labeled "Regulated Activities."

Development (any activity) cannot begin until permits or approvals are gained in accordance with the following Pierce County codes, or if you are given written permission by all Pierce County Divisions involved in regulating this parcel:

- Title 18E, Critical Areas Regulations;
- Title 17A (Ordinance 99-24S), Construction and Infrastructure Regulations - Site Development and Stormwater Drainage;
- Title 17A (Ordinance 99-24S), Pierce County Stormwater Management and Site Development Manual; and
- Other Pierce County codes that may apply.

An alert has been placed on your parcel in the Development Center Information System (DCIS) and a request to suspend your building permit #383860 has been given to the Pierce County Building Official. This action will prevent any further inspections until this issue is resolved.

Please be aware that both Pierce County Resource Management and Pierce County Development Engineering of Pierce County Planning and Land Services regulate this drainage feature. It can not be placed in a culvert or further impacted without prior review and approval of Pierce County Planning and Land Services. The Washington State Department of Fish and Wildlife (WDFW) would/may also require Hydraulic Project Approval (HPA) for placing this stream drainage feature in a culvert.

Failure to comply with the terms of this Notice can result in additional enforcement action including, but not limited to, the issuance of a civil infraction citation, Chapter 1.16 - Civil Infractions (\$250.00 per day per violation, \$475.00 total with court fees); and/or criminal misdemeanor charges punishable by a \$1,000.00 fine and 90 days in jail; and/or injunctions such as a public nuisance punishable by contempt of court sanctions, per 18.140.050 - Compliance.

PART II - IMMEDIATE CORRECTIVE ACTIONS

Required Immediate Correction Measure(s)

- Immediately, stop all work on the property unless instructed otherwise, in writing, by Pierce County representatives.
- Immediately, install erosion, sedimentation control, slope stabilization, and surface water control measures if required by Pierce County Development Engineering.
- Within 60 days of this order apply for a Fish and Wildlife Variance.

PART III - COMPLIANCE PROCESS

Time Period for Compliance Process: Within 60 days of the date of this letter, you must make application for the Fish and Wildlife Variance.

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A master application and application have been enclosed for your use.

With help from your specialist, you will be required to submit the following to the Pierce County Development Center, located at 2401 South 35th Street, Tacoma, WA 98409. Please see the attached submittal standards for number of copies:

1. Fish and Wildlife Variance Submittal Standards;
2. Master Application;
3. A site plan (drawn to-scale of entire site showing location of any proposed activities, wetlands, streams, drainages, and buffers and critical areas within 158 feet of the site/property boundaries);
4. Appropriate review fee(s).

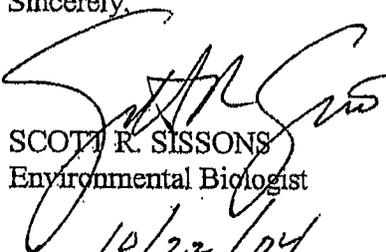
Before the building permit can be released for your project, Pierce County Resource Management must complete its review of all required studies and the Pierce County Hearings Examiner must approve the Fish and Wildlife Variance:

PART IV - APPEALS

An act or decision of the County, under these Regulations, may be appealed. You must submit an application with the appropriate fees for an Appeal of an Administrative Official's Decision to the Pierce County Development Center within fourteen (14) days of the date of this order. Appeals shall be administered in accordance with the Pierce County Hearing Examiner Code, Section 1.22.090.

We look forward to hearing from you. Resolving this violation within the timeframes noted above will help to reduce impacts to the environment and costs associated with compliance. Contact me at (253) 798-2758.

