IN THE SUPREME COURT
STATE OF WASHINGTON

Sharon Laska, Joseph Walsh, Peter and Jenifer Lux, Donald and Susan Sorensen,	)	Supreme Court No. 94829-1
Plaintiffs-Respondents,	)	
	)	Court of Appeals No. 49335-7-II
v.	)	(consolidated with N. 49445-1-II)
Maolei Zhu and Yongjie Huang	)	
	)	
Defendants -Appellants, Petitioners	)	

Petition for Review

MAOLEI ZHU

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- Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time, Washington State Court Rule ER 403
- Washington State Uniform Declaratory Judgments Act RCW 7.24.060: Refusal of declaration where judgment would not terminate controversy
- There is no evidence or reasonable inference from the evidence to justify the verdict or the decision, and that it is contrary to law (building code).

Identity of Petitioner

I, Maolei Zhu, petitioner pro se, respectfully asks this court to accept review of the Court of Appeals decision terminating review.

I am over the age of 18. I am a United States citizen.

I declare under the penalty of perjury of the law of the State of Washington that my statement is true and correct.

Maolei Zhu

Court of Appeals Decision

(Citations)

Petitioners ask Court of Appeals to correct the typo mistakes and misinterpretations in its order title Unpublished Opinion but was refused. A copy of the decision is in the Appendix at A1 through A16. A copy of the order denying petitioners motion for reconsideration is in the Appendix at page A17.

Distortion of facts and court record in Unpublished Opinion from Court of Appeals (not limited to the followings) is listed as follows:

1) **On page 3**: "In December, … Zhu continued construction on the property, attaching a tarp to the side of his storage shed that covered an adjacent concrete pad."
2) **On page 11:** "… In addition, Zhu testified at the hearing that the first building that he constructed on his property was a storage shed. "
3) **On page 13:** "… the area under the tarp cannot be considered a building because it is not permanent, and it is mobile in construction."
4) **On page 3-4:** "In April 2016, … Later that month, Zhu removed the second story of the storage shed."

5) On page 2: “Zhu … arguing that … the trial court (b) it improperly interpreted the term “building””.

   Page 12: “Interpretation of “Building” … Zhu suggests that the area under the tarp attached to his storage shed and the area under the eaves of the shed should be included in calculating the square footage of a building. We disagree.”

6) On page 7: “… excluding expert witness testimony regarding the Clallam County building code definition of “building area.” Zhu failed to preserve these issues for appeal.”

7) On page 9: “.. we will not substitute our judgment for that of the trial court.” On page 10: “Because we do not review a trial court’s credibility determinations, we do not review Zhu’s argument.”

8) On page 10: “the shed itself, as well as the area under the eaves of the shed and the area under the tarp attached to the shed, totaled 1,100 square feet in area.”

   Page 11: “… because the shed itself, the area under the eaves of the shed, and the concrete pad under the tarp attached to the shed totaled 1,100 square feet in area.”

9) On page 11: “The Neighbors filed affidavits detailing the size of both the storage shed and the water pump house.”

10) On page 12: "… The primary goal in interpreting a contract is to give effect to the drafter's intent…"

11) On page 15: "Due process violation… Zhu argued… but he provided no authority for his argument, and he does not argue how his due process rights were violated."

Issues Presented for Review

This case is filed as No. 49335-7-II consolidated with No. 49445-1-II in the Court of Appeals, but No. 49445-1-II has never been reviewed or discussed.

Many statements in Unpublished Opinion from the Court of Appeals do not cite any court record which the statements should be based upon. The first issue that needs to be reviewed is:

1) **Is there any distortion of court records in Unpublished Opinion from the Court of Appeals?**

The other two issues were fundamental and critical in this case and were brought up in the Court of Appeals but have not yet been answered:

2) **What is the area of the initial building on the appellants' property? How should the area be determined?**
3) **What is the legal ground to order to destroy the appellants' water pump house?**

Statement of the Case

This case is about an argument whether Petitioners built an initial building on their own property being less than 900 square feet (RP 18). If initial building was less than 900 square feet, Petitioners violated the following community covenant: *"No building shall be erected, altered, placed or permitted to remain on any one single parcel other than one single-family dwelling, one guest house, one attached or detached private garage and other accessory buildings. The initial building shall not be less than 900 square feet in area."* (A2)

This case is filed as No. 49335-7-II consolidated with No. 49445-1-II in the Court of Appeals. The verbatim provides the original content for reviewing trial court's order entered on June 27, 2016. Petitioners' appeal of the June 27 order was filed as N. 49335-7-II. In the meantime, Petitioners filed a motion for reconsideration in the trial court. The trial court entered an order titled Memorandum Opinion (CP 127) on August 31, 2016 and denied the reconsideration. Petitioners filed another appeal that was labeled as No. 49445-1-II.

