Supreme Court Case No. 1037899
(Court of Appeals, Division I No. 85756-8)

SUPREME COURT OF THE STATE OF WASHINGTON

WANTHIDA CHANDRRUANGPHEN,
Appellant,

v.

CITY OF SAMMAMISH,
Respondent,

and

DANIEL BLOOM
Intervenor/Respondent

ANSWER OF INTERVENOR/RESPONDENT DANIEL BLOOM TO CITY OF SAMMAMISH'S PETITION FOR DISCRETIONARY REVIEW

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I. INTRODUCTION

Daniel Bloom was granted intervention in this case by the King County Superior Court on August 15, 2023. CP 233–36. The Superior Court's order granting intervention was later upheld by the Court of Appeals, in the same published decision for which the City of Sammamish now seeks discretionary review. *See Chandrruangphen v. City of Sammamish*, 32 Wn. App. 2d 527, 556 P.3d 1137, 1145–47 (2024).

The purpose of Mr. Bloom's intervention has been to protect is property—including a wetland and steep slopes on his property—from a development project proposed by Appellant Wanthida Chandrruangphen. As discussed in the City of Sammamish's Petition for Discretionary Review ("Pet."), the City cancelled Ms. Chandrruangphen's land use application due to inactivity on May 8, 2023, after she failed to respond to the City's multiple requests for information and corrections. *See* Pet. at 8. Later, on May 24, 2023, Ms. Chandrruangphen attempted to sue the City under Washington's Land Use Petition Act

("LUPA), Chapter 36.70C RCW, seeking to overturn the cancellation of her permit application due to inactivity. In her land use petition, Ms. Chandrruangphen also sought declaratory relief that would reduce or eliminate regulatory protections for Mr. Bloom's on-site wetland and the steep slopes on his property. *See* CP 7–9 (Land Use Pet., ¶¶ 5.3 – 5.13).

The issues for which Supreme Court Review is sought in this case revolve around Ms. Chandrruangphen's attempt to meet LUPA's strict, 21-day limitations period at RCW 36.70C.040(3), with which this Court has historically required "strict compliance." *See, e.g., Durland v. San Juan County*, 182 Wn.2d 55, 67, 340 P.3d 191 (2014) (explaining "we require strict compliance with LUPA's bar against untimely or improperly served petitions"). In this case, the Superior Court correctly applied the law when it dismissed Ms. Chandrruangphen's LUPA appeal for failure to serve the City of Sammamish in accordance with the law and within LUPA's strict 21-day limitations period. *See* CP 241–43.

Intervenor Daniel Bloom fully supports the City of Sammamish's Petition for Discretionary Review and joins in the City's arguments concerning the errors made by the Court of Appeals relating to the propriety of secondhand service under RCW 4.24.080(16). We write separately to address the issue of whether the City's email of May 8, 2023, triggered the "extra three days" rule for challenging local land use decisions at RCW 36.70C.040(4)(a).

II. ARGUMENT

A. The Court of Appeals erred in holding that "email" is "mail" for purposes of LUPA's strict 21-day limitations period. This Court should grant review to clarify how LUPA applies in the context of modern email communications.

LUPA requires all land use petitions to be filed and served within 21 days of the "issuance" of the challenged land use decision. *See* RCW 36.70C.040(3). In turn, LUPA defines the issuance date differently depending on what type of land use decision is being challenged—be it a "written decision," a decision made by "ordinance or resolution," or some other

decision not falling within either of the first two categories. RCW 36.70C.040(4)(a–c).

For written decisions, LUPA provides that the issuance date—the date on which LUPA's strict 21-day limitations period begins to run—is "[t]hree days after a written decision *is mailed* by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available." RCW 36.70C.040(4)(a) (emphasis added). The Court of Appeals held, in part, that the City's email of May 8, 2023, constituted a "mailing" within the meaning of RCW 36.70C.040(4)(a). In doing so, the Court of Appeals extended the deadline for Ms. Chandrruangphen to serve her land use petition on the City by three days—from 21 days to 24 days. Those additional three days gave Ms. Chandrruangphen a "second bite at the apple," enabling her to make a second, untimely attempt at serving her land use petition on the City of Sammamish, this time on the correct City official.

The sole basis for the Court of Appeals' decision on this issue was dicta from this Court's opinion in *Confederated Tribes & Bands of Yakama Nation v. Yakima County*, 195 Wn.2d 831, 466 P.3d 762 (2020). In *Confederated Tribes*, this Court found that Yakima County's email of a county resolution triggered LUPA's "extra three days" rule at RCW 36.70C.040(4)(a). However, not only did the extra three days not affect the ultimate outcome in that case—because the land use petition was filed 19 days after the decision was issued—this Court also noted that the question of whether email is "mail" for purposes of RCW 36.70C.040(4)(a) was not disputed. *See Confederated Tribes,* 195 Wn.2d at 836 n.2 ("There is *no dispute* that this e-mail correspondence satisfies the 'mailing' requirement of RCW 36.70C.040(4)(a)."") (emphasis added).

This Court was correct that there was "no dispute" in *Confederated Tribes* that an email constitutes "mail" for purposes of triggering LUPA's "extra three days" rule at RCW 36.70C.040(4)(a). That issue was never raised as a point of

contention in the parties' briefs to the Court of Appeals. It was never raised in *Confederated Tribes* as a point of contention to this Court. The issue was not disputed because it did not affect the outcome of that case.

As the City of Sammamish correctly argues in its Petition for Discretionary Review, the question of when LUPA's 21-day limitations period begins to run is a matter of substantial public interest and importance, as evidenced by this Court's prior decisions on the topic. The Court of Appeals' decision stands in conflict with established Washington precedent that the word "mail" refers to postal mail, not email. *See* Pet. at 5 n. 5 (discussing *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 120 P.3d 56 (2005) and *Continental Sports Corp. v. Department of Labor & Industries*, 128 Wn.2d 594, 910 P.2d 1284 (1996)). There is no practical or legal need to extend any limitations period given the instantaneous nature of email communications, let alone LUPA's strict 21-day limitations period designed to

provide "finality for land owners and the government." *Durland*, 182 Wn.2d at 60.

This Court should take this opportunity to clarify when LUPA's 21-day limitations period begins to run in the context of modern email communications. Unlike in *Confederated Tribes*, this Court should do so in the context of a case where that issue is actually disputed between the parties, and where it may affect the outcome of the case.

II. CONCLUSION

For the reasons above, Intervenor/Respondent Daniel Bloom respectfully joins the City of Sammamish in its request for discretionary review.

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Dated this 12th day of February, 2025.

Pursuant to RAP 18.17, I certify that this Answer to Petition for Discretionary Review contains 1,088 words.

Submitted by,

TELEGIN LAW PLLC

By: 

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CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the State of Washington, that on February 12, 2025, I caused the foregoing document to be filed with the Clerk of the Court using the CM/ECF system, which will electronically serve all counsel of record via CM/ECF:

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