Sincerely,


SCOTT R. SISSONS
Environmental Biologist

Date

10/22/04

Signed

:/jg
/.doc

Enclosures: Fish and Wildlife Variance Submittal Standards
Required Findings
Master Application
Regulated Activities List

c: Jill Guernsey, Deputy Prosecuting Attorney
Ron Bridgman, Development Engineer

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Kathleen Larrabee, Resource Management Supervisor
Mitch Brells, Development Engineering Supervisor
Vicki Diamond, Current Planning Supervisor
Ty Booth, Associate Planner
Sheri Hulin, Supervisory Administrative Assistant, Building Department
Yvonne Reed, Code Enforcement Officer
Travis Nelson, WDFW, PO Box 73254, Puyallup, WA 98373



2401 South 35th Street
Tacoma, Washington 98409-7460
(253) 798-7210 • FAX (253) 798-7425

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 22, 2004

CORRECTION NOTICE/CEASE AND DESIST ORDER
Planning and Land Services Department, Resource Management Division

Activities to Cease and Desist:

If you have not done so already, cease all clearing and building activity. Stop all activity within 35 feet of the stream drainage course located on this parcel.

Contact SCOTT R. SISSONS, Pierce County Environmental Biologist at (253) 798-2758.

Effective Date: Immediately upon posting, and/or receipt of this notice.

Mike and Shima Garrison
P O Box 222
Fox Island, WA 98333

Subj: Critical Area Violation Located at 8122 SR302, Pierce County, Washington, on Parcel No. 0122233025, Service Request No. 26236; Problem No. 23216

Dear Mr. and Mrs. Garrison:

PART I - VIOLATION

Our records indicate that you are the current owner of the site. As the owner, you are responsible for activities that take place on your property. This is a notice to **STOP** all work.

On October 18, 2004, I conducted a site inspection and determined that clearing and building activities were occurring within a stream and its 35-foot buffer on the property located at 8122 SR302. Initiation of these activities within a stream or its buffer without County review and approval is a violation of Pierce County Code (Title 18E, Critical Areas regulations).

The unpermitted work is specifically in violation of:

- Chapter, 18E.20 - Use and Activity Regulations*
- Chapter, 18E.60 - Fish and Wildlife Habitat Areas*
- Chapter 18.140 - Compliance*

Description of Violation(s):

- Clearing - removing brush, shrub within 35-feet of a regulated drainage course.*
- Building within the required 35 foot buffer*

The complete list of regulated activities is found within Pierce County Code, Chapter 18E.20. See the attached list labeled "Regulated Activities."

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Development (any activity) cannot begin until permits or approvals are gained in accordance with the following Pierce County codes, or if you are given written permission by all Pierce County Divisions involved in regulating this parcel:

- Title 18E, Critical Areas Regulations;
- Title 17A (Ordinance 99-24S), Construction and Infrastructure Regulations – Site Development and Stormwater Drainage;
- Title 17A (Ordinance 99-24S), Pierce County Stormwater Management and Site Development Manual; and
- Other Pierce County codes that may apply.

An alert has been placed on your parcel in the Development Center Information System (DCIS) and a request to suspend your Building Permit Application No. 383860 has been given to the Pierce County Building Official. This action will prevent any further inspections until this issue is resolved.

Please be aware that both Pierce County Resource Management and Pierce County Development Engineering of Pierce County Planning and Land Services regulate this drainage feature. It cannot be placed in a culvert or further impacted without prior review and approval of Pierce County Planning and Land Services. The Washington State Department of Fish and Wildlife (WDFW) would/may also require Hydraulic Project Approval (HPA) for placing this stream drainage feature in a culvert.

Failure to comply with the terms of this Notice can result in additional enforcement action including, but not limited to, the issuance of a civil infraction citation, Chapter 1.16 - Civil Infractions (\$250.00 per day per violation, \$475.00 total with court fees); and/or criminal misdemeanor charges punishable by a \$1,000.00 fine and 90 days in jail; and/or injunctions such as a public nuisance punishable by contempt of court sanctions, per 18.140.050 - Compliance.