While acknowledging the controversy, the trial court entered an order on June 27, 2016 without explanation (CP 52). The

Memorandum Opinion (CP 127) provides the explanation on how the trial court came to such order.

From the content in Unpublished Opinion by Court of Appeals (A1-16), it is clear that Memorandum Opinion had been completely ignored as evidenced by: 1. It does not mention the Motion for Reconsideration in the trial court (A1); 2. It does not mention building code and 970 square feet (CP51, 129); 3. It does not mention the destruction of Petitioners' water pump house as ordered in the trial court order and in Memorandum Opinion; 4. It completely ignores the trial court's judgment (CP 129): **"***The fundamental flaw in the defendant's argument is that they equate "building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"**

Memorandum Opinion revealed the following facts: At the court hearing on June 15, 2016, the Judge was aware that, 1. Petitioners were in the process of building a 2600 square feet house with secured fund (CP 128); 2. The existing improvement on Petitioners' property

was a water pump house and the concrete slab (CP 128) from a shed that had been removed in March 2016 (CP 48). The Unpublished Opinion makes statements (A3-4) different from Fact No. 2 but does not cite any content from the court record or refer to any evidence.

The Unpublished Opinion completely ignores Fact No. 1 as evidenced by not relating the residential house to the water pump house that is ordered to be destroyed.

The verbatim provides details for the court hearings on both April 15, 2016 and June 15, 2016. In the April 15 hearing, the respondents (plaintiffs) made misrepresentations (CP 116, 72, 48) to create the jurisdiction ground to force the petitioners to go to the court on June 15. The Unpublished Opinion claims that the petitioners failed to preserve any evidence on April 15 hearing for appeal. However, Unpublished Opinion does not specify if the verbatim itself is evidence.

Petitioners did not appeal the temporary restraining order given as a result of the April 15 hearing. However, the permanent restraining order appealed by Petitioners is related to the April 15 hearing because the trial court considered Petitioner gave different testimonies on June 15 from April 15 regarding the area of the initial building, leading to the trial court order (RP 154). The April 15 hearing is also relevant in

that the trial court gave a guideline in determining the building area: at "commencement of construction" (RP 18). This led to Petitioners' argument that the plaintiffs and their counsel had committed tampering with evidence when they tried to estimate the area of Petitioners' initial building that no longer existed when the plaintiffs started their fraud lawsuit (RP 7; CP 72). The Unpublished Opinion and the order denying Petitioners' motion for reconsideration do not clarify if the initial building should include its initial part that was constructed in 2014 (CP 217).

Petitioners had proposed to use building code (UBC) to determine building area (CP 172, 21, 165). By ignoring No. 49445-1-II, Court of Appeals provides no answer on whether building code standard should be followed to determine the area of Petitioners' initial building, especially when there is a dispute regarding the area.

Unpublished Opinion made a statement that Petitioners did not explain how Petitioners' Constitutional rights were violated. If No. 49445-1-II was ever reviewed, there may not be such statement. While affirming Petitioners' property to be destroyed and Petitioners' life and health to be threatened, as evidenced by not citing any court record or referring to any evidence, Unpublished Opinion makes statements that were not known to be true. "By showing a few

pictures without any measurement or any standard for building area measurement, the plaintiffs made the trial court declare that a no-longer existent building was less than 900 square feet. If the same logic applies, the defendants (petitioners) could present to the court with pictures of Mr. Riffle, the plaintiffs' attorney, who stayed alone in the defendants' pump house which he later claims it was not a pump house (RP 131), and ask the court to put Mr. Riffle into jail for stealing $10000. The only way he could get around this would be to prove himself that he did not take the $10000 from the pump house." (Defendants' Brief in response to Plaintiffs' Response to Defendants' Motion for Reconsideration)

Argument

It is a common sense in daily life that official building area is given by the government based on building code standard. The government determines the area of our houses. And we pay our property tax based on the official area given by the government. If somebody wants to pay less property tax by claiming a smaller area based on his own measurement or standard, the court would not agree with the person but refers to the government authority for the official area instead. The court has no jurisdiction on building area. Notice that the official building area of Petitioners' no-longer existing initial building was 970 square feet based on government's field measurement and building code standard.

