

FILED
SUPREME COURT
STATE OF WASHINGTON
8/2/2019 3:12 PM
BY SUSAN L. CARLSON
CLERK

FILED
SUPREME COURT
STATE OF WASHINGTON
8/12/2019
BY SUSAN L. CARLSON
CLERK

No. 96360-6

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

KING COUNTY

Appellant,

v.

KING COUNTY WATER DISTRICTS
Nos. 20, 45, 49, 90, 111, 119, 125, et al.,

Respondents.

AMES LAKE WATER ASSOCIATION, DOCKTON WATER
ASSOCIATION, FOOTHILLS WATER ASSOCIATION, SALLAL
WATER ASSOCIATION, TANNER ELECTRIC COOPERATIVE, and
UNION HILL WATER ASSOCIATION,

Intervenor-Respondents.

BRIEF OF AMICUS CURIAE RENTAL HOUSING ASSOCIATION OF
WASHINGTON

1001 Fourth Avenue Suite 4400
Seattle, WA 98154-1192

WILLIAM C. SEVERSON PLLC
William C. Severson, WSBA # 5816
Attorney for Amicus Curiae Rental
Housing Association of Washington

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. IDENTITY AND INTEREST OF AMICUS CURIAE RENTAL HOUSING ASSOCIATION.....	1
III. STATEMENT OF THE CASE.....	2
IV. ARGUMENT	2
A. King County Lacks Statutory Authority to Charge the Respondents Rent for Use of Public Right-Of-Ways	2
B. King County’s Status as a Home Rule County Is Irrelevant.	7
C. King County’s Reliance on <i>City of Spokane v. Spokane Gas & Fuel Co.</i> is Misplaced.....	9
D. Case Law from Other Jurisdictions Supports the Trial Court’s Decision.	11
E. The County’s Proposed Franchise Fee is Arbitrary and Unfair.	14
V. CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>City of Hawarden v. U.S. West Communications, Inc.</i> , 590 N.W.2d 504 (Iowa, 1999)	12
<i>City of Spokane v. Spokane Gas & Fuel Co.</i> , 175 Wash. 103, 26 P.2d 1034 (1933).....	9, 10
<i>City of St. Louis v. Western Union Telegraph Co.</i> , 148 U.S. 92 (1893)(“ <i>St. Louis I</i> ”)	10
<i>City of St. Louis v. Western Union Telegraph Co.</i> , 149 U.S. 465 (1893) (“ <i>St. Louis II</i> ”).....	10
<i>Des Moines v. Iowa Telephone Co.</i> , 181 Iowa 1282, 162 N.W. 323 (1917)	12
<i>Entertainment Industry Coalition v. Tacoma-Pierce County Health Dept.</i> , 153 Wn.2d 657, 105 P.3d 985 (2005).....	8
<i>Hillis Homes, Inc. v. Snohomish Cy.</i> , 97 Wn.2d 804, 650 P.2d 193 (1982).....	9
<i>Massie v. Brown</i> , 84 Wn.2d 490, 527 P.2d 476 (1974).....	8
<i>McCullough v. Interstate Power & Light Co.</i> , 163 Wash. 147, 300 P. 165 (1931).....	5, 16
<i>Montana-Dakota Utilities Co. v. City of Billings</i> , 318 Mont. 407, 80 P.3d 1247 (2003)	13
<i>State v. Superior Court for Spokane County</i> , 87 Wash. 582, 152 P. 11 (1915).....	3
<i>Uhler v. City of Olympia</i> , 87 Wash. 1, 151 P. 117 (1915).....	16

