

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Feb 11, 2016, 3:11 pm  
BY RONALD R. CARPENTER  
CLERK

E

No. 91978-0

RECEIVED BY E-MAIL

b/h

---

SUPREME COURT  
OF THE STATE OF WASHINGTON

---

NEW CINGULAR WIRELESS PCS, LLC,

Respondent,

v.

CITY OF CLYDE HILL, WASHINGTON,

Petitioner.

---

CLYDE HILL'S RESPONSE TO WSAMA'S  
AMICUS BRIEF

---

Greg Rubstello, WSBA #6271  
Ogden Murphy Wallace PLLC  
901 Fifth Avenue, Suite 3500  
Seattle, WA 98164-2008  
(206) 447-7000

Stephanie E. Croll, WSBA #18005  
Stephanie Croll Law  
23916 SE 46<sup>th</sup> Place  
Issaquah, WA 98029-7581  
(206) 949-6992

Philip A. Talmadge, WSBA #6973  
Talmadge/Fitzpatrick/Tribe  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
(206) 574-6661

Attorneys for Petitioner City of Clyde Hill



ORIGINAL

TABLE OF CONTENTS

	<u>Page</u>
Table of Authorities .....	ii-iii
A. INTRODUCTION .....	1
B. STATEMENT OF THE CASE.....	1
C. ARGUMENT .....	3
(1) <u>The Court of Appeals Decision Profoundly Impacts         All Municipal Administrative Processes</u> .....	3
(2) <u>The Court of Appeals Decision Misreads Article IV,         § 6.....</u>	4
(3) <u>The Court of Appeals Decision Upends Local         Administrative Processes, Contrary to This Court’s         Decisions</u> .....	10
(4) <u>The Court of Appeals’ Opinion As to Applicable         Limitations Periods Is Wrong</u> .....	13
D. CONCLUSION .....	14

TABLE OF AUTHORITIES

Page

Table of Cases

Washington Cases

*Blanchard v. Golden Age Brewing Co.*, 188 Wash. 396,  
63 P.2d 397 (1936).....6, 9

*City of Seattle v. Holifield*, 170 Wn.2d 230, 240 P.3d 1162 (2010) .....8

*City of Spokane v. J.R. Distributors, Inc.*, 90 Wn.2d 722,  
585 P.2d 784 (1978).....5, 9

*City of Tacoma v. Mary Kay, Inc.*, 117 Wn. App. 111,  
70 P.3d 144 (2003).....5

*Cost Management Servs., Inc. v. City of Lakewood*,  
178 Wn.2d 635, 310 P.3d 804 (2013).....6, 10, 11

*Evergreen Washington Healthcare Frontier, LLC v.  
Dep't of Soc. & Health Servs.*, 171 Wn. App. 431,  
287 P.2d 40 (2012), *review denied*,  
178 Wn.2d 1028 (2013) .....5

*Fay v. Northwest Airlines, Inc.*, 115 Wn.2d 194,  
796 P.2d 412 (1990).....5

*Grandmaster Sheng-Yen Lu v. King County*, 110 Wn. App. 92,  
38 P.3d 1040 (2002).....5

*James v. County of Kitsap*, 154 Wn.2d 574,  
115 P.3d 286 (2013).....5, 9

*Lewis v. Bishop*, 19 Wash. 312, 53 Pac. 165 (1898).....7

*Reeder v. King County*, 57 Wn.2d 563, 358 P.2d 810 (1961) .....5, 10, 11

*Ronken v. Board of County Commissioners of Snohomish County*,  
89 Wn.2d 304, 572 P.2d 1 (1997).....11

*State v. Superior Court of King County*, 164 Wash. 515,  
2 P.2d 1095 (1931).....7

*ZDI Gaming, Inc. v. Wash. State Gambling Comm'n*,  
173 Wn.2d 608, 268 P.3d 929 (2012)..... 6-7

Constitutions

Wash. Const. art. IV, § 4.....5

Wash. Const. art. IV, § 6..... *passim*

Statutes

RCW 7.16 ..... *passim*  
RCW 7.16.040 .....8  
RCW 7.16.120 .....8  
RCW 34.05.542 .....13  
RCW 36.70C.040.....13  
RCW 51.52.110 .....13

Codes, Rules and Regulations

CHMC § 1.08.030..... 10-11  
RAP 2.5(a) .....8

Other Authorities

Laura VanderVeer King, *Practice and Procedure Before the  
Washington State Board of Tax Appeals,*  
33 Gonz. L. Rev. 141 (1997-98).....8

A. INTRODUCTION

The brief of amicus curiae Washington State Association of Municipal Attorneys (“WSAMA”) confirms the contention in the City of Clyde Hill’s (“City”) supplemental brief that the Court of Appeals’ decision upsets settled Washington law on municipal administrative processes, profoundly affecting how Washington’s local governments handle a myriad of governmental matters. This Court should reverse the Court of Appeals decision and reinstate the trial court’s dismissal of New Cingular Wireless PCS, LLC’s (“New Cingular”) end-run around the City’s municipal administrative process.

B. STATEMENT OF THE CASE

If a casual reader merely reviewed New Cingular’s supplemental brief in this Court, that reader would conclude that the City affirmatively deprived New Cingular of its right to a hearing compliant with due process principles. NC suppl. br. at 5-6. As noted by WSAMA, nothing could be farther from the truth.

New Cingular had an opportunity to present evidence at the administrative hearing before the Mayor but it *chose not to do so*, making the hearing a rather perfunctory affair that lasted for only five minutes. New Cingular’s July 20, 2012 letter from its counsel articulated its protest of the City’s July 6, 2012 Notice of Violation (“NOV”). CP 19-23, 58-85.

The company threatened the City with civil claims. CP 584. It demanded withdrawal of the NOV. CP 585. It then demanded a hearing. *Id.* It *nowhere* mentioned a need for discovery. *Id.*

The City then responded by a letter dated August 1, 2012 from the City Administrator acknowledging the New Cingular letter and stating: “Please confirm whether your client desires an actual hearing before Mayor Martin or whether your client prefers that a decision be made from the written submission.” CP 594.

City Attorney Greg Rubstello responded to the substance of the July 20, 2012 letter in a letter dated September 10, 2012.

New Cingular indicated its desire for an informal hearing by telephone; as the Mayor’s decision noted, New Cingular’s counsel “repeated the argument made in her July 20, 2012 letter. No witnesses were offered to present testimony nor were any exhibits offered in support of the appeal.” CP 204.<sup>1</sup>

Thus, the record is devoid of *any request* by New Cingular’s counsel that the company wanted to conduct discovery, provide exhibits,

---

<sup>1</sup> This is confirmed from the hearing transcript. The Mayor stated: “And so, if you have additional material (beyond the letters of counsel and the ordinance) or want to address anything, I am here to listen.” New Cingular’s counsel responded: “No, I think our protest claim clearly states clearly [sic] what we think is incorrect about the Notice of Violation.” CP 231.

or call witnesses. *New Cingular deliberately chose not to create an administrative record of any sort.* WSAMA br. at 6.

Also implicit in New Cingular's arguments is the notion that it was the "victim" in this case of the City's overzealous actions. NC suppl. br. at 3-5. Again, nothing could be farther from the truth. New Cingular, a huge national corporation, overbilled its customers. Rather than repaying those customers, it sought to have small municipalities like the City, municipalities to which it had lied about whether the taxes were due, pay those customers New Cingular overbilled. It is truly a cynical exercise for New Cingular to claim it was wronged here.

C. ARGUMENT

(1) The Court of Appeals Decision Profoundly Impacts All Municipal Administrative Processes

WSAMA, an organization of all municipal attorneys in our state, *confirms* that the Court of Appeals' decision will adversely impact all Washington municipalities and will undercut this Court's decisions on exhaustion of administrative remedies.

WSAMA's brief confirms the profound adverse impact of the Court of Appeals' decision, if left to stand, on all cities and counties that have enacted local administrative procedures, noting that it would "subvert" those procedures. WSAMA br. at 1-4. The Court of Appeals'

decision allows parties aggrieved by administrative decisions a ready basis by which they can avoid real participation in municipal administrative processes. Notwithstanding well-developed principles requiring serious participation in such processes, like the doctrine of exhaustion of administrative remedies, a party could participate in the municipal administrative process in only the most rudimentary fashion, as New Cingular did here, and then, rather than going to the court on review of the municipality's decision based on the record developed administratively, it can wait three years, and file an entirely new declaratory judgment action in a superior court with discovery and an entirely new record, just as New Cingular did here. Uncertainty about the finality of the municipal administrative decision and delay will be the obvious result of the Court of Appeals' decision.

(2) The Court of Appeals Decision Misreads Article IV, § 6

WSAMA also confirms that the Court of Appeals misread the import of article IV, § 6 of the Washington Constitution. WSAMA br. at 14-15.

In addressing this issue, New Cingular attempted to draw a distinction between original and appellate jurisdiction in Washington's superior courts. NC suppl. br. at 12. But New Cingular does not offer a cogent analysis of why the Legislature's decision to confine superior court

jurisdiction to appellate review only in some instances like worker compensation cases (IIA),<sup>2</sup> land use matters (LUPA),<sup>3</sup> or state administrative matters (APA)<sup>4</sup> on the one hand is acceptable, but the legislative determination that judicial review of local governments' quasi-judicial administrative decisions under RCW 7.16 on the other hand is not.<sup>5</sup> Its assertion that the APA and LUPA are "comprehensive schemes"

---

<sup>2</sup> By the nature of the Industrial Insurance Act and the role of the Board of Industrial Insurance Appeals, no original trial jurisdiction under article IV, § 6 is involved. Appeals from the Board only invoke the courts' appellate jurisdiction. *Fay v. Northwest Airlines, Inc.*, 115 Wn.2d 194, 197, 796 P.2d 412 (1990).

<sup>3</sup> In *James v. County of Kitsap*, 154 Wn.2d 574, 115 P.3d 286 (2013) this Court rejected developers' contention that they were not subject to LUPA and could invoke the courts' original trial jurisdiction under article IV, § 4 by filing a class action to challenge Growth Management Act impact fees. This Court stated that article IV, § 6 pertains to both original trial jurisdiction and original appellate jurisdiction. *Id.* at 588. The Court stated that while LUPA could not oust the courts' original jurisdiction, nonetheless, "where statutes [such as LUPA] prescribe procedures for the resolution of a particular type of dispute, state courts have required substantial compliance or satisfaction of the spirit of the procedural requirements before they will exercise jurisdiction over the matter." *Id.* at 588. Here, the writ statute, RCW 7.16, prescribes the procedures for review of a quasi-judicial municipal decision. Substantial compliance means "actual compliance in respect to the substance essential to every real objective of the statute." *Id.* New Cingular's perfunctory involvement in the hearing before the City's Mayor and failure to seek review under RCW 7.16 hardly qualifies as "substantial compliance."

<sup>4</sup> *Evergreen Washington Healthcare Frontier, LLC v. Dep't of Soc. & Health Servs.*, 171 Wn. App. 431, 287 P.2d 40 (2012), *review denied*, 178 Wn.2d 1028 (2013) (failure to exhaust the administrative remedies afforded by the APA bars a separate action), or LUPA; *Grandmaster Sheng-Yen Lu v. King County*, 110 Wn. App. 92, 38 P.3d 1040 (2002) (citing *Reeder*).

<sup>5</sup> Cases like *City of Spokane v. J.R. Distributors, Inc.*, 90 Wn.2d 722, 585 P.2d 784 (1978) or *City of Tacoma v. Mary Kay, Inc.*, 117 Wn. App. 111, 70 P.3d 144 (2003) make clear that local ordinances may not presume to intrude upon the authority of the Legislature or the courts to provide general appellate procedures. Consequently, they do not help New Cingular's position. The City here did not prescribe the review mechanism as did Tacoma in the latter case. Here, the Legislature determined how judicial review would occur – RCW 7.16 – just as *J.R. Distributors* mandates.

imposing procedural requirements for superior court jurisdiction, and making appellate jurisdiction the exclusive means of review fails when carefully analyzed. NC supp. br. at 8-11.

First, this Court in *Cost Management Servs., Inc. v. City of Lakewood*, 178 Wn.2d 635, 646-47, 310 P.3d 804 (2013) specifically rejected the proposition that if the courts have jurisdiction over a specific type of claim, administrative jurisdiction over such a claim is ousted and exhaustion of administrative remedies is not required. *See id.* at 648 n.4. The courts have jurisdiction over the type of claim at issue here, but the claim must, nevertheless, be addressed in the City's administrative process, where New Cingular must legitimately exhaust the available administrative remedies provided, and any decision could then be reviewed in due course by the courts under RCW 7.16. This is a prudential matter on the part of the courts, resting on principles of comity. As our Supreme Court noted in *Blanchard v. Golden Age Brewing Co.*, 188 Wash. 396, 418-19, 63 P.2d 397 (1936), the Legislature may enact reasonable procedures for the courts so long as they do not interfere with the courts' powers. ("As a matter of comity between the separate departments of government, the courts will always recognize reasonable regulations prescribed by the Legislature, even though they may seemingly have the appearance of being restrictions."). *See generally, ZDI*

*Gaming, Inc. v. Wash. State Gambling Comm'n*, 173 Wn.2d 608, 617-18, 268 P.3d 929 (2012) (distinguishing courts' article IV, § 6 jurisdiction from procedural provisions).

The core issue for this Court, as is always true where the Legislature has prescribed procedures for judicial review, whether in LUPA or in RCW 7.16, is whether a litigant like New Cingular is afforded appropriate redress in the municipal administrative system and subsequent judicial review. Here, RCW 7.16 afforded adequate relief to New Cingular, *had it chosen to legitimately participate in the City's procedures*. Having failed to do so, it cannot invoke the courts' jurisdiction under article IV, § 6 by filing a new declaratory judgment action, circumventing the City's administrative procedures.

The notion that review under LUPA or the ADA is somehow “better” than judicial review under RCW 7.16 is meritless. RCW 7.16 affords a litigant the same extensive due process protections afforded a litigant in APA or LUPA<sup>6</sup> judicial review proceedings, as WSAMA notes.

---

<sup>6</sup> Prior to LUPA's enactment, judicial review of most land use decisions was accomplished under RCW 7.16. Pet at 10. New Cingular's citation in its supplemental brief at 11-12 to cases pertaining to RCW 7.16 review of tax determinations is disingenuous. For example, *State v. Superior Court of King County*, 164 Wash. 515, 2 P.2d 1095 (1931) did not involve judicial review of a municipal administrative tax decision at all, but review of an action relating to disputed rental proceeds. Moreover, it has long been the rule in Washington that tax decision may be reviewed under a writ procedure akin to RCW 7.16 *Lewis v. Bishop*, 19 Wash. 312, 53 Pac. 165 (1898). Tax appeals today are often handled under other, specific statutory procedures including the

WSAMA br. at 9-12.<sup>7</sup> RCW 7.16 was first enacted in 1895. It has been the subject of extensive court treatment in numerous reported Washington decisions, in which the review it affords has been interpreted to be just as “comprehensive” as the legislatively-prescribed provisions of LUPA or the APA. The bottom line is that the procedures under RCW 7.16 gave New Cingular ample opportunity for judicial review and relief from any alleged improper City action.<sup>8</sup> New Cingular simply ignores the rich body of RCW 7.16 case law in asserting that RCW 7.16 does not offer “real” review as is permitted under other statutes.

Finally, the Court of Appeals’ analysis of article IV, § 6 is ultimately illogical. If the Legislature can “channel” certain decisions through an administrative process thereby limiting the *constitutional* original jurisdiction of the superior courts, as the Court of Appeals seems to conclude, and New Cingular now argues to this Court, NC suppl. br. at 8-9, there simply is no basis for saying that the Legislature’s decision to

---

APA. *See generally*, Laura VanderVeer King, *Practice and Procedure Before the Washington State Board of Tax Appeals*, 33 Gonz. L. Rev. 141 (1997-98).

<sup>7</sup> WSAMA properly notes that New Cingular waived this argument by failing to raise the lack of procedural rights previously in this case. WSAMA br. at 12. *See* RAP 2.5(a).

<sup>8</sup> Review under RCW 7.16 is available if the lower tribunal acted illegally, beyond its jurisdiction, or erroneously, and there is no adequate remedy at law. RCW 7.16.040; *City of Seattle v. Holifield*, 170 Wn.2d 230, 240 P.3d 1162 (2010) (defining “acting illegally”). RCW 7.16.120 makes clear that the court can assess whether the administrative decision was factually supported. In sum, judicial review under RCW 7.16 is no less extensive than judicial review under the IIA, LUPA, or the APA.

allow judicial review of local quasi-judicial administrative decisions pursuant to RCW 7.16 is any less constitutionally sustainable than judicial review under the IIA, LUPA, or the APA.

If the supposed distinction is that the Legislature must prescribe a *particular* process for a particular type of administrative process, argument, too, must fail. Such a distinction is not consistent with the APA, for example, which prescribes judicial review of *virtually every type of state quasi-judicial administrative decision*.

If, as New Cingular now explicitly contends, the Legislature can limit superior court original jurisdiction by statute, that would be unconstitutional. If *the Constitution* prescribes original jurisdiction in the superior courts, the Legislature lacks the authority to subtract from such original, constitutionally-prescribed jurisdiction by merely enacting a statute to the contrary.<sup>9</sup> The Court of Appeals improperly conflated the analysis of courts' jurisdiction and prudential doctrines like exhaustion. Litigants are not invariably afforded a right to pursue claims in original trial actions in superior court under article IV, § 6; courts recognize that administrative processes must be exhausted, and judicial review

---

<sup>9</sup> The Legislature cannot limit the courts' constitutional jurisdiction. *Blanchard*, 188 Wash. at 426 ("[superior courts] are created by the constitution and are beyond the authority of the Legislature to abridge or curtail their power."); *J.R. Distributors*, 90 Wn.2d at 727 ("That judicial power may not be abrogated or restricted by any legislative act."); *James*, 154 Wn.2d at 588 ("It is axiomatic that a judicial power vested in Courts by the Constitution may not be abrogated by statute.").

predicated upon a record developed in such processes, is acceptable under article IV, § 6 as a prudential matter, so long, as here under RCW 7.16, the litigants have their day in court.

(3) The Court of Appeals Decision Upends Local Administrative Processes, Contrary to This Court's Decisions

Consistent with the foregoing analysis, as WSAMA cogently observes in its brief at 1-2, 7-9, the Court of Appeals' decision contravened well-established Supreme Court and Court of Appeals authority both with regard to review under RCW 7.16 and regarding the applicable limitations periods for declaratory judgment action. New Cingular asserts that the Court of Appeals decision is not contrary to *Reeder v. King County*, 57 Wn.2d 563, 358 P.2d 810 (1961) or this Court's discussion of exhaustion of administrative remedies in *Cost Management, supra*. NC suppl. br. at 10-19. Similarly, it argues that a 3-year limitation period for its declaratory judgment action is in order. *Id.* at 19-20.

But WSAMA is quite correct that *Reeder* cannot be squared with the Court of Appeals decision. WSAMA br. at 8. Moreover, the Court of Appeals decision is inconsistent with the entire rationale this Court has articulated for the doctrine of exhaustion of administrative remedies. New Cingular was obliged to make an administrative record under CHMC §

1.08.030. It *deliberately chose* to forego doing so. Similarly, it was obliged to seek review of the Mayor's decision under RCW 7.16. Again, it *deliberately chose* to forego such review.

The critical import of this Court's decision in *Reeder* is that review under RCW 7.16 affords a litigant the appropriate relief from an adverse administrative decision, thereby obviating the need for a declaratory judgment action. RCW 7.16 "afforded the [litigants] all relief to which they may be entitled in this case." 57 Wn.2d at 564.

*Reeder* makes clear that RCW 7.16 qualifies as a legislatively-imposed means of securing judicial review of local quasi-judicial administrative decisions and constitutes an adequate remedy, obviating the need for declaratory relief.<sup>10</sup>

The core principle at stake in this case, overlooked by the Court of Appeals and ignored by New Cingular, is the integrity of the administrative process developed by local governments like the City. The Court made this point explicitly in *Cost Management*. In that case

---

<sup>10</sup> Contrary to the Court of Appeals' analysis, this Court in *Ronken v. Board of County Commissioners of Snohomish County*, 89 Wn.2d 304, 572 P.2d 1 (1997) did not overrule *Reeder*. Rather, this Court held that the mere existence of an alternate remedy did not foreclose declaratory relief *in the appropriate case*. *Id.* at 310. There, in a case involving contracting of public works to private contractors, an administrative appeal process existed as to the awards of particular contracts. But the plaintiffs were not involved with any particular contract and could not avail themselves of that administrative relief. They sought injunctive and declaratory relief for county contracting policies *generally*, something for which declaratory relief "was particularly well-suited." *Id.* *Ronken* does not apply to administrative decisions like the one at issue here.

involving the exhaustion doctrine,<sup>11</sup> the primary issue was whether the relief a party seeks can be obtained through an available administrative remedy and, if so, the party must first seek that relief through the administrative process. 178 Wn.2d at 642. This Court rejected the proposition that the superior courts and the municipal agency had concurrent original jurisdiction. *Id.* at 645-46. This Court also emphasized that exhaustion was still required even where the courts had original jurisdiction over a controversy. *Id.* at 648 (“A superior court’s original jurisdiction over a claim does not relieve it of its responsibility to consider whether exhaustion should apply to the particular claim before the court.”) In other words, as a prudential matter,<sup>12</sup> the courts will not exercise their original jurisdiction under article IV, § 6 if the litigant has appropriate recourse for relief in the administrative process and subsequent opportunities for judicial review.

Here, New Cingular had such recourse by participation in the City’s process, subject to judicial review under RCW 7.16. New Cingular

---

<sup>11</sup> As WSAMA notes, in its brief at 6-7, 14, the Court of Appeals’ published decision is contrary to the reasons for the exhaustion doctrine articulated repeatedly in Washington law including protecting administrative autonomy and expertise, allowing the administrative agency to correct its own errors, and requiring parties to utilize the administrative process.

<sup>12</sup> This Court stated exhaustion is a “doctrine of judicial administration” applicable even where the courts have original jurisdiction under article IV, § 6. *Id.* at 648.

*chose* not to participate seriously in the City's process and it ignored judicial review pursuant to RCW 7.16. It should not be rewarded for its willful refusal to avail itself of the City's administrative process by allowing it a declaratory judgment action that effectively sidesteps that administrative process.

(4) The Court of Appeals' Opinion As to Applicable Limitations Periods Is Wrong

Contrary to New Cingular's argument in its supplemental brief at 19-20, the Court of Appeals treatment of the applicable limitations period for a declaratory judgment action in this setting contravenes the principle that the limitation period for such an action should reflect the limitation period for an analogous action.<sup>13</sup> Here, the relevant period should be consistent with the appeal period for review of other administrative decisions – 30 days, RCW 51.52.110 (IIA), 21 days, RCW 36.70C.040 (LUPA) or 30 days, RCW 34.05.542 (APA). Indeed in *Cost Management*, this Court noted that the limitation period for a writ of mandamus to compel an administrative decision generally is the same period of time as allowed for an appeal. 178 Wn.2d at 649-50.

Moreover, the Court of Appeals' decision on the applicable limitation period only compounds the adverse effect of its decision on

---

<sup>13</sup> The Court of Appeals further evidenced its disquieting arbitrariness in its decision by, in effect, "placing its thumb on the scales" on this issue. It remanded the issue for determination but then said a 30-day period was unacceptable. Op. at 11.

local administrative processes. To the extent that a longer period is afforded parties aggrieved by a municipal decision to file a declaratory judgment action after a perfunctory participation in the municipal administrative process, the greater the uncertainty on the part of a municipality as to whether its decision is final. Using examples WSAMA has provided in its brief at 2 n.1, this means that a municipal employee who is disciplined for misconduct could participate perfunctorily in a municipal civil service administrative review proceeding on such discipline and then forego judicial review under RCW 7.16 only to file a declaratory action challenging the discipline three years after that discipline, claiming a right for back pay during that period. This is but one example of the added disruption engendered by the Court of Appeals.

If this Court reaches the issue of the appropriate limitation period, it should reverse this aspect of the Court of Appeals opinion and hold that a shorter period akin to that for judicial review of other administrative decisions should apply.

#### D. CONCLUSION

WSAMA's brief only confirms that the Court of Appeals' decision is erroneous. This Court should reverse the Court of Appeals decision and uphold the trial court's dismissal of New Cingular's declaratory judgment action.

DATED this 14<sup>th</sup> day of February, 2016.

Respectfully submitted,



Philip A. Talmadge, WSBA #6973  
Talmadge/Fitzpatrick/Tribe  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
(206) 574-6661

Greg Rubstello, WSBA #6271  
Ogden Murphy Wallace PLLC  
901 Fifth Avenue, Suite 3500  
Seattle, WA 98164-2008  
(206) 447-7000

Stephanie E. Croll, WSBA #18005  
Stephanie Croll Law  
23916 SE 46<sup>th</sup> Place  
Issaquah, WA 98029-7581  
(206) 949-6992

Attorneys for Petitioner  
City of Clyde Hill

DECLARATION OF SERVICE

On said day below I electronically served a true and accurate copy of the Clyde Hill's Response to WSAMA Amicus Brief in Supreme Court Cause No. 91978-0 to the following parties:

Scott M. Edwards  
Ryan McBride  
Lane Powell, PC  
1402 Fifth Avenue, Suite 4200  
Seattle, WA 98111-9402

Stephanie E. Croll  
Stephanie Croll Law  
23916 SE 46<sup>th</sup> Place  
Issaquah, WA 98029-7581

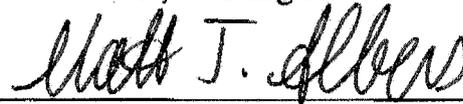
Greg Rubstello  
Ogden Murphy Wallace PLLC  
901 Fifth Avenue, Suite 3500  
Seattle, WA 98164

Daniel B. Heid  
Auburn City Attorney  
25 West Main Street  
Auburn, WA 98001

Original efiled with:  
Washington Supreme Court  
Clerk's Office  
415 12<sup>th</sup> Street W  
Olympia, WA 98504-0929

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

Dated: February 11, 2016 at Seattle, Washington.



---

Matt J. Albers, Paralegal  
Talmadge/Fitzpatrick/Tribe

## OFFICE RECEPTIONIST, CLERK

---

**To:** Matt Albers  
**Cc:** grubstello@omwlaw.com; Charolette Mace; Stephanie Croll; edwardss@lanepowell.com; McBride, Ryan P.; kittled@lanepowell.com; mitchell@lanepowell.com; dheid@auburnwa.gov; savariak@lanepowell.com; Phil Talmadge  
**Subject:** RE: New Cingular Wireless PCS, LLC v. City of Clyde Hill - Supreme Ct Cause #91978-0

Received on 02-11-2016

Supreme Court Clerk's Office

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:** Matt Albers [mailto:Matt@tal-fitzlaw.com]  
**Sent:** Thursday, February 11, 2016 3:03 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** grubstello@omwlaw.com; Charolette Mace <cmace@omwlaw.com>; Stephanie Croll <StephanieCrollLaw@outlook.com>; edwardss@lanepowell.com; McBride, Ryan P. <McBrideR@LanePowell.com>; kittled@lanepowell.com; mitchell@lanepowell.com; dheid@auburnwa.gov; savariak@lanepowell.com; Phil Talmadge <phil@tal-fitzlaw.com>  
**Subject:** New Cingular Wireless PCS, LLC v. City of Clyde Hill - Supreme Ct Cause #91978-0

Good afternoon:

Attached please find the following document for filing with the Supreme Court:

Document to be filed: Clyde Hill's Response to WSAMA's Amicus Brief  
Case Name: New Cingular Wireless PCS, LLC v. City of Clyde Hill, Washington  
Case Cause Number: 91978-0  
Attorney Name and WSBA#: Philip A. Talmadge, WSBA #6973  
Contact information: Matt J. Albers, (206) 574-6661, [matt@tal-fitzlaw.com](mailto:matt@tal-fitzlaw.com)

Please let me know if you have any questions. Thank you.

Very truly yours,

Matt J. Albers, Paralegal  
Talmadge/Fitzpatrick/Tribe PLLC  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
Phone: (206) 574-6661  
E-mail: [matt@tal-fitzlaw.com](mailto:matt@tal-fitzlaw.com)