Case No. 1040849

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Court of Appeals Case No. 87084

MARCUS GERLACH, ET AL. ,

Appellants,

v.

CITY OF BAINBRIDGE ISLAND, ET AL.,

Respondent.

RESPONDENT'S RESPONSE TO PETITION FOR REVIEW TO THE WASHINGTON STATE SUPREME COURT

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I. IDENTITY OF RESPONDENT

The City of Bainbridge Island (the "City") answers Petitioners Marcus and Suzanne Gerlach's Petition for Discretionary Review.

II. COURT OF APPEALS DECISION

Without exhausting administrative remedies, the Gerlachs sued the City for a land use decision involving a 2021 request to revise a 2013 permit to allow a bulkhead at their waterfront property. The ripeness problem was, itself, fatal. But compounding the defects, the Gerlachs also sought to relitigate nearly 15 years of interactions with the City, all of which had already been litigated and resolved in favor of the City. Accordingly, the Court of Appeals correctly held:

1. The statute of limitations barred the Gerlachs' claims premised on conduct that occurred prior to their 2021 permit revision application. This foreclosed the Gerlachs' claims related to: the "window washing" planner; the 2010/2011 mooring buoy; the City's reliance on a construction

limit line on an Army Corps of Engineers map; the City's attorney submitting a declaration to the court in 2012; permit decisions made in 2012-13; a 2012 public comment by an individual, who was also member of the City's planning commission; comments by the City's counsel to the court in 2013 about the appearance of fairness doctrine; and all the other events prior to 2021 (which were, in any event, previously and unsuccessfully litigated by the Gerlachs). Finding that the statute of limitations was dispositive, the Court didn't reach *res judicata*.

2. Washington's Land Use Petition Act ("LUPA") applied because the Gerlachs challenged the denial of the permit revision (a land use decision). And because that matter was still pending before the hearing examiner, the Gerlachs' claims were not ripe.

3. A lawsuit challenging the Washington Department of Fish and Wildlife's ("WDFW") award of a Hydraulic Project Approval ("HPA") permit to the Gerlachs was not the "law of

the case" nor did it control whether the City was required to grant the permit revision. Not only was it a separate lawsuit concerning different laws, the City was not a party. And the HPA, which is narrow in scope, did not exempt the Gerlachs from meeting state and local law, nor require the City to revise a 2013 permit.

4. The Gerlachs' claims of material misstatements in declarations were speculative, did not create an issue of fact, and many of the purported disputed facts were previously litigated. Thus, the trial court did not improperly weigh evidence and the Gerlachs failed to make a factual showing sufficient to prove the elements of their case.

5. The trial court did not abuse its discretion in denying the Gerlachs' motion for CR 11 sanctions, which was based on the City seeking summary judgment, because there was nothing sanctionable about the City's conduct.

Additionally, the Court of Appeals declined to address the Gerlachs' evidentiary arguments not raised before the trial

court. It also did not address the trial court's fee award to the City because the Gerlachs did not timely assign error or provide supporting arguments in their opening brief.

The Gerlachs sought reconsideration, which was denied.

III. ISSUES FOR REVIEW

1. Whether this Court should deny review where the Gerlachs (1) neither cite to RAP 13.4 nor identify the basis of their review request, and (2) fail to provide concise issue statements with supporting arguments and citations to the record as required by RAP 13.4(c).

2. Whether review is also improper because the Court of Appeals correctly found that (1) the statute of limitations barred the Gerlachs' years-old grievances, which the Gerlachs do not challenge; (2) LUPA requires exhaustion of remedies for claims that request relief from a land use decision; (3) the *Sound Action* lawsuit, which involved different parties, a different permit, and different laws was not the law of the case; (4) the trial court correctly weighed the evidence because none

of the purportedly disputed facts were material or proved the Gerlachs' case; and (5) the City's attorneys did not violate Rule 11 for filing a well-founded motion for summary judgment.

3. Whether this Court should grant the City sanctions under RAP 18.9 for having to respond to a frivolous petition for review that seeks to rehash long resolved allegations, is directly contrary to established case law, and re-asserts the same arguments previously rejected by multiple courts.

