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SUPREME COURT
STATE OF WASHINGTON
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No. 1043732

SUPREME COURT
OF THE STATE OF WASHINGTON

SETH L. POTTS, the personal representative of THE ESTATE
OF HAROLD R. POTTS,

v.

JACK HONKALA and SHIRLEY E. HONKALA, a married
couple,

RESPONSE TO PETITION FOR REVIEW

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IDENTITY OF THE RESPONDENT

Respondent the Estate of Harold R. Potts, by and through its personal representative Seth L. Potts, respectfully asks this court to deny Petitioners Jack Honkala and Shirley E. Honkala's petition for review of the decision of the Washington State Court of Appeals Division III in the matter of Seth L. Potts, the Personal Representative of the Estate of Harold R. Potts v. Jack Honkala and Shirley E. Honkala, No. 40553-2-III.

STATEMENT OF THE ISSUE

The issue presented for review is whether a tax parcel number provides sufficient legal description of platted property to satisfy the statute of frauds when the full legal description contained on the face of a deed is ambiguous.

Petitioners contend, without authority, that the rule for unplatted property may be applied to platted property to rescue such an insufficient legal description. Respondent disagrees.

STATEMENT OF THE CASE

The operative facts of this case are well documented in the trial court record, appellate pleadings of the parties, and decision of the Court of Appeals. Because they are, with certain exceptions, not in dispute, a complete recounting here would be overly duplicative.

Prior to 2013, Harold R. Potts was the owner of two adjacent parcels of property in unincorporated Klickitat County known as Lot 3 and Lot 4. Both lots are part of a subdivision created in 1982, and thus platted property. It is not in dispute that in 2013 Harold Potts executed a quit claim deed transferring some portion of the two lots to Petitioners. Petitioners contend that the deed transferred the entirety of Lots 3 and 4. Respondent contends that the deed only transferred Lot 3 and that Lot 4 remained in the possession of Harold R. Potts and his subsequent estate.

In November of 2022 Respondent filed a complaint against Petitioners to quiet title to Lot 4. The parties filed

competing motions for summary judgment and on May 9, 2024 the trial court granted Petitioners' motion and denied Respondent's.

Respondent subsequently appealed the ruling of the trial court. On appeal, Respondent argued that because the legal description contained within the deed was ambiguous and incomplete, summary judgement was inappropriate. Respondent argued, and the Court of Appeals agreed, that the legal description which reads "Pt of Lots 3, 4, SP 82-07 in N2 NESE 4; 32-4-16" is not sufficiently definite to satisfy the statute of frauds because it fails to identify which part of Lots 3 and 4 was conveyed. Because it determined that petitioners had not satisfied the burden of summary judgment, the Court of Appeals reversed the ruling of the trial court and ordered remand.

Petitioners now seek review under the theory that a line of cases which allow the presence of a tax parcel number to rescue an otherwise deficient legal description *of unplatted property* from the statute of frauds may also be applied to platted property.

Petitioners also raised this argument before the Court of Appeals without success. That court instead based its holding on a separate line of cases which govern the sufficiency of legal descriptions regarding *platted* property such as the lots at issue.

Because the Court of Appeals based its soundly reasoned decision on well-settled Washington law, Respondent asks this court to deny the petition for review.

ARGUMENT

A. There is no conflict between the ruling of the Court of Appeals and existing Washington case law.

Petitioners contend that the decision of the Court of Appeals conflicts with precedential opinions of this court and other appellate holdings; this is untrue. Washington courts have consistently upheld distinct and separate requirements for sufficient legal description of platted and unplatted property. *Compare Martin v. Seigel*, 35 Wash.2d 223, 229 (1949) (“A valid legal description for platted property must include the lot number block number, addition, city, county, and state”), *with Bingham*

v. Sherfey, 38 Wash.2d 886, 889 (1951) (holding that the tax parcel number was sufficient to rescue an erroneous metes the bounds description of unplatted property), and *Tenco v. Manning*, 59 Wash.2d 479, 485 (1962) (Clarifying that the *Bingham* rule applies specifically to unplatted property).

The instant case concerns platted property. Consequently, Division III of the Court of appeals correctly applied the *Martin* standard to hold that a tax parcel number was insufficient to rescue an ambiguous legal description of platted property from the statute of frauds.