<i>Washington State Highway Commission v. Pacific Northwest Bell Tel. Co.</i> , 59 Wn.2d 216, 367 P.2d 605 (1961) (J. Hunter dissenting).....	6
<i>Wilson v. City of Seattle</i> , 122 Wn.2d 814, 863 P.2d 1336 (1993).....	8
<i>State ex rel. York v. Board of Com'rs of Walla Walla County</i> , 28 Wn.2d 891, 184 P.2d 577 (1947).....	5
Statutes & Ordinances	
Ordinance 18403.....	1, 2
RCW 36.55	4, 7
RCW 36.55.050	5
RCW 36.75	16
RCW 36.75.020	3
RCW 36.75.040	4, 6, 11
RCW 36.75.040(5).....	7
State Aid Highway Act, Laws of 1937, ch. 187	<i>passim</i>
Laws of 1937, ch. 187, § 2(d).....	8
Laws of 1969, 1st ex. sess., ch. 182, § 15.....	7
Other Authorities	
Black's Law Dictionary (rev'd 4th ed., 1968).....	2
Garner Gillespie, <i>Rights-of-Way Redux: Municipal Fees on Telecommunications Companies and Cable Operators</i> , 107 Dick. L. Rev. 209 (2002).....	10
12 McQuillin, <i>Municipal Corporations</i> , § 3411 (3rd ed.)	3

Charles F. Phillips, *The Regulation of Public Utilities*,
pp.118-123 (1988).....10

Delos Wilcox, 1 *Municipal Franchises* (1910).....15, 16

I. INTRODUCTION

By Ordinance 18403, King County seeks to exploit its status as the trustee of the county roads for its own financial advantage, garnering “rent” from utility operators to be used for purposes wholly unrelated to its administration of the county roads. The substantive effect of that Ordinance, if upheld, would be to impose an arbitrary and regressive tax on the customers of the respondent utilities and to open the door to similar exactions around the state. The County has no authority to impose such a charge. The trial court correctly ruled the charge invalid, and that decision should be affirmed.

II. IDENTITY AND INTEREST OF AMICUS CURIAE RENTAL HOUSING ASSOCIATION

The Rental Housing Association of Washington (“RHAWA”) is an association of over 5200 rental residential property owners, operators, investors, and managers. Over ninety percent of its members are owners of less than 10 residential units. The RHAWA is committed to promoting public policies that support a viable and efficient private market for affordable housing. This includes support for fair tax policies and adherence to the constitutional protections against discriminatory and excessive taxation of real estate. RHAWA opposes King County’s effort to place a further burden on the cost of basic utility services because it is

contrary to the goal of promoting affordable housing and contrary to the County's duties as trustee of the public rights-of-way.

III. STATEMENT OF THE CASE

RHAWA adopts the Statements of the Case presented by the respondents and intervenor-respondents.

IV. ARGUMENT

A. King County Lacks Statutory Authority to Charge the Respondents Rent for Use of Public Right-Of-Ways

Ordinance 18403 is premised on the notion that King County has authority to charge utilities rent for their use of the county roads. That notion is fundamentally incorrect. The right to charge rent is premised on ownership. Rent is compensation paid to a property owner for a grant by the owner of the right to use and occupy property.¹ It is based on the right of the owner to exclude others from the property. Even King County acknowledges this basic fact.² But the County has no claim to rent because it does not own the county roads. It has no right to exclude utilities from using the right-of-way for non-payment of rent. In most cases, the fee interest in the county roads is owned by the abutting

¹ Rent is compensation for the use and occupancy of property. Black's Law Dictionary (rev'd 4th ed., 1968).

² RP 12 (The Court: "What attributes are we talking about that gives you the right to charge rent?" Mr. Hackett: "I think the most important attribute is the ability to exclude others.")

property owners, subject to the public easement for highway purposes. Control of the public easement and the power to grant franchises in the right-of-way vest initially in the state legislature.³ The County's powers are those that are delegated to it by the legislature. The County is merely the state's agent, charged with administering the county roads, as trustee, for the benefit of the general public. RCW 36.75.020. This, too, is undisputed. CP 1814; KC Opening Br. at 44.

The County's powers and duties with respect to the county roads derive from the Washington State Aid Highway Act which was adopted in 1937 to provide a comprehensive framework for the establishment and administration of county roads and city streets. Laws of 1937, ch. 187, p. 728. Its provisions largely remain intact today, including the provisions which are dispositive to this lawsuit.