IV. STATEMENT OF THE CASE

A. Many of the Gerlachs' allegations were years old and previously litigated.

The Gerlachs' complaint (and arguments before both the trial court and Court of Appeals) cited to more than a decade of legal disputes they initiated with the City. *See, e.g.,* Clerk's Papers ("CP") 5-8. The first lawsuit stemmed from a 2010 permit application for a mooring buoy. CP at 428. Following settlement at the administrative level, the Gerlachs unsuccessfully sued the City and one of its employees under 42 U.S.C. § 1983 and Ch. 64.40 RCW, alleging the City violated

various rights during the permitting process. *See Gerlach v. City of Bainbridge Is.*, No. C11-5854BHS, 2012 WL 3239117 (W.D. Wash. Jan. 6, 2014) (dismissing all claims and granting the City fees), *affirmed*, 551 Fed.Appx. 418 (9th Cir. 2014).[1]

The second lawsuit was based on a 2012 permit application to construct a dock, bulkhead, retaining wall, and gatehouse/boathouse. CP 397, 402. While the permitting process was pending, the Gerlachs sued the City because a local citizen, who was also a member of the City's planning commission,[2] submitted a public comment opposing the permit. The lawsuit was dismissed on summary judgment and affirmed in *Gerlach v. City of Bainbridge Island*, 185 Wn. App. 1004,

[1] During the 2012 lawsuit, then-attorney, now judge, Jennifer Forbes submitted a declaration the Gerlachs complain about here. Its validity was litigated in that case (and raised in others). *See* CP 379; *M.G. v. Bainbridge Is. Sch. Dist.*, 2025 WL 895305 at *3 (Mar. 25, 2025) (unpublished). To date, no court has found impropriety.

[2] The City's planning commission is an advisory board of volunteer community members who serve three-year terms and primarily advise the City on its comprehensive plan. *See* BIMC 2.14.020.

2014 WL 7174368 (2014) (unpublished), *review denied*, 182 Wn.2d 1025, 347 P.3d 459 (2015).

While that lawsuit worked its way through the courts, the Gerlachs proceeded at the administrative level. *See* CP 415. On March 22, 2013, the City granted a permit for their dock, boathouse/gatehouse, and retaining wall, but denied the request for the bulkhead, finding it was forbidden by the City's Shoreline Master Plan. CP 399, 404. The Gerlachs appealed to the hearing examiner (who they initially sought to disqualify). *See* CP 418. However, on the day of the hearing, they declined further participation—citing an unsigned document in the file. CP 415. The hearing examiner offered to continue the matter to clear up the ministerial issue, but the Gerlachs refused to participate. CP 416. Accordingly, the appeal was dismissed. CP 415-16. The Gerlachs sought no further review, rendering the 2013 decision "final."

B. The Gerlachs prematurely return to court in 2023.

In 2021, the Gerlachs filed an application to "revise" their 2013 permit to allow them to build the previously denied bulkhead. They also applied for an HPA permit from WDFW for the same project.[3] CP 25 at ¶ 4. WDFW granted the HPA permit in 2020 and nonprofit group, Sound Action, challenged it, alleging the permit did not comply with the Washington Hydraulic Code. *Sound Action*, at *1. The matter was litigated and Sound Action's objection was overruled in May 2023. *Id.* at *15. The City was ***not*** a party to those proceedings. *Id.* at *1.

In April 2022, on a separate track, the City's building official denied a requested revision, citing to changes in building and shoreline codes since the permit was requested (in

[3] An HPA permit is limited in scope, is not a building permit, and does not obviate the need to obtain permits from the local jurisdiction. *See Sound Action v. Wash. State Pollution Control Hearings Bd.*, 26 Wn.App.2d 1039, 2023 WL 3317949 (2023) (unpublished).

2012) and approved (in 2013).[4] CP 25. The City instead recommended the Gerlachs submit a standalone permit application for the bulkhead (which could be reviewed under current codes). CP 10. The Gerlachs appealed to the hearing examiner instead. *See* CP 418.

They also filed a bar complaint against the hearing examiner who had dismissed their prior appeal. CP 419. Based on their bar complaint, they argued that the latest hearing examiner should be disqualified because he worked with the same law firm. *Id.* The hearing examiner stayed the proceeding while the Gerlachs' bar complaint was pending. CP 421. The issue was mooted when the City ended its contract with the examiner's firm in 2023. CP 26. The administrative appeal moved forward with a prehearing conference on December 21, 2023 and the hearing on March 28, 2024.[5] *Id.*

[4] The Gerlachs repeatedly criticize the denial letter, but did not include it in the record before the trial court.