PART II - IMMEDIATE CORRECTIVE ACTIONS

Required Immediate Correction Measure(s):

- Immediately, stop all work on the property unless instructed otherwise, in writing, by Pierce County representatives.
- Immediately, install erosion, sedimentation control, slope stabilization, and surface water control measures if required by Pierce County Development Engineering.
- Within 60 days of this order, apply for a Fish and Wildlife Variance.

PART III - COMPLIANCE PROCESS

Time Period for Compliance Process: Within 60 days of the date of this letter, you must make application for the Fish and Wildlife Variance.

With help from your specialist, you will be required to submit the following to the Pierce County Development Center, located at 2401 South 35th Street, Tacoma, WA 98409. Please see the attached submittal standards for number of copies:

1. Fish and Wildlife Variance Submittal Standards;
2. Master Application;
3. A site plan (drawn to-scale of entire site showing location of any proposed activities, wetlands, streams, drainages, and buffers and critical areas within 158 feet of the site/property boundaries);
4. Appropriate review fee(s).

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Mike and Shima Garrison
October 22, 2004
Page 3

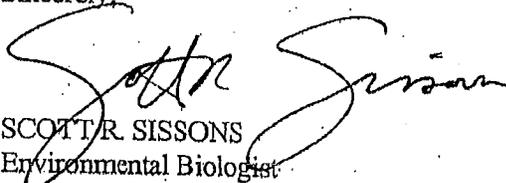
Before the building permit can be released for your project, Pierce County Resource Management must complete its review of all required studies and the Pierce County Hearings Examiner must approve the Fish and Wildlife Variance:

PART IV - APPEALS

An act or decision of the County, under these Regulations, may be appealed. You must submit an application with the appropriate fees for an Appeal of an Administrative Official's Decision to the Pierce County Development Center within fourteen (14) days of the date of this order. Appeals shall be administered in accordance with the Pierce County Hearing Examiner Code, Section 1.22.090.

We look forward to hearing from you. Resolving this violation within the time frames noted above will help to reduce impacts to the environment and costs associated with compliance. Contact me at (253) 798-2758.

Sincerely,



SCOTT R. SISSONS
Environmental Biologist

10-22-04
Date Signed

SRS:jg

10garrison cd.doc

Enclosures: Fish and Wildlife Variance Submittal Standards
Required Findings
Master Application
Regulated Activities List

- c: Jill Guemsey, Deputy Prosecuting Attorney
David Rosenkranz, Assistant Director
Gordon Aleshire, Building Official
Kathleen Larrabee, Resource Management Supervisor
Mitch Brells, Development Engineering Supervisor
Vicki Diamond, Current Planning Supervisor
Ty Booth, Associate Planner
Diana Ranes, Code Enforcement Supervisor
Ron Bridgman, Development Engineer
Ty Booth, Associate Planner
Sheri Hulin, Supervisory Administrative Assistant, Building Department
Travis Nelson, WDFW, PO Box 73254, Puyallup, WA 98373

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APPENDIX B

MARCH 7, 2003 CEASE AND DESIST ORDER
AR 162-165



2401 South 95th Street
Tacoma, Washington 98409-7460
(253) 798-7210 • FAX (253) 798-3680

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 7, 2003

CORRECTION NOTICE/CEASE AND DESIST ORDER
Planning and Land Services Department, Resource Management Division

Activities to Cease and Desist:

If you have not done so already, cease all logging/clearing activity. Stop all activity within 35 feet of the stream drainage course located on this parcel. Contact SCOTT R. SISSONS, Pierce County Environmental Biologist at (253) 798-2758.

Effective Date: Immediately upon posting, and/or receipt of this notice.

Mike and Shima Garrison
3008 80th Ave. NW
Gig Harbor, WA 98335

Subj: Critical Area Violation Located at 8122 SR302, Pierce County, Washington, on Parcel No. 0122233025, Service Request No. 22117, Problem No. 17651

Dear Mr. and Mrs. Garrison:

PART I - VIOLATION

Our records indicate that you are the current owner of the site. As the owner, you are responsible for activities that take place on your property. This is a notice to **STOP** all work.