Section 2 of that Act, now codified in RCW 36.75.020, appoints the county commissioners (now the county legislative authorities) "*as agents of the State of Washington*" for purposes of establishing and

³ 12 McQuillin, *Municipal Corporations*, § 3411 (3rd ed.) ("Primarily the legislature possesses full and paramount power over all highways, streets, and alleys in the state."). *State v. Superior Court for Spokane County*, 87 Wash. 582, 584, 152 P. 11 (1915) ("The power to grant franchises is a sovereign power, and resides primarily in the state Legislature.... [citation omitted] The subordinate agencies of the state, such as cities and counties, have not the power to grant franchises, unless that right has been expressly conferred by legislative action. [citations omitted].").

administering the county roads. Section 3, now codified in RCW 36.75.040, specifies that:

[T]he county commissioners of each county shall have the power and it shall be its duty:

(a) to acquire in the manner provided by law property real and personal and acquire or erect structures necessary for the administration of the county roads of such county;

(b) to maintain a county engineering office and keep record of all proceedings and orders pertaining to the county roads of such county;

(c) to acquire land for county road purposes by purchase, gift, or condemnation, and exercise the right of eminent domain as by law provided for the taking of land for public use by counties of this state;

(d) Except as otherwise provided in this act, or other law of this state, to perform all acts necessary and proper for the administration of the county roads of such county and in relation thereto to exercise all other powers and perform all other duties *by this act required or hereafter provided by law*.

(emphasis added). Under the Act, county roads are components of the state highway system. The powers and duties of the county legislative authorities are those expressly set out in the Act or otherwise established by state law. Counties have no proprietary interest in the county roads. They function as subdivisions of the state, administering the county roads as agents for the state.

Section 38 of the Act, now codified in RCW chap. 36.55, authorizes the county legislative authorities to grant franchises to public

utilities for use of the rights-of-way and establishes the procedures and criteria for determining whether such franchises should be granted. That determination is to be based on whether the franchise serves “the public interest.”⁴ The question of whether a franchise in a public highway “serves the public interest” is not determined by whether the proposed franchisee is willing to pay rent. It is determined by the nature of the proposed use of the right-of-way and the nature of the service provided by the franchisee.⁵

All of the services offered by the respondents and intervenor-respondents have long been recognized as vital public services that serve the public interest.⁶ Counties are permitted to condition the grant of a franchise on terms that assure compatibility with other uses of the right-of-way and require the franchisee to pay associated administrative costs. However, consistent with the treatment of utility franchises in highways that are directly administered by the state, nothing in the statute suggests that the grant of a franchise can be conditioned on the payment of rent. For over a century now, utility franchises in state highways have been

⁴ RCW 36.55.050.

⁵ See *State ex rel. York v. Board of Com'rs of Walla Walla County*, 28 Wn.2d 891, 184 P.2d 577 (1947).

⁶ *Id.* See also, *McCullough v. Interstate Power & Light Co.*, 163 Wash. 147, 149-150, 300 P. 165, (1931).

administered without any effort to extract rent from franchisees. *See Washington State Highway Commission v. Pacific Northwest Bell Tel. Co.*, 59 Wn.2d 216, 228, 367 P.2d 605 (1961) (J. Hunter *dissenting*). Nothing suggests that the legislature intended a different treatment for utility franchise granted by its agents, the counties.

It would be quite extraordinary to conclude otherwise. Rent, in the ordinary course, goes to the owner, not to the agent. An agent is never entitled to tap into the income of the principal's property without express authority. Surely, had the legislature intended to allow its agent to collect and pocket rent from highway users, it would have said so expressly. But no such expression exists. Indeed, a 1969 amendment to the county road statute, now codified in RCW 36 75.040, suggests the very opposite.

In 1969, the legislature amended RCW 36.75.040 to expressly allow counties to lease areas within a county road right-of-way for private use, provided that the leased use not interfere with vehicular traffic or public safety and that the lease be put out for public bid. Laws of 1969, 1st ex. sess., ch. 182, § 15, p.1425; RCW 36.75.040(5). As even King County finally now acknowledges (KC Reply at pp.8-9), that authorization addresses leases for private uses, not public utility franchises under

RCW 36.55.⁷ This is necessarily so because: (1) it contemplates granting lessees a leasehold interest in land, improvements or airspace, not just a non-exclusive franchise to use the right-of-way for running utility lines; and (2) it prescribes a procedure for awarding such leases that is inconsistent with the procedures called out in RCW 36.55 for granting utility franchises. The clear intent of this measure is to authorize counties to rent areas within a right-of-way that are not needed for highway purposes. This is the one circumstance in which the legislature has authorized counties to charge rent, and it does not apply here. The County's claimed authority to charge utility franchisees rent simply does not exist.