[5] The City's motion for summary judgment in the instant case was granted prior to this. CP 169-72.

On December 18, 2023, the Gerlachs filed this lawsuit. CP 3. They asserted various claims arising out of the revision application and sought to relitigate their prior grievances. CP 5-14. They also alleged negligence in the denial of the revision; tortious interference for denying the revision request and taking too long to make a decision (claiming the City had a duty to issue a revision request based on the HPA)[6] and for filing "frivolous legal appeals";[7] negligent misrepresentation for alleged "misrepresentations" in prior litigation that other "courts and administrative bodies detrimentally relied upon"; and a declaratory action directing the City "to issue the requested revision/building permit". CP 10-13.

[6] The Gerlachs made no mention of their tortious interference claim in their brief before the Court of Appeals, thereby abandoning it. *See Holder v. City of Vancouver*, 136 Wn. App. 104, 107, 147 P.3d 641 (2006).

[7] This appears to be based on the HPA appeal filed by another entity.

C. The court granted summary judgment and found the Gerlachs' claims frivolous; the Gerlachs appealed.

The City sought summary judgment, arguing that the Gerlachs' claims based on the already-litigated events should be dismissed under basic *res judicata* principles and/or the statute of limitations.[8] *See* CP 306. And the Gerlachs' claims related to their ongoing revision application were premature because the administrative process was still pending. *Id.* The City also emphasized that the Gerlachs' claims failed on the merits.

In response, the Gerlachs focused their arguments almost exclusively on events from 2006 to 2018 (and attacks on the judges who made decisions in the attendant lawsuits). CP 29-38. Although they claimed that there were disputes about the underlying facts in this history, the Gerlachs did not dispute the

[8] In support of this, the City included materials filed in the prior lawsuits, which established (1) the basic history and timeline of events; (2) it had been more than three years since the complained-of actions occurred; and (2) the Gerlachs' grievances had been litigated and resolved. CP 324-25. The City did not attempt to re-argue the merits of these past grievances. *Id*.

material facts, namely that all these events were litigated and occurred more than three years before they filed their complaint. *Id.*

The Gerlachs also filed a motion to strike the declaration of Patricia Charnas under CR 12(f). CP 105. In the same motion, they sought CR 11 sanctions based on the City seeking summary judgment, which they claimed was intended as "harassment." CP 104.

The trial court granted the City's motion for summary judgment and awarded it fees under CR 11. The Court denied the Gerlachs' motion to strike and motion for CR 11 sanctions. *Id.*; CP 97. The Gerlachs sought reconsideration, which was denied. CP 587.

The Gerlachs appealed, assigning error to the trial court's order granting summary judgment and denying their motion for sanctions and to strike declarations, and order denying reconsideration. Then, after filing their opening brief and without seeking leave under RAP 5.3(h), the Gerlachs filed an

amended notice of appeal. This time, they identified the orders granting fees to the City (and denying reconsideration of the fee order), but they did not amend their brief or assign error to these orders in their opening brief.

V. ARGUMENT

A. The Gerlachs fail to address the standard of this Court's review.

Under RAP 13.4(b), this Court will only accept review in limited circumstances:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

A petition for review must contain a precise statement of the issues and a "direct and concise statement of the reason why review should be accepted under one or more of the tests in section (b), with argument." RAP 13.4 (c)(5), (7).

The Gerlachs do not cite to RAP 13.4(b) nor identify the provision(s) through which they are entitled to review. This is fatal to their petition because as this Court explained:

> If we were to ignore the rule requiring counsel to direct argument to specific findings of fact which are assailed and to cite to relevant parts of the record as support for that argument, we would be assuming an obligation to comb the record with a view toward constructing arguments for counsel... This we will not and should not do.

Matter of Est. of Lint, 135 Wn.2d 518, 532, 957 P.2d 755 (1998); *see also United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) ("Judges are not like pigs, hunting for truffles buried in brief."); *McKee v. Dep't of Corr.*, 2023 WL 312881, 25 Wn. App.2d 1019 (2023) (unpublished) (citing *Dunkel* to summarily affirm the trial court when the court was "unable to discern the underlying facts" and unwilling to "reward bad behavior").