On March 5, 2003, I conducted a site inspection from the public beach and confirmed that logging activities were occurring within a stream and its buffer, on the property located at 8122 SR302. Initiation of these activities within a stream or its buffer, without County review and approval, is a violation of Pierce County Code (Title 18E, Critical Areas regulations).

The unpermitted work is specifically in violation of:

- Chapter, 18E.20 - Use and Activity Regulations*
- Chapter, 18E.60 - Fish and Wildlife Habitat Areas*
- Chapter 18.140 - Compliance*

Description of Violation(s):

- Clearing - cutting down trees, removing brush, shrubs, stumps, snags, fallen branches, and/or dead vegetation within 35 feet of a regulated stream drainage course.*

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Mike and Shima Garrison
March 7, 2003
Page 2

The complete list of regulated activities is found within Pierce County Code, Chapter 18E.20. See the attached list labeled "Regulated Activities."

Development (any activity) cannot begin until permits or approvals are gained in accordance with the following Pierce County codes, or if you are given written permission by all Pierce County Divisions involved in regulating this parcel:

- Title 18E, Critical Areas Regulations;
- Title 17A (Ordinance 99-24S), Construction and Infrastructure Regulations - Site Development and Stormwater Drainage;
- Title 17A (Ordinance 99-24S), Pierce County Stormwater Management and Site Development Manual; and
- Other Pierce County codes that may apply.

A stream buffer restoration plan, prepared by a Pierce County qualified private wetland specialist, is required to be submitted to Pierce County Planning and Land Services. An alert has been placed on your parcel in the Development Center Information System (DCIS). This action will prevent acceptance of any applications (aside from those we have requested) on your parcel until this issue is resolved.

Please be aware that both Pierce County Resource Management and Pierce County Development Engineering of Pierce County Planning and Land Services regulate this drainage feature. It cannot be placed in a culvert or further impacted without prior review and approval of Pierce County Planning and Land Services. The Washington State Department of Fish and Wildlife (WDFW) would/may also require Hydraulic Project Approval (HPA) for placing this stream drainage feature in a culvert.

Failure to comply with the terms of this Notice can result in additional enforcement action including, but not limited to, the issuance of a civil infraction citation, Chapter 1.16 - Civil Infractions (\$250.00 per day per violation, \$475.00 total with court fees); and/or criminal misdemeanor charges punishable by a \$1,000.00 fine and 90 days in jail; and/or injunctions such as a public nuisance punishable by contempt of court sanctions, per 18.140.050 - Compliance.

PART II - IMMEDIATE CORRECTIVE ACTIONS

Required Immediate Correction Measure(s)

- Immediately, stop all work on the property unless instructed otherwise, in writing, by Pierce County representatives.
- Immediately, install erosion, sedimentation control, slope stabilization, and surface water control measures if required by Pierce County Development Engineering.
- Within 14 days of this order, hire a Wetland Specialist to assist you with the compliance process.

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Note: Have your specialist notify us that they have been hired by you. A list containing the names of currently qualified specialists is enclosed. You may choose one of these or, alternatively, have a different wetland specialist of your choice submit their qualifications to Pierce County for review and possible approval. Title 18E, Section 18E.10.010 DV. requires that all wetland specialists who submit work to the County meet minimum qualifications. After approval by the County, they will be added to the list of qualified specialists. Your wetland specialist should be able to help you through the entire compliance process. Pierce County staff cannot make recommendations. You are encouraged to discuss your concerns and questions with your specialist.

PART III – COMPLIANCE PROCESS

Time Period for Compliance Process: Within 90 days of the date of this letter, you must make application for the Wetland Approval.

A master application and wetland application have been enclosed for your use.