B. King County's Status as a Home Rule County Is Irrelevant.

King County makes much of its status as a home rule county, but that status is irrelevant to this litigation. Art. XI, Sec. 4 of the constitution, which authorizes county voters to adopt home rule charters, does not expand county powers in administering county roads.

King County's "powers and duties" with respect to the county roads are those delegated to it by state law – the 1937 State Aid Highway Act. That act requires counties to administer the public easement in

⁷ At the trial court, the County argued the opposite, that RCW 36.75.040(5) expressly granted counties the authority to charge rent to utilities. CP 1205-1206.

accordance with state law as the state's agent and "to exercise all other powers and perform all other duties *by this act required or hereafter provided by law.*" Laws of 1937, ch. 187, § 2(d). The County does not have the power to revise or expand the terms of this agency; it is limited to the powers and duties delegated by state law.

The public highways of Washington are clearly matters in which the interest of the state is at least joint with that of local government. The State Aid Highway Act establishes that fact beyond question. And, in that circumstance, the King County's powers are limited to those delegated by state law. *Massie v. Brown*, 84 Wn.2d 490, 492, 527 P.2d 476 (1974). Moreover, in construing those powers, the County is "limited in its powers to those necessarily or fairly implied in or incident to the powers expressly granted by the State; if there is any doubt about whether the power is granted, it must be denied." *Wilson v. City of Seattle*, 122 Wn.2d 814, 822, 863 P.2d 1336 (1993); *See also Entertainment Industry Coalition v. Tacoma-Pierce County Health Dept.*, 153 Wn.2d 657, 664, 105 P.3d 985 (2005). King County cannot claim that the legislature has expressly granted it the power to charge rent for a utility franchise. Nor can such a power be fairly implied. Indeed, for the reasons set forth above, all implications from the statutory language run in the opposite direction.

Moreover, “[t]he test for necessary or implied municipal powers is legal necessity rather than practical necessity.” *Hillis Homes, Inc. v. Snohomish Cy.*, 97 Wn.2d 804, 808, 650 P.2d 193 (1982). No legal necessity for charging rent exists. King County does not assert that it needs to charge rent in order to discharge its duties under the Act. It just wants money for other purposes. For seventy-nine years after adoption of the State Aid Highway Act, no county in the state felt any need to impose rent for granting utility franchises. The state administers utility franchises in state highways without the need to charge rent. King County has not, and cannot, assert any legal necessity for charging utility franchisees rent.

C. **King County’s Reliance on *City of Spokane v. Spokane Gas & Fuel Co.* is Misplaced.**

King County bases its argument for rent on *City of Spokane v. Spokane Gas & Fuel Co.*, 175 Wash. 103, 26 P.2d 1034 (1933), which, in turn, relies upon *City of St. Louis v. Western Union Telegraph Co.*, 148 U.S. 92 (1893) (hereinafter “*St. Louis I*”) for the proposition that municipalities may charge utility franchisees rent for use of the public rights-of-way. That reliance, however, is misplaced, not only for the reasons given in the respondents’ briefs, but also because both these decisions predate and are inconsistent with the 1937 State Aid Highway Act.

Both *Spokane Gas & Fuel* and *St. Louis I*, as well as the other decisions cited by King County for its rental theory, are cases involving cities, not counties. Even as to cities, *St. Louis I* and its progeny are of suspect validity.⁸ But more importantly, none of the authorities cited by the County address or are relevant to determining the powers and duties of *county* officials under the State Aid Highway Act. That is the issue here. The State Aid Highway Act, not pre-Act case law involving city streets, determines whether the County has authority to charge utility franchisees rent.