The Gerlachs perfectly illustrate such "bad behavior" here. They neither cite the applicable rule, nor present coherent arguments supporting review. Instead, they meander through

disjointed legal theories, rehash the same long-decided grievances, and make blanket unsupported accusations against nearly every City employee, attorney, or judge they have ever encountered.[9] But they make few, if any, ties to the law or the material facts of this case. Nor do they tie any of this to the relevant legal standard for accepting review. Indeed, their petition is little more than hyperbole, divorced from both the Court of Appeals' decision and relevant law.

There is also little to no connection between the Gerlachs' issue statements and arguments. For example, in issue no. 2, they ask whether the City can "manufacture false material issues" to justify its CR 56 motion. But again, they

[9] This appears to be a habit for the Gerlachs and one that should not be tolerated by this Court or any other. *See, e.g., M.G. v. Bainbridge Island Sch. Dist. #303*, --- Wn. App. ---, 566 P.3d 132, 149 (Mar. 25, 2025) (unpublished in part) (upholding CR 11 sanctions where Marcus Gerlach accused a young woman of "want[ing] a rape culture on Bainbridge Island to support her fantasies of sexual assault…" and attempting to "coerce boys into suicide."); CP 31 (accusing federal District Court Judge Benjamin Settle of being "corrupt.").

fail to present arguments explaining what that means, let alone what issues the City "manufactured" or how this links to RAP 13.4(b).

This failure to comply with the rules or direct arguments to specific facts is alone sufficient reason to deny review.

B. Even if properly argued, the Court of Appeals' decision was correct.

1. No court has overturned LUPA's exhaustion of remedies requirement.

The Gerlachs appear to argue that review is warranted because the Court of Appeals did not cite to *Perez v. Sturgis Public Schools*, 598 U.S. 142, 143 S. Ct. 859, 215 L.Ed.2d 95 (2023), which they claim eliminates LUPA's exhaustion of remedies requirement. It doesn't.

Perez, a federal case analyzing federal procedure, considered the narrow issue of whether the Individuals with Disabilities Education Act ("IDEA") required a student to exhaust administrative remedies before bringing a claim for violation of the Americans with Disabilities Act ("ADA"). 598

U.S. at 146. Citing that specific statutory language—which has nothing to do with Washington's LUPA statute—the Supreme Court concluded that the plaintiff could pursue his ADA claim without exhausting IDEA. *Id.* at 146. The U.S. Supreme Court assuredly did not rewrite Washington land use law in the process. Our case has nothing to do with the IDEA, ADA or any other federal law; *Perez* is wholly inapplicable.

What is applicable, is the substantial Washington case law holding that when, as here, a plaintiff alleges damages based on the purported wrongness of a land use decision, the plaintiff must first exhaust administrative remedies under LUPA. *See, e.g., Woods View II, LLC v. Kitsap Cnty.*, 188 Wn. App. 1, 26-29, 352 P.3d 807 (2015); *Mercer Island Citizens for Fair Process v. Tent City 4,* 156 Wn. App. 393, 401-02, 232 P.3d 1163 (2010) (42 U.S.C. § 1983 claims for due process violations based on the illegality of the subject permitting process subject to LUPA); *Asche v. Bloomquist,* 132 Wn. App. 784, 801, 133 P.3d 475 (2006) (damages claim for public

nuisance barred by LUPA where "public nuisance claim depend [ed] entirely upon finding the building permit violate[d] the zoning ordinance."); *see also Congdon v. Island Cnty.*, 13 Wn. App.2d 1007, 2020 WL 1847741 at *5-6 (April 13, 2020) (unpublished) (plaintiff's negligent delay claim preempted by LUPA because it turned on whether the County acted improperly in making its land use decision).

This remains the law in Washington and controls the Gerlachs' claims here.

2. The Court of Appeals did not overturn *Westmark*.

The Gerlachs also appear to allege that the principle of *stare decisis* required the Court of Appeals to show that *Westmark Development Corp. v. City of Burien*, 140 Wn. App. 540, 166 P.3d 813 (2007), was incorrectly decided and harmful. Br. at 22. This argument also makes little sense.