With help from your specialist, you will be required to submit the following to the Pierce County Development Center, located at 2401 South 35th Street, Tacoma, WA 98409. Please see the attached submittal standards for number of copies:

1. Wetland Application Submittal Standards;
2. Master Application;
3. A site plan (drawn to-scale of entire site showing location of any proposed activities, wetlands, streams, drainages, and buffers and critical areas within 158 feet of the site/property boundaries);
4. A non-compensatory buffer mitigation plan (LXRN) for your project, to be completed by a wetland specialist;
5. Appropriate review fee(s).

Before other permits can be issued for your project, Pierce County Resource Management must:

- Complete its review of all required studies;
- Issue an approval for your project;
- Receive proof that the stream approval was recorded on title; and
- Receive financial guarantee(s).

FINANCIAL GUARANTEES: Prior to completion of the Stream Approval, you must either

1. Submit financial guarantees—one for the installation of restoration requirements and, once the installation is complete, one for the monitoring of the mitigation plan; OR

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Mike and Shima Garrison
 March 7, 2003
 Page 4

2. Complete the installation and submit one guarantee for the monitoring/maintenance. You cannot obtain permits until inspection and approval of the mitigation installation. We must also be in receipt of the monitoring/maintenance guarantee.

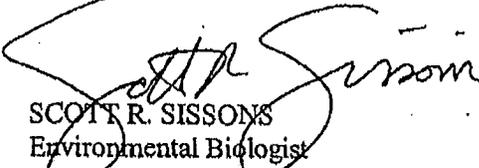
Forms for the financial guarantees (Assignments of Funds/Bonds) will be sent at a later date, along with an example of how to fill out the forms. Only Pierce County forms are acceptable.

PART IV - APPEALS

An act or decision of the County, under these Regulations, may be appealed. You must submit an application with the appropriate fees for an Appeal of an Administrative Official's Decision to the Pierce County Development Center within fourteen (14) days of the date of this order. Appeals shall be administered in accordance with the Pierce County Hearing Examiner Code, Section 1.22.090.

We look forward to hearing from you and your specialist. Resolving this violation within the timeframes noted above will help to reduce impacts to the environment and costs associated with compliance. Contact me at (253) 798-2758.

Sincerely,


 SCOTT R. SISSONS
 Environmental Biologist

March 7, 2003
 Date Signed

SRS:jg

3garrison.doc

Enclosures: Wetland Application/Master Application
 Wetland Specialist List
 Regulated Activities List

c: Lori Kennedy, Deputy Prosecuting Attorney
 Larry Onorati, Development Engineer
 Larry Fremont, Development Engineer
 Sheri Hulin, Supervisory Administrative Assistant, Building Department
 Yvonne Reed, Code Enforcement Officer
 Danette Guy, WDFW, 502 High Street Suite 112, Port Orchard, WA 98366

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APPENDIX C

2003 CORRESPONDENCE FROM PIERCE COUNTY TO GARRISON
AR 180, 182



2401 South 35th Street
Tacoma, Washington 98409-7460
(253) 798-7210 • FAX (253) 798-7425

July 30, 2003

Mike and Shima Garrison
P.O. Box 222
Fox Island, WA 98333

RE: Application Number 362291; Revegetation Plan for the Type 5 Drainage Course Located at 8122 SR302; Parcel Number 0122233025

Dear Mr. and Mrs. Garrison:

The approved revegetation plan proposed for the Type 5 drainage course, located south of the existing residence along the western portion of this parcel, apparently was not replanted prior to the start of the summer months. You agreed to implement this plan. Installation of the plan was originally scheduled prior to the start of the dry summer months. It shall now be implemented after October 31, 2003, but prior to May 31, 2004.

Please reply in writing that you plan on implementing this plan, as was agreed to before May 31, 2004. Once the plants have been installed, please submit an "As-built" and letter to my attention at Pierce County Planning and Land Services that the revegetation plan has been implemented. Please include receipts from the nursery for the installed plants and photographs of the revegetated area.