In order to comply with building code, Petitioners may either take down the initial building or invest more to bring the building to code. If the petitioners chose to keep the building and applied for a building permit, the government would issue a permit for 970 square feet.

The plaintiffs explicitly expressed their disgust of Petitioners' property and even the petitioners themselves, claiming Petitioners' then 6-year-old posed "health risk to other school age children" (A19). They threatened a lawsuit against the petitioners in December 2015 (Ex 24). They pressured the county to have the petitioners take down the initial building (A18).

After the initial building had been taken down, knowing that they had no evidence and jurisdiction on the area of Petitioners' initial building, they intentionally made false representations to force the petitioners to the court by falsely claiming that Petitioners were actively building multiple small buildings (CP 116; RP 7). Knowing that Petitioners were actively building their residential house, and the water pump house, as an accessory building allowable in the covenant, was indispensible in the building process (RP 11, 73, 74, 76) as well as the life and health of the petitioners and their children, the plaintiffs continue to pursue a court order to destroy Petitioners' pump house, the only water source that cannot be placed anywhere else since Petitioners' building plan and permit does not include a garage or any alternative space (the blueprint was presented in the court on April 15, 2016 - RP 11). Under the Constitution that secures everyone life, liberty and the freedom to choose a life to live for happiness, does the bigotry on the area of a no-longer-existing building entitle the plaintiffs to endanger the life of other citizens?!

Deliberate falsification and manipulation of evidence can be found throughout the court record (RP 7, 18, 118; CP 116; A2-5; Brief of Respondents). A more detailed exposure of the fraud can be found in Appellants' Response to Respondents' Brief (Response to Respondents' Failure to Respond). Now in the Court of Appeals, instead of reviewing

facts and evidence in the trial court, the Unpublished Opinion even further distorts the court record to depict Petitioners as being ignorant of law. **On page 3**: "In December, … Zhu continued construction on the property, attaching a tarp to the side of his storage shed that covered an adjacent concrete pad." This statement gives one the impression that there was a two-story shed first, then Petitioners ignored warning from the plaintiffs and added a tarp to the side of the shed. The court record clearly shows that 1. October 2015 is the time when all construction activity came to a complete stop (CP 87). December 2015 was the time Plaintiffs sent their attorney's warning letter for a lawsuit (Ex24); 2. There had never been a tarp attached to a shed (Ex 5; CP 87; CP 195; RP 82, 118-119). The tarp had been blown away by wind (RP 75, 106) before the two-story part of the building was built; 3. The tent is a metal frame structure with concrete footing and was later built into the wall of the 2-story shed (Ex 5; RP 75, 106; CP 195, CP 51).

In face of court record, the Court of Appeals does not appear to think the "typo" or "misinterpretation" needs to be corrected while claiming that they do not see how Petitioners' Constitutional rights were violated. "This reminds people of Hitler's Germany, Stalin's Russia and Mao's China. All of these atrocious regimes had been overthrown by the people. Can we allow the same atrocity exist in the United States of America, the only

country in the world who engraves the basic human rights, life, liberty and the pursuit of happiness into her Constitution? ” (Defendants’ Response to Plaintiffs’ Response to Defendants’ Motion for Reconsideration)

From the contents of Unpublished Opinion, it is evident that No. 49445-1-II had not been reviewed at all. Other distortions of facts and court record in Unpublished are now listed as follows:

12) **On page 11:** “… In addition, Zhu testified at the hearing that the first building that he constructed on his property was a storage shed. ” To be unambiguous, the initial part of the shed was a metal framed structure with concrete slab which got extended later for the construction of the 2-story part of the building (RP 75, 106-107, 118-119).

13) **On page 13:** “… the area under the tarp cannot be considered a building because it is not permanent, and it is mobile in construction.” The wind blew away the tarp, not the metal frame, concrete slab, concrete pillars and wall (Ex 5, CP 195, CP 21). There is no such “mobile tarp” concept throughout court record. To be unambiguous, “area” does not equal “building”. Please do not displace the concept when discussing the area of a building.