King County's argument is based on the presumption that the powers and duties of counties vis-à-vis the county roads are identical to the powers and duties of cities vis-à-vis city streets. That is just plain wrong. The State Aid Highway Act treats county roads and city streets very differently. For county roads, the Act contains 57 sections spanning 35 pages designating county commissioners as state *agents* and detailing

⁸ See Garner Gillespie, *Rights-of-Way Redux: Municipal Fees on Telecommunications Companies and Cable Operators*, 107 Dick. L. Rev. 209, (2002). The "rent" rationale expressed by the Supreme Court in *St. Louis I*, was abandoned in the opinion issued by the Court after rehearing the case. *City of St. Louis v. Western Union Telegraph Co.*, 149 U.S. 465 (1893) ("*St. Louis II*"). Moreover, the franchise rental theory emerged early in the development of public utility law and practice when local franchising was seen as a tool for regulating utility monopolists and preventing them from garnering monopoly profits. That scheme proved ineffective and has largely been replaced by public ownership and commission rate regulation. See Charles F. Phillips, *The Regulation of Public Utilities*, pp.118-123 (1988).

the rules applicable to county roads. The provisions for city streets contain only six sections spanning just six pages.⁹ Cities are not designated as state agents in the administration of city streets, and the Act contains no express delegation of powers and duties to city officials that is comparable to that which applies to county commissioners. It is patently obvious from these differences that the legislature did not intend county roads and city streets to be identical or necessarily governed by the same law.

This case does not present the question of whether *City of Spokane v. Spokane Gas & Fuel Co.* was decided correctly or whether it is still good law. Those are fair and legitimate questions,¹⁰ but they are questions for another case. The question here is whether RCW 36.75.040 and RCW 36.55 grant counties the power to demand rent from utility franchisees, and the answer to that question is clearly no.

D. Case Law from Other Jurisdictions Supports the Trial Court's Decision.

The statutory, case law and constitutional rules for the administration of county roads and city streets vary substantially among the states making it difficult to find out-of-state authorities that address

⁹ Compare the provisions of the Act addressing county roads, §§ 2-59, with the provisions addressing city streets, §§ 60-65.

¹⁰ See *Rights-of-Way Redux*, *supra*, n.8.

circumstances closely comparable to those presented in this case. But two decisions from other jurisdictions do address the question of whether a local government, lacking either proprietary ownership or express statutory authority, may impose a franchise rental charge on utilities for use of the public right-of-way.

In *City of Hawarden v. U.S. West Communications, Inc.*, 590 N.W.2d 504 (Iowa, 1999), the City of Hawarden sought to impose a franchise charge (unrelated to administrative or regulatory costs) on U.S. West as rent for U.S. West's use of the right-of-way in the city streets. *Id.* at 507. U.S. West, like the respondents here, claimed authority to utilize the public roads for their facilities under state law, subject only to the city's police power authority to regulate that use in the public interest. *Id.* It argued, as do respondents here, that the City's charge was, in substance, an unauthorized tax. Relying on its prior decision in *City of Des Moines v. Iowa Telephone Co.*, 181 Iowa 1282, 162 N.W. 323 (1917), the Iowa court agreed, reaffirming that a city's status as trustee of the right-of-way does not give it the authority to exact a rental for its use.¹¹ *Id.*

¹¹ "[I]t is a mistake," this court said, "to suppose that, where the fee of the streets is in the city, in trust for the public, the city is constitutionally and necessarily entitled to compensation the same as a private proprietor holding the fee."

The Montana Supreme Court reached the same conclusion in *Montana-Dakota Utilities Co. v. City of Billings*, 318 Mont. 407, 80 P.3d 1247 (2003). There, the City of Billings sought to impose a four percent charge on the gross revenues of utilities as rent for their “occupation of the right-of-way.” The court, however, rejected the argument, pointing out that:

[T]he state, not the City, "has ownership and control of all city streets," with local governments as the trustees. [citations omitted] Use of city streets is authorized by statute, [citations omitted]. Although the City has regulatory authority over its streets, [citations omitted] it does not have the power to exclude public utilities. [citations omitted].