The replanted area shall then be maintained and monitored for three years to make sure the vegetation becomes reestablished. This monitoring consists of submitting to Pierce County Planning and Land Services photographs of the area from the same spot, along with a short letter indicating the general condition of the area at the end of the growing season (October 31 of each year: 2004, 2005, 2006).

Although I am not opposed to some sort of natural energy dissipater being installed at the outlet of the upper culvert that enters this site, as well as at the invert of the lower culvert, I would recommend that you check with Pierce County Development Engineering (253) 798-3748, if they have any requirements or would require any permits for this work. I would also recommend that you inquire with the Washington State Department of Fish and Wildlife (WDFW) to see if Hydraulic Project Approval (HPA) would be required, Danette Guy (360) 895-4757. It is the sole responsibility of the owner to contact these departments and obtain any and all additional permits is required.

I look forward to receiving your as-built, installation letter report with photographs and receipts. Once this information is received the SRS 22117 violation will be closed. If you have any further questions, please call me at (253)798-2758.

Sincerely,

SCOTT R. SISSONS
Environmental Biologist

SRS:jg
7garrison.doc



180



2401 South 35th Street
Tacoma, Washington 98409-7460
(253) 798-7210 • FAX (253) 798-7425

November 4, 2003

Mike and Shima Garrison
8122 SR 302
Gig Harbor, WA 98329

RE: Application Number 362291; Revegetation Plan for the Type 5 Drainage Course Located at 8122 SR302; Parcel Number 0122233025

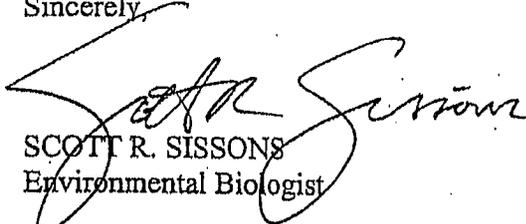
Dear Mr. and Mrs. Garrison:

Thank you for the submittal of the as-built for the restoration of the drainage course located on this parcel. Although a site visit was not made by Pierce County staff this monitoring period, it appears from your report and photos that the area has been planted as agreed.

Please replace the plants as indicated in your report and continue with the maintenance, monitoring, and removal of the bamboo as weather permits in order to ensure project success. The code violation file (SRS #22117) has now been closed. I look forward to the submittal of the next monitoring report due to Pierce County by October 31, 2004.

If you have any questions, please call me at (253)798-2758.

Sincerely,



SCOTT R. SISSONS
Environmental Biologist

SRS:jg
11garrison.doc



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RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Apr 04, 2011, 4:55 pm
BY RONALD R. CARPENTER
CLERK

No. 85177-8
COA No. 38321-7-II

RECEIVED BY E-MAIL

SUPREME COURT
OF THE STATE OF WASHINGTON

LOUISE LAUER and DARRELL deTIENNE,

Petitioners,

v.

PIERCE COUNTY and MIKE AND SHIMA GARRISON,

Respondents.

CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct:

I am a legal secretary in the offices of GORDON THOMAS HONEYWELL LLP, attorneys for the Petitioners' in the above-entitled action; that on the 4th day of April 2011, I served a true and correct copy of Petitioners Louise Lauer and Darrell deTienne's Supplemental Brief, Appendices A-C, and this Certificate of Service filed in the above-entitled Court, and served it on counsel in the manner indicated below:

<p><u>Attorneys for Mark and Shima Garrison</u></p> <p>Jennifer A. Forbes McGAVICK GRAVES 1102 Broadway, Suite 500 Tacoma, WA 98402-3534 jaf@mcgavick.com <u>VIA EMAIL AND U.S. MAIL, FIRST CLASS,</u> <u>POSTAGE PREPAID (BY AGREEMENT)</u></p>	<p><u>Attorneys for Pierce County</u></p> <p>Jill Guernsey PIERCE COUNTY PROSECUTOR'S OFFICE CIVIL DIVISION 955 Tacoma Ave. South, Suite 301 Tacoma, WA 98402-2160 jguerns@co.pierce.wa.us <u>VIA EMAIL AND U.S. MAIL, FIRST CLASS,</u> <u>POSTAGE PREPAID (BY AGREEMENT)</u></p>
---	--

Dated this 4th day of April, 2011.