14) **On page 3-4:** “In April 2016, … Later that month, Zhu removed

the second story of the storage shed." The building was taken down from roof to concrete slab on March 2nd and 21th , 2016 (CP 48). April 2016 is the time Plaintiffs started their fraud lawsuit (CP 116, CP 72).

15) On page 2: "Zhu … arguing that … the trial court (b) it improperly interpreted the term "building"". This is a logical fallacy by citing out of context. Petitioners only asked which one was the initial building, the one commenced in 2014 and taken down in 2016, or the one built in 2015 (water pump house). To be unambiguous, Petitioners never argue about the term "building". It is "building area" that has been in dispute.

Page 12: "Interpretation of "Building" … Zhu suggest that the area under the tarp attached to his storage shed and the area under the eaves of the shed should be included in calculating the square footage of a building. We disagree." There had never been a tarp attached to a shed (Ex 5). Again, please do not confuse the concept "building area" and "building". Please refer to building code for definition.

16) On page 7: "… excluding expert witness testimony regarding the Clallam County building code definition of "building area." Zhu failed to preserve these issues for appeal." Building code is law.

Petitioners do not have to preserve the definition or standard for building area in building code. The definition of building area is given as: "*The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above*" (CP 172, 21, 165)

17) On page 9: ".. we will not substitute our judgment for that of the trial court." On page 10: "Because we do not review a trial court's credibility determinations, we do not review Zhu's argument." By distorting the court record, the Court of Appeals already substitutes its judgment for that of the trial court. The trial court judgment on the related building area is: 1. "at commencement of construction" (RP 18); 2. Rejection of "aggregation theory" (April 15, 2016 court hearing) and "area under the eave" (June 15, 2016 court hearing). Petitioners had never had an "aggregation theory" (RP 13, 118) as maliciously claimed by the Plaintiffs and their counsel. The standard of "area under the eave" and "all areas that are artificially created with building materials" (RP 82) is Petitioner's personal point of view, not a bigotry. 3. "length times width", which equaled 1160 in the court (RP 109).

18) On page 10: “the shed itself, as well as the area under the eaves of the shed and the area under the tarp attached to the shed, totaled 1,100 square feet in area.” Page 11: “… because the shed itself, the area under the eaves of the shed, and the concrete pad under the tarp attached to the shed totaled 1,100 square feet in area.”
The court record shows that “1100” is a result based on “length times width” (RP 109), not “aggregation” or “addition”.

19) On page 11: “The Neighbors filed affidavits detailing the size of both the storage shed and the water pump house.” The plaintiffs had never detailed the size of the shed. Plaintiffs had never provided any measurement of the shed even though their counsel had a chance to inspect Petitioners’ property.

20) On page 12: “… The primary goal in interpreting a contract is to give effect to the drafter’s intent…” The covenant allows a residential house and its accessory building such as the water pump house. The covenant allows people to build house and live there. Because water is a prerequisite for a building permit (RP 89-90) and is indispensible during the construction process, it is not surprising that the water pump house was built prior to the main house.

21) On page 15: “Due process violation… Zhu argued… but he provided no authority for his argument, and he does not argue how his due process rights were violated.” The official building area of Petitioners’ initial building was 970 square feet by fact and law. Falsification and manipulation of evidence does not change the fact. The misconducts of the plaintiffs had been reported to the police and referred to the prosecutor (Clallam County Sheriff Department # 2016-27254; A 20). Without a Due process, even the trial court did not think it had enough “information” to justify the destruction of Petitioners’ water pump house (RP 158). Regardless, Petitioners’ water pump house is ordered to be destroyed without a jury, endangering the life and health of the whole family.

Conclusion

The fact is: the initial building on Petitioners' property is 970 square feet. This is unchangeable. In order to change this basic fact, the plaintiffs waited impatiently to see the building being taken down (A 18) and filed their lawsuit with false "declaration" (CP 116) and misrepresentations (CP 116, 72) right after the building had been taken down. Petitioners' testimony was manipulated and falsified in the court and in the Court of Appeals (Appellants' Response to Respondents' Brief (Response to Respondents' Failure to Respond)). Different stories were created and forced upon Petitioners for the no-longer existing building: aggregation of shed and garage (RP 18), aggregation of garage and pump house (RP 118), aggregation of garden shed and storage shed (Appellants' Response to Respondents' Brief (Response to Respondents' Failure to Respond)), and "a tarp attached to a storage shed" (A 3). Different strategies were used against Petitioners: not allowing Petitioners to clarify his testimony in the court (RP 19-20), confusing people with concepts of "garden shed" and "storage shed" (Appellants' Response to Respondents' Brief (Response to Respondents' Failure to Respond)), displacing the topic of discussion from "building area" to "building" (CP 129; A2, A12), ignoring building code (CP 129), etc.