80 P.3d at 1254. The same conclusion applies to King County’s franchise rental charge. King County is a trustee, administering the county roads as agent for the state. It is not the property owner. It does not have the authority to deny, for nonpayment of rent, a franchise that otherwise serves the public interest. Its statutory obligation is to administer the public roads in the public interest, and if it is in the public interest to permit a utility’s use of the right-of-way, permission, properly conditioned, must be granted. All of the respondents and intervening respondents provide vital public utility services. There is no claim that their use interferes with travel, endangers public safety, or conflicts with use of the right-of-way by others. It is plainly in the public interest to

permit all of them to continue utilizing the public right-of-way to deliver their services. The County's duty as trustee of the county roads and agent for the state is to assure that such uses are coordinated so that the services can be supplied efficiently and without interference with the public's right of travel on the roads. King County violates its trust obligations, however, when it attempts to extort money for its own benefit as the price the utilities must pay to obtain a franchise.

E. The County's Proposed Franchise Fee is Arbitrary and Unfair.

Stripped of its window dressing, the substantive effect of King County's proposed franchise fee is to impose an additional tax on customers of certain utilities, measured by the average value of land abutting the rights-of-way used by the affected utilities. All of the affected utilities are publicly owned, nonprofit or rate-regulated, so whatever charges are imposed will necessarily be passed through to the customers. Thus, customers of the affected utilities will arbitrarily be charged with paying an additional share of the cost of county government based on the happenstance of their utility providers. And, what is worse in the eyes of RHAWA, the charge will inevitably have a regressive impact, because utility costs represent a higher share of the financial resources of low

income customers than high income customers.¹² Those added costs only make it more difficult to provide affordable market based housing.

If such an additional burden is to be imposed, it should be done openly and transparently, not through the contrivance of a spurious rental charge. The whole theory of public utility regulation and public ownership of utility enterprises is to guard against unfair and excessive utility rates. King County's rental theory merely substitutes the County for the utility monopolist as the party extracting excess profit (or "rent") from the utility customer.¹³ That is not what is contemplated by the State Aid Highway Act. If utility customers are to be made the source of additional county revenues, that burden should be expressly authorized by the state legislature, not by the King County Council, or what is worse, the County's Facilities Management Division.

V. CONCLUSION

RHAWA is deeply concerned that allowing counties to impose additional taxes on utility services in the guise of a franchise rental will impose an unfair burden on owners and tenants alike. Utility taxes, whether overt or covert, are inherently regressive; those who can least

¹² While some relief for high utility costs is available to low income households, that relief does not offset the overall regressive effect of a charge that is passed through on a per customer basis or as a percentage of the utility bill.

¹³ See Delos Wilcox, 1 *Municipal Franchises* §102(7) pp.131-132 (1910)

afford the tax, pay the most. While there is no constitutional demand that utility taxes be fair, the Court ought not bend over backwards to uphold such a charge.

King County's duty under RCW 36.75 is to administer the county roads as trustee for the public, not for its own pecuniary gain. The primary purpose of roads is as public thoroughfares. But the public easement "includes every reasonable means for the transmission of intelligence, the conveyance of persons, and the transportation of commodities which the advance of civilization may render suitable for a highway." *McCullough v. Interstate Power & Light Co.*, 163 Wash. 147, 149, 300 P. 165 (1931). Use of public roads for transmission of utility services is a vital secondary function of the public thoroughfares. The broad public policy for utility service is that they be provided at the lowest prudent and responsible cost.¹⁴ The County's claim – that it can shutter utility services unless the purveyors pay up – is a dangerous threat to the policy of fair and low cost access to utility services.

The decision of the trial court should be affirmed.

¹⁴ *Wilcox*, *supra* n.13. See also, *Uhler v. City of Olympia*, 87 Wash. 1, 14, 151 P. 117, (1915) ("The object of municipal ownership [of public utilities] is to give the citizen the best possible service at the lowest possible price.").

Respectfully submitted this 2nd day of August, 2019.