The Court of Appeals did not overrule *Westmark*, nor does *Westmark* overrule the body of law requiring

administrative exhaustion before asserting claims based on land use decisions. The defendant in *Westmark* argued that the plaintiff could not assert a tortious interference claim because Ch. 64.40 RCW was the sole means through which it could recover damages arising out of a six-year delay in issuing a permit decision. 140 Wn. App. at 548. The court concluded that because RCW 64.40.040 allowed for other remedies, the plaintiff could assert common law tort claims. *Id*.

Here, the Court of Appeals did not hold that the Gerlachs were precluded from alleging tort claims under RCW 64.40 (nor did the City argue that), it simply held that those claims were time-barred and premature because the administrative process was still pending. *Westmark* is inapposite.

Furthermore, the Court of Appeals correctly recognized that the Gerlachs' were *also* seeking to reverse a land use decision. Indeed, they asked the trial court to compel the City to revise their 2013 permit to allow them to build a bulkhead and their claims are premised on an alleged "duty" to grant the

revision request. CP 12, 13. This, too, sets our case apart from *Westmark*, which was limited to damages. The Court of Appeals did not err in this respect either.

3. The Court of Appeals correctly found the law of the case doctrine did not apply.

In their issue statements, the Gerlachs ask whether Maradale Gale (the former member of the planning commission) was the same person who worked for Sound Action when it challenged the HPA permit "under the Law of the Case doctrine." Br. at 14. The Gerlachs appear to misunderstand the Court of Appeals' decision, which did not rely on a supposition that there were two Maradale Gales (a position no one asserted). Regardless, the Gerlachs do not present arguments to support the identified issue, instead arguing that the Court of Appeals was required to apply the same laws as the court in the case challenging the HPA.[10] Br.

[10] The Gerlachs also rehash arguments related to a 2013 hearing on the applicability of the appearance of fairness doctrine,

at 25. Not only is this inadequate to support review under RAP 13.4, it doesn't make sense.

The law of the case doctrine stands for the proposition that once there is an appellate holding on a legal issue, that holding will be followed "in subsequent stages of the same litigation." *Roberson v. Perez*, 156 Wn.2d 33, 41, 123 P.3d 844 (2005). This is not the same litigation as *Sound Action*. Not only was the City not a party, that case involved an entirely different statutory/regulatory scheme, the Hydraulic Code, which does not govern local permitting decisions. WAC 220-60-050(1)(b) ("HPAs do not exempt a person from obtaining other necessary permits and following the rules and regulations of local, federal, and other Washington state agencies."). Indeed, part of the rationale in *Sound Action*—as argued by the Gerlachs—was that there would likely be "additional authorization from local [City], state or federal agencies,"

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which makes little sense in the context of the identified issue or the law of the case doctrine.

which the Gerlachs would be responsible for obtaining. *Sound Action*, at *12.

Moreover, the Court of Appeals did not contradict the holding in *Sound Action*. It simply (and correctly) observed that a separate case involving a different permit, different law, and different parties did not require the City to automatically grant the Gerlachs' request to revise their 2013 permit.

4. The Appellate Court applied the correct standard for weighing evidence.

With little explanation, the Gerlachs claim that the Court of Appeals weighed the factual evidence in the City's favor. But the only *material* facts were (1) the dates of the conduct upon which the Gerlachs based their claims; (2) the parties and subject of the HPA proceedings; and (3) the lack of a final administrative decision at the time the Gerlachs filed their complaint seeking to overturn the permit denial.[11] *See Hope v.*

[11] The City presented additional arguments not discussed in the opinion. But the Court, which was entitled to affirm on any

Larry's Market, 108 Wn. App. 185, 191, 29 P.3d 1268 (2001) (a fact is material if it dictates the outcome of the litigation). None of this is in dispute.

Indeed, beyond blanket assertions, the Gerlachs do not explain how the facts they disagree with are material, nor are they. The Gerlachs likewise do not explain what evidence the Court mis-weighed. At best, they malign Judge Forbes (and the City's attorneys) based on her 2012 declaration where she said:

> 4. Particularly at the outset, there were significant concerns about the construction limit line, the impacts the proposed buoy would have on navigation, and the depth of the proposed location. There were also concerns about the proposed buoy swinging onto the neighbors' tidelands. For all of these reasons, the City denied the Gerlachs' permit application. I saw no evidence that this was done in bad faith or with improper motive.

CP 363.