The relative absence of modern reported cases addressing this issue indicates that the platted versus unplatted distinction is well-settled law, rather than a live and controversial topic that merits the attention of this court. As recently as 2014, this court has denied review of cases holding that the platted versus unplatted distinction remains good law. *See McNaughton Group. LLC, v. Park*, No. 90368-9, 2014 Wash.App WL 1289468 (Div. I 2014) *Rev. denied*.

Because the Court of Appeals based its decision on well-established and consistent principles of Washington property law, further review is not likely to develop the law or serve the interests of justice. Petitioners have not identified any deficiency in the reasoning of the Court of Appeals, nor have they proposed any novel legal standard or interpretation. Instead, Petitioners seek review simply because they disagree with the Court of Appeals. Under these circumstances review would be an inefficient use of finite judicial resources.

B. The authorities Petitioners cite are factually inconsistent with the instant case.

Even if the unplatted property rule were applicable to platted property, it would not be controlling here because neither *Bingham* nor *Teklu v. Setayesh*, 21 Wash.App.2d 161 (Div. I 2022)—to which Petitioners also cite—contemplate a truly ambiguous legal description. For a term to be ambiguous it must be open to more than one plausible interpretation, or in the case

of a contractual provision, carry a significant danger of being construed inconsistently. Black's Law Dictionary 12th ed. 2024.

In *Teklu* the legal description was entirely missing, but the tax number indicated a specific lot—nothing on the face of the document indicated any intent to convey a different piece of real property. 21 Wash.App at 164. Thus, no genuine alternate interpretation existed; the only question was whether the description provided was legally sufficient. *Id.*

In *Bingham* the issue was whether a tax number could salvage a facially *incorrect* legal description. 38 Wash.2d at 887. The legal description in that case failed to include any reference to the Willamette Meridian. *Id.* Consequently, the description as written could have referenced one of two theoretical locations. *Id.* However, the court took judicial notice of the fact that one such location could be logically excluded as it would have placed the property at issue somewhere in the Pacific Ocean. *Id.* Thus once again, the legal description could not be reasonably construed to reference more than one piece of real property and

again the question before the court was only whether a tax number could rescue a formally deficient legal description. *Id.*

In the instant case, the legal description is genuinely ambiguous, Petitioners would read it to refer to two lots whereas Respondent contends that it refers to only part of those two lots. Unlike in *Bingham* and *Teklu*, a genuine debate exists as to identity of the property conveyed. Recourse to the tax parcel number in such a circumstance is not only unsupported by Petitioners' authorities but untenable as a practical matter.

By virtue of their status as a singular reference number associated with a discrete piece of property identified in the records of the county assessor, tax parcel numbers are not an effective method of describing property at a resolution finer than allowed by the underlying county records. As such, tax parcel numbers regularly appear on the face of documents conveying interest in less than the whole property referenced by the number.

Because of this practical reality, Petitioners' proposed rule would have serious and undesirable consequences for the

practice of property law in Washington. Under Petitioners' proposed rule, anytime a document conveying interest in less than the whole of a tax parcel contained an error or ambiguity in its legal description, but also contained the tax parcel number, it would automatically convey that interest over the entire parcel. Under such a rule any party wishing to boundary adjust a lot or grant an easement would be exposed to the risk of accidentally conveying an interest in their entire property through a typographical error or imprecise description of the new lot. Faced with such a threat, risk-averse drafters of real-estate instruments would strategically omit the tax parcel number.

Consequently, Petitioners' proposed rule would needlessly inject a substantial risk of accidental real-property conveyances and frustrate the efficient recordation and recall of real-property instruments. Petitioners' interest in rescuing a single ambiguous deed from the statute of frauds cannot be reasonably balanced against such a fundamental restructuring of property jurisprudence in the state of Washington.

CONCLUSION

Petitioners seek review on the grounds that a conflict exists between the rules for the legal description of property espoused in several precedential cases. However, no such conflict exists. Rather, Washington law recognizes separate and distinct rules for the legal description of platted and unplatted property. Recognizing that distinction, the Court of Appeals applied the correct standard in this case. Thus review is unnecessary, a poor use of judicial resources, and should be DENIED.

I certify that this brief contains 1,540 words (exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images (e.g., photographs, maps, diagrams, and exhibits) in compliance with RAP 18.17.

DATED this 4th day of August, 2025.

By: /s/ Albert F. Schlotfeldt
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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On August 4, 2025 I caused to be served the foregoing ***RESPONSE TO PETITION FOR REVIEW*** on the following individuals in the manner indicated:

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