WILLIAM C. SEVERSON PLLC

By /s/ William C. Severson
William C. Severson, WSBA #5816
Attorney for Amicus Curiae
Rental Housing Assoc. of Washington

FILED
SUPREME COURT
STATE OF WASHINGTON
8/2/2019 3:12 PM
BY SUSAN L. CARLSON
CLERK

No. 96360-6

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

KING COUNTY

Appellant,

v.

KING COUNTY WATER DISTRICTS
Nos. 20, 45, 49, 90, 111, 119, 125, et al.,

Respondents.

AMES LAKE WATER ASSOCIATION, DOCKTON WATER
ASSOCIATION, FOOTHILLS WATER ASSOCIATION, SALLAL
WATER ASSOCIATION, TANNER ELECTRIC COOPERATIVE, and
UNION HILL WATER ASSOCIATION,

Intervenor-Respondents.

DECLARATION OF SERVICE OF MOTION FOR LEAVE TO FILE
AMICUS BRIEF AND BRIEF OF AMICUS CURIAE RENTAL
HOUSING ASSOCIATION OF WASHINGTON

1001 Fourth Avenue Suite 4400
Seattle, WA 98154-1192

WILLIAM C. SEVERSON PLLC
William C. Severson, WSBA # 5816
Attorney for Amicus Curiae Rental
Housing Association of Washington

DECLARATION OF SERVICE

The undersigned declares under penalty and perjury under the laws of the State of Washington, that on the 2nd day of August, 2019, he caused to be served in the manner indicated below, a true and correct copy of the Motion for Leave to File Amicus Curiae Brief and Brief Amicus Curiae Rental Housing Association of Washington and Declaration of Service, to:

Attorneys for Plaintiff King County

David Hackett,
Mackenzie Brown,
King Co. Prosecuting Attorney Office
500 Fourth Avenue, 9th Floor
Seattle, Washington 98104

- WA State Appellate Court Portal System
- U.S. Mail
- E-Mail:

Attorneys for Plaintiff King County

Matthew J. Segal,
Kymberly K. Evanson,
Jessica Anne Skelton
Pacifica Law Group, LLP
1191 Second Avenue, Suite 2000
Seattle, Washington 98101

- WA State Appellate Court Portal System
- U.S. Mail
- E-Mail:

Attorneys for Defendant Water Districts

Eric C. Frimodt
John W. Milne

- WA State Appellate Court Portal System
- U.S. Mail
- E-Mail:

Attorneys for Intervenor

Richard E. Jonson, WSBA #11867
Jonson & Jonson, PS
2701 First Avenue, Suite 350
Seattle, Washington 98121-1111

- WA State Appellate Court Portal System
- U.S. Mail
- E-Mail:

Attorneys for Intervenor

David F. Jurca, WSBA #2015
Helsell Fetterman, LLP
1001 Fourth Avenue, Suite 4200

- WA State Appellate Court Portal System
- U.S. Mail

Seattle, Washington 98154

E-Mail

**Attorney for Amicus WA Rural
Electric Cooperative Association**

Joel C. Merkel, WSBA #4556
Merkel Law Office
1001 Fourth Avenue, Suite 4050
Seattle, Washington 98154

Attorneys for Defendant Districts

Hugh D. Spitzer, WSBA #5827
5601 16th Avenue NE
Seattle, Washington 98105

Attorneys for Defendant Districts

Philip A. Talmadge, WSBA #6973
Talmadge, Fitzpatrick, Tribe
2775 Harbor Avenue SW
Third Floor, Suite C
Seattle, Washington 98126

WA State Appellate Court
Portal System

U.S. Mail

E-Mail:

WA State Appellate Court
Portal System

U.S. Mail

E-Mail:

WA State Appellate Court
Portal System

U.S. Mail

E-Mail:

DATED this 2nd day of August, 2019, at Seattle, Washington.