The Gerlachs continue to insist this is false because they claim the City relied on a "counterfeit" map (in 2010) and there was no construction limit line on the map as it was originally

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ground, did not need to address those arguments to reach its decision.

drawn in the 1940s.[12] But none of this matters because this case is not about a construction limit line and nothing in the testimony the Gerlachs dispute dictates the statute of limitations, LUPA's applicability, or the preclusive effect of the HPA permit. The only material facts from Judge Forbes' declaration are the timeframe of the mooring buoy saga and the existence of the 2012 lawsuit, neither of which were disputed.

The Gerlachs' allegations regarding Patricia Charnas' declaration likewise did not implicate a material fact. Indeed, they did not, and do not here, explain how anything she said is at all material to whether the statute of limitations has run or the applicability of LUPA, nor is it.

5. The Gerlachs' unfounded personal attacks do nothing to establish that the Court improperly denied them CR 11 sanctions.

The Gerlachs do not identify how RAP 13.4 warrants review of the denial of their motion for CR 11 sanctions. They

[12] Even if true, that does not equate to nefariousness. *See* CP 374 (explaining how the line likely ended up on the map).

are incredulous that the trial court complimented the work of the City's attorneys when it granted the City's fee petition. But the fees granted to the City are not before this Court. Thus, the comment that the work was of "high caliber" is not relevant to any issue here, let alone a basis for review.

Likewise, and ignoring the impropriety of making baseless allegations against close to a dozen people, this case has nothing to do with attorneys who previously provided legal services to the City over the past 15-plus years, nor does this support a CR 11 sanction against the City here. And there was nothing sanctionable about the City filing a motion for summary judgment, which the trial court granted. CP 104. The arguments were based on established law and were otherwise well-reasoned. Meanwhile, the Gerlachs' grounds consisted of an untenable hearsay objection,[13] and abstract claims of

[13] Based on Ms. Charnas expressing her "understanding" of the revision request process, which was based in part, on business records in the file. This was a hearsay exception under RCW 5.45.020, not hearsay.

disagreement,[14] neither of which constitutes a basis for Rule 11 sanctions.

C. The City is entitled to fees for having to again defend against a frivolous petition.

RAP 18.9(a) allows this Court to impose sanctions when an appellant files a frivolous appeal. A frivolous action is one that cannot be supported by any rational argument on the law or facts." *Yurtis v. Phipps*, 143 Wn. App. 680, 697, 181 P.3d 849 (2008) (affirming RAP 18.9 sanctions where appellant's claims had been repeatedly rejected by numerous courts).

Like the appellant in *Yurtis*, the Gerlachs have been told by multiple courts in multiple lawsuits that they must exhaust administrative remedies before they may challenge a permit

[14] For example, in 2012, Judge Forbes declared that she would not have defended a specious appeal on the City's behalf. Again relying on the map and the construction limit line, the Gerlachs mischaracterize her declaration as "fraudulent", and ipso facto, accuse Judge Forbes of false testimony (and by extension the City's counsel for citing to the declaration for limited background information having nothing to do with the map or the line).

decision. CP 385; 393; 410. Yet they continue to sue the City while the administrative process is pending.

Similarly, the Gerlachs seek to support their claims by rehashing legal disputes that have been resolved by the courts, some more than once. Not only has the statute of limitations long run on these allegations, which the Gerlachs do not appear to refute, they have been deemed unfounded. Stated simply, the Gerlachs have been told that the City is not liable for its handling of the mooring buoy permit, Judge Forbes did not violate any recognized standard by saying the City was concerned about the construction limit line, and the appearance of fairness doctrine does not apply to permitting decisions. The Gerlachs ignore this and instead defame the judges who ruled against them. Indeed, the Gerlachs have been sanctioned for maligning individuals without evidence, as they have done extensively here. Absent a remedy, it can be assumed that they will continue to abuse the judicial processes in the form of unfounded attacks on attorneys, judges, and civil servants.

Finally, the Gerlachs' petition is not founded on the law. They not only ignore prior court decisions directly contrary to their arguments, they fail to explain why review is warranted under RAP 13.4 – a rule they did not even cite. Relief, beyond denial of the petition, is warranted.

VI. CONCLUSION

Based on the foregoing, the City requests this Court deny review and grant the City its attorney fees and costs in having to respond to a wholly meritless petition.

I hereby certify that this document contains 4,658 words in accordance with RAP 18.17.

RESPECTFULLY SUBMITTED this 2nd day of June, 2025.

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