Cheryl M. Koufik
Legal Secretary to Margaret Y. Archer

OFFICE RECEPTIONIST, CLERK

To: Koubik, Cheryl
Cc: Jill Guernsey; Jennifer Forbes; Jill Anderson; emh@mcgavick.com; Archer, Margaret
Subject: RE: E-Filing - Lauer, et al. v. Pierce County, et al. - Case No. 85177-8 - Supplemental Brief of Petitioners Lauer and deTienne

Rec. 4-4-11

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Koubik, Cheryl [<mailto:CKoubik@gth-law.com>]

Sent: Monday, April 04, 2011 4:50 PM

To: OFFICE RECEPTIONIST, CLERK

Cc: Jill Guernsey; Jennifer Forbes; Jill Anderson; emh@mcgavick.com; Archer, Margaret

Subject: E-Filing - Lauer, et al. v. Pierce County, et al. - Case No. 85177-8 - Supplemental Brief of Petitioners Lauer and deTienne

Case: *Louise Lauer, et al. v. Pierce County, et al.*

Case No.: 85177-8 (COA Case No. 38321-7-II)

Attached: 1) Petitioners Lauer and deTienne's Supplemental Brief;
2) Appendices A-C (17 pages); and
3) Certificate of Service.

Filer:

Margaret Y. Archer

WSBA #21224

Tel: 253.620.6550

Email: marcher@gth-law.com

Cheryl M. Koubik

Legal Assistant to Margaret Archer, Dianne Conway, and Christine Sanders


GORDON THOMAS HONEYWELL

Tacoma Office
1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
<http://www.gth-law.com>
T 253 620 6442
F 253 620 6565
ckoubik@gth-law.com

NOTICE: The information contained in this e-mail communication is confidential and may be protected by the attorney/client or work product privileges. If you are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this email in error and delete the copy you received. Thank you.

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Monday, April 04, 2011 4:56 PM
To: 'Koubik, Cheryl'
Cc: Jill Guernsey; Jennifer Forbes; Jill Anderson; emh@mcgavick.com; Archer, Margaret
Subject: RE: E-Filing - Lauer, et al. v. Pierce County, et al. - Case No. 85177-8 - Supplemental Brief of Petitioners Lauer and deTienne

Rec. 4-4-11

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Koubik, Cheryl [mailto:CKoubik@gth-law.com]
Sent: Monday, April 04, 2011 4:50 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Jill Guernsey; Jennifer Forbes; Jill Anderson; emh@mcgavick.com; Archer, Margaret
Subject: E-Filing - Lauer, et al. v. Pierce County, et al. - Case No. 85177-8 - Supplemental Brief of Petitioners Lauer and deTienne

Case: *Louise Lauer, et al. v. Pierce County, et al.*
Case No.: 85177-8 (COA Case No. 38321-7-II)

Attached: 1) Petitioners Lauer and deTienne's Supplemental Brief;
2) Appendices A-C (17 pages); and
3) Certificate of Service.

Filer:
Margaret Y. Archer
WSBA #21224
Tel: 253.620.6550
Email: marcher@gth-law.com

Cheryl M. Koubik
Legal Assistant to Margaret Archer, Dianne Conway, and Christine Sanders


GORDON THOMAS HONEYWELL

Tacoma Office
1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
<http://www.gth-law.com>
T 253 620 6442
F 253 620 6565
ckoubik@gth-law.com

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