/s/ William C. Severson

William C. Severson

WILLIAM C. SEVERSON PLLC

August 02, 2019 - 3:12 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96360-6
Appellate Court Case Title: King County v. King County Water Districts, et al

The following documents have been uploaded:

- 963606_Briefs_20190802150916SC447521_7313.pdf
This File Contains:
Briefs - Amicus Curiae
The Original File Name was RHAWA Amicus Brief.pdf
- 963606_Cert_of_Service_20190802150916SC447521_9494.pdf
This File Contains:
Certificate of Service
The Original File Name was RHAWA Declaration of Service.pdf
- 963606_Motion_20190802150916SC447521_9671.pdf
This File Contains:
Motion 1 - Amicus Curiae Brief
The Original File Name was RHAWA Motion for Leave to File Amicus.pdf

A copy of the uploaded files will be sent to:

- DJurca@Helsell.com
- Jessica.skelton@pacificallawgroup.com
- abarnes@aretelaw.com
- ack@vnf.com
- awg@vnf.com
- dashbaugh@aretelaw.com
- david.hackett@kingcounty.gov
- dawn.taylor@pacificallawgroup.com
- dmg@vnf.com
- efrimodt@insleebest.com
- jburt@helsell.com
- jcmerkel@gmail.com
- jmilne@insleebest.com
- joel@merkellaw.com
- jrm@vnf.com
- jroller@aretelaw.com
- kma@vnf.com
- kymberly.evanson@pacificallawgroup.com
- laddis@insleebest.com
- mackenzie.brown@kingcounty.gov
- matt@tal-fitzlaw.com
- matthew.segal@pacificallawgroup.com
- neilrobblee@gmail.com
- nrobblee@hotmail.com
- nrobblee@hotmail.com
- phil@tal-fitzlaw.com

- richard@jonson-jonson.com
- spitzerhd@gmail.com
- sydney.henderson@pacificallawgroup.com

Comments:

Sender Name: William Severson - Email: bill@seversonlaw.com

Filing on Behalf of: William Colwell Severson - Email: bill@seversonlaw.com (Alternate Email:)

Address:

1001 4th Ave Ste 4400
SEATTLE, WA, 98154
Phone: (206) 838-4191

Note: The Filing Id is 20190802150916SC447521

WILLIAM C. SEVERSON PLLC

August 02, 2019 - 3:12 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96360-6
Appellate Court Case Title: King County v. King County Water Districts, et al

The following documents have been uploaded:

- 963606_Briefs_20190802150916SC447521_7313.pdf
This File Contains:
Briefs - Amicus Curiae
The Original File Name was RHAWA Amicus Brief.pdf
- 963606_Cert_of_Service_20190802150916SC447521_9494.pdf
This File Contains:
Certificate of Service
The Original File Name was RHAWA Declaration of Service.pdf
- 963606_Motion_20190802150916SC447521_9671.pdf
This File Contains:
Motion 1 - Amicus Curiae Brief
The Original File Name was RHAWA Motion for Leave to File Amicus.pdf

A copy of the uploaded files will be sent to:

- DJurca@Helsell.com
- Jessica.skelton@pacificlawgroup.com
- abarnes@aretelaw.com
- ack@vnf.com
- awg@vnf.com
- dashbaugh@aretelaw.com
- david.hackett@kingcounty.gov
- dawn.taylor@pacificlawgroup.com
- dmg@vnf.com
- efrimodt@insleebest.com
- jburt@helsell.com
- jcmerkel@gmail.com
- jmilne@insleebest.com
- joel@merkellaw.com
- jrm@vnf.com
- jroller@aretelaw.com
- kma@vnf.com
- kymberly.evanson@pacificlawgroup.com
- laddis@insleebest.com
- mackenzie.brown@kingcounty.gov
- matt@tal-fitzlaw.com
- matthew.segal@pacificlawgroup.com
- neilrobblee@gmail.com
- nrobblee@hotmail.com
- nrobblee@hotmail.com
- phil@tal-fitzlaw.com

- richard@jonson-jonson.com
- spitzerhd@gmail.com
- sydney.henderson@pacificallawgroup.com

Comments:

Sender Name: William Severson - Email: bill@seversonlaw.com

Filing on Behalf of: William Colwell Severson - Email: bill@seversonlaw.com (Alternate Email:)

Address:

1001 4th Ave Ste 4400
SEATTLE, WA, 98154
Phone: (206) 838-4191

Note: The Filing Id is 20190802150916SC447521