RCW 9A.72.080 prohibits statement of what one does not know to be true in the court. RCW 9A.72.150 prohibits tampering with physical evidence. There is no evidence or reasonable inference from the evidence to justify the area of a no-longer existing building being less than 900 square feet, let alone the decision to destroy Petitioners' water pump house.

Washington State Court Rule ER 403 requires exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time. Plaintiffs had never provided any measurement of the building. The court had never proposed any measurement standard other than "at commencement of construction" and "length times width". Such bigotry even excludes the applicable law, building code.

Washington State Uniform Declaratory Judgments Act RCW 7.24.060 provides refusal of declaration where judgment would not terminate controversy. The court has no jurisdiction on the area of a building they had never measured or even seen. However, in violation of building code, the court declares the building being less than 900 square feet. Ignoring the due process, under uncertain circumstances (RP 158), the court even orders the destruction of Petitioners' water source, depriving Petitioners' basic human rights and Constitutional rights. All these will never terminate the controversy. In the trial court, Petitioners filed a motion to protect petitioners' water pump house and equal rights in the community

regardless of the dispute of the area of the no-longer-existing initial building (A 22-26), but have not yet received any response. The lives of Petitioners' whole family are threatened pending the destruction of the water source.

Executed in Sequim, Washington, this 31th day of August, 2017.

Respectfully submitted,

Maolei Zhu, pro se

Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Review had been sent via email to Respondents' counsel, Christopher J. Riffle, Attorney WSBA #41332, Platt Irwin Law Firm, 403 South Peabody Street, Port Angeles, WA 98362, on the 31th day of August, 2017.

Maolei Zhu, pro se

Appendix

McFall, Barbara

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From: sharonlaska@aol.com
Sent: Tuesday, February 23, 2016 5:01 PM
To: sharonlaska@aol.com; McFall, Barbara; Warren, Annette; Winborn, Mary Ellen
Subject: Re: Follow-up on red-tagged property on Roberson Road in Sequim

Dear Barbara,

It is one week away from Mr. Zhu's deadline (March 1st) to take down his structure. Do you have any follow-up information for us? FYI, he is currently digging up sod and putting up stakes and colored string. I don't see a permit application on file with the county. Can you shed any information on this? Thank you. Enjoy the sunny weather this week.

Sincerely,
Sharon Laska and Joseph Walsh

Health Risk to Public

Lot in question – parcel no. 043004-230020, Zoned R5

Address: 626 Roberson Road, Sequim, WA

Owners: Madlei Zhu and Yongjie Huanng

The owners and a school age boy are camping in a RV on the lot. The RV has not moved in months.
^
4

According to public records:

The lot has a building permit for a septic tank, but no record of septic tank approval. – no septic installed

There is no record of permit or approval of a well or visible well head.

There is electricity.

There is a mail box.

There is no record of an occupancy permit.

There is a small building under amateur construction. If one story in will be under 400 square feet. If the building is a two story, it will be over 400 square feet. The above owners say they will live in the building, when finished. The building has no visible plumbing or water. – not being constructed to meet the building code requirements

Significant Health Risks to Public:

* Both owners are RNs working for a local senior care facility.
* There is a school age boy living on the prosperity, which poses a health risk to other school age children.
* The properity adjoins a farming irrigation system.

Department of Health and Human Services

RE: case 2016-27254 update per prosecutor

Sampson, Stacy <ssampson@co.clallam.wa.us>

Mon 1/30/2017 10:10 AM

To: Ray Zhu <rayzhu13@outlook.com>;

Your case was forwarded to the Prosecutor's Office for a charging decision. This new information received today has been sent to them as well.

From: Ray Zhu [mailto:rayzhu13@outlook.com]
Sent: Monday, January 30, 2017 7:41 AM
To: Sampson, Stacy
Subject: case 2016-27254 update per prosecutor

Deputy Sampson,

After your referral of my case to the prosecutor, I had a meeting with prosecutor Mark Nichols last week. Here is the information from the meeting:

1. If anybody is trying to damage my property, either by means of explosives, or any other criminal acts, I should report to the police. The prosecutor will prosecute the person based on the police report of investigation.

2. Perjury is a criminal offense. The prosecutor will prosecute the person with criminal charge based on the police report. The prosecutor understands that the police investigation into perjury may be delayed due to urgency and priority of cases, but there should be a police report before the prosecutor can bring up a criminal charge against the suspect.

3. Conspiracy offense may be difficult to prove in the court. The prosecutor will determine if the conspiracy is chargeable in the court based on police report. However, the prosecutor gave an example of chargeable conspiracy offense: if a person put marijuana into a child's food, the person's intent is very obvious and indisputable. The person should be charged with conspiracy offense.

4. It is true that a citizen cannot bring up private action against another citizen with criminal charges. It is the prosecutor's job to prosecute a suspect with criminal offenses based on police investigation. The prosecutor cannot do the investigation. However, based on what I reported verbally, the prosecutor stated he was not ruling out the criminal offenses.

I have filed a lawsuit against the suspects (Clallam County Superior Court case 16-2-009690) entitled COMPLAINT FOR PRELIMINARY INJUNCTION; PERMANENT INJUNCTION; CIVIL PENALTIES; AND ANCILLARY RELIEF for VIOLATION OF RCW 9A.72.020, Perjury in the first degree; VIOLATION OF RCW 9A.72.080 ,Statement of what one does not know to be true; VIOLATION OF RCW 9A.72.150, Tampering with physical evidence; and VIOLATION OF U.S. Code Title 18, Part I, Chapter 13, 241 –Conspiracy against rights.

Except for RCW 9A.72.080, Statement of what one does not know to be true, all others are criminal charges. The suspects filed a motion to try to dismiss my case by choosing Judge Melly as the Judge. I filed Affidavit of Prejudice. Now no judge in Clallam County is willing to be the judge for their motion. The suspects' motion will be brought to the visiting judge on February 17. My complaint cannot and will not be dismissed because RCW 9A.72.080 still stands. In face of preponderant evidences for violation of other status, however, the suspects may

escape the charges because of “no private action allowed”. I understand that there may not be enough time for you to finish the investigation before February 17, and thus the prosecutor is unable to charge the suspects. But I wonder if there could be a preliminary police investigation report ready by the end of February 16.

The suspects have evidenced themselves for their criminal offenses. The judges also see that my case is not a civil dispute that they can simply come in and judge. Only the police investigation can bring the suspects to justice. Here I also attach some of my case analysis entitled 2nd report per prosecutor. Hope this will help facilitate your investigation process. I have a list of evidences in 18 exhibits that can be sent to you any time in need. Please let me know. Thank you.

Sincerely,
Maolei (Ray) Zhu

IN THE COURT OF APPEALS
SECOND DISTRICT
WASHINGTON STATE

Court of Appeals No. 49335-7-II
Clallam County Superior Court No. 16-2-00260-1

Maolei Zhu and Yongjie Huang

Defendants-Appellants

v.

Sharon Laska, Joseph Walsh, Peter and
Jenifer Lux, Donald and Susan Sorensen,

Plaintiffs-Respondents,

APPELLANTS'RESPONSE TO RESPONDENTS'BRIEF
(Response to respondents' failure to respond)

Maolei Zhu
626 Roberson Road
Sequim, WA 98382

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- Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time, Washington State Court Rule ER 403
- Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures
- Deprivation of Rights under Color of Law, 18.U.S.C. 13.242
- Conspiracy against Rights, 18.U.S.C. 13.241
- Federal Rules of Civil Procedure, Rule 57 Declaratory Judgment
- Federal Declaratory Judgment Act
- Washington State Uniform Declaratory Judgments Act RCW 7.24.060: Refusal of declaration where judgment would not terminate controversy

The Purpose of Respondents' Brief

Instead of responding to the appellants directly, in order to confuse and mislead the Court of Appeals, the respondents recklessly manipulated and falsified evidence, and knowingly made false statements. The details of the respondents' perjury offense are listed in this Appellants' Response to Respondents' Brief. One of the examples of the respondents' perjury offense in the Court of Appeals is their deliberate creation of the "garden shed/sandbox" concept (Respondents' Brief, Page 6; and page 9, line 16), interpreting out of context from the appellant's original testimony: "*building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox*." (RP 13; C.P. 102)

Through confusing the issue, the respondents are trying to avoid the specific, fundamental question in this case: **What is the area of the appellants' initial building?** The respondents have never provided any measurement or any authorized document to "prove"[1] their hypothesis that the appellants' initial building was less than 900 square feet.

In Respondents' Brief, the respondents intentionally omit the trial court's most important finding in their "substantial evidence": **"***The fundamental flaw in the defendant's argument is that they equate*

[1]To "prove" a hypothesis, the hypothesis must be testable against both supportive and refuting evidences. Here the respondents came to the trial court with "sufficient funds" (Ex 24) and a whole bunch of pictures irrelevant with building area for "fact-finding hearings" (RP124), but only found out the official building area is about 1000 square feet based on building code, and there are different standards to determine the area. They achieved their goal to harm the appellants by falsifying, manipulating and omitting evidence, and through abuse of discretion.

*"building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"**

(C.P. 127).

The respondents have not yet responded to the errors pointed out by the appellants – the only reason that makes the appellants and respondents come to the Court of Appeals.

. The respondents claim they treat the appellants' arguments as "an evidentiary argument" (Respondents' Brief, page 11) but refused to present any counter evidence to challenge the appellants' arguments, or even talk about whether or not the evidence in the appellants' arguments was true or false.

The respondents refused to talk about the whole initial building that is under the regulation of covenant and alleged by the respondents, and insisted on isolating the shed part from the whole building regardless of fact and law, the building code.

The respondents started their fraud lawsuit to restrain the appellants knowing that the appellants were actively building their 2700 square feet

house. "*Specifically, the photograph of a portable toilet attached as Exhibit A to the Supplemental Declaration of Ms. Laska cannot be a photo from January 8, 2016, because it depicts a portable toilet that was only brought in by Clallam County Habitat for Humanity for volunteers while assisting Defendants with deconstruction of the storage shed in March 2015. Exhibit B of the Supplemental Declaration of Ms. Laska is not additional construction, as she describes; in fact it is the beginning of a fence for a modest vegetable garden. Exhibit C of the Supplemental Declaration of Ms. Laska is not an area excavated for a new building; it is the beginning of a 3,000 square foot tennis court."* (C.P. 72, 43-48 with county officers' testimonies)

In defiance of laws, while clearly there was no merit at all, the defendants filed a motion on merits to try to block the truth, and continued to try to destroy the appellants' property. The respondents' motion had been denied by the Court of Appeals.

The following picture is the current condition on the appellants' property. The appellants' 2700 square feet house on the background of the white van has been on the property since November 2016. The RV on the right of the picture is actually on where the initial building used to be. The appellants and their young child are currently living on the RV. The water pump house the respondents are trying to destroy is the small building

with one window and black roof between the RV and the two-story house. The left edge of the picture shows the posts used for fencing the garden which had been falsely claimed in the trial court by the respondents as a site for another building less than 900 square feet, leading to the temporary restraining order on April 15, 2016.

The appellants and their child and animals rely on the water coming from the pump house. This is the life the respondents are conspiring to destroy.

The trial court order (Clallam County case # 16-2-00260-1) is illegal because of its fundamental fraud and violation of Federal rules of civil procedures. The case is under investigation by Clallam County Sherriff Department (Case #2016-27254). The appellants have also filed a lawsuit against the respondents (including their attorney Mr. Riffle) for violation of **RCW 9A.72.020, Perjury in the first degree;** VIOLATION OF RCW 9A.72.080 , Statement of what one does not know to be true;

VIOLATION OF RCW 9A.72.150, Tampering with physical evidence; and violation of **U.S. Code Title 18, Part I, Chapter 13, 241 – Conspiracy against rights (**Clallam County 16-2-00969-0, COMPLAINT FOR PRELIMINARY INJUNCTION; PERMANENT INJUNCTION; CIVIL PENALTIES; AND ANCILLARY RELIEF).

A Review of Respondents' Logical Fallacies

The respondents and the trial court have committed the following logical fallacies in their arguments, resulting in invalid arguments:

1. Fallacy of quoting/interpreting out of context

1) From the context of the appellant's testimony on April 15, 2016, it is clear that there were two parts of a structure that were attached to each other (RP 13). On June 15, 2016, the appellant testified that the shed was built on the extension of the footing of the sandbox (RP 75). All these above, however, were falsified into an "aggregation theory" (Respondents' Brief, page 15).

2) From the context of the appellant's testimony on April 15, 2016, it is clear that the