

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
CLERK'S OFFICE

Jul 06, 2016, 10:09 am

RECEIVED ELECTRONICALLY

SUPREME COURT  
OF THE STATE OF WASHINGTON

DANIEL THOMPSON and THEODORE  
MISSELWITZ,

Appellants,

v.

CITY OF MERCER ISLAND,

Respondent,

GIB DEVELOPMENT LLC (ON THE ROCK,  
LLC) and ANDERSON ARCHITECTURE,

Additional  
Parties.

NO. 93219-I

ERRATA TO ADDITIONAL PARTIES'  
ANSWER TO PETITION FOR REVIEW

Additional Parties hereby submit the following errata to Additional Parties Answer to  
Petition for Review. In the process of providing the document to the Court and counsel, page 16  
was inadvertently omitted. The omitted page 16 is attached hereto.

DATED this 6<sup>th</sup> day of June, 2016.

OGDEN MURPHY WALLACE, P.L.L.C.

By

for

*Daniel Murray* #44547  
J. Zachary Lell, WSBA 28744  
Attorneys for GIB Development, LLC  
and Anderson Architecture

1 **DECLARATION OF MAILING**

2 I, Gloria J. Zak, provided a copy of attached page 16 as follows:

3 Via Email to the Supreme Court: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

4 ***Via email and Legal Messenger:***

5 Daniel Thompson, danielphompson@hotmail.com  
6 THOMPSON & DELAY  
7 506 2<sup>nd</sup> Avenue Suite 2500  
8 Seattle WA 98104-2326

8 ***Via email and regular mail:***

9 Mario Bianchi, bianchi@lasher.com  
10 LASHER HOLZAPFEL  
11 601 Union St., Suite 2600  
12 Seattle WA 98101

11 ***Via email and regular mail:***

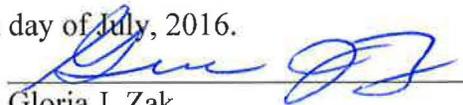
12 Theodore Misselwitz: tmisselwitz@juno.com  
13 7250 N. Mercer Way  
14 Mercer Island WA 98040  
15 tmisselwitz@juno.com

15 ***Via email and regular mail:***

16 Kari L. Sand, kari.sand@mercergov.org  
17 Christina Schuck, christina/schuck@mercergov.org  
18 CITY OF MERCER ISLAND  
19 9611 SE 36th Street  
20 Mercer Island WA 98040

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

21 EXECUTED at Seattle, Washington this 6th day of July, 2016.

22   
23 Gloria J. Zak  
24  
25  
26

of the same individual corporate officer. *See Thompson v. City of Mercer Island*, 72809-1-I, 2016 WL 2647578, at \*5 (Wash. Ct. App. Mar. 14, 2016). While the appellate proceedings were pending, the Court of Appeals granted GIB Development LLC’s motion to substitute for On the Rock, LLC pursuant to RAP 3.2. *Id.*, at 6. Appellants erroneously contend that this substitution conflicts with existing precedent. Petition for Review at 4.

Preliminary, this Court should disregard Appellants’ argument for inadequate briefing. Appellants devote only two sentences to this issue in the “Issues Presented for Review” section of their Petition for Review, and they fail to provide any treatment of the matter whatsoever in the Argument section. Petition for Review at 4, 12-20. The lack of any meaningful analysis regarding this point precludes judicial consideration. *Kanany*, 185 Wn. App. at 320.

Irrespective, the Court of Appeals’ decision in this regard involved a basic application of RAP 3.2(a), which provides in relevant part:

The appellate court will substitute parties to a review when it appears. . . that the interest of a party in the subject matter of the review has been transferred.

*Thompson v. City of Mercer Island*, 72809-1-I, 2016 WL 2647578, at \*6 (Wash. Ct. App. Mar. 14, 2016) (citing RAP 3.2) (emphasis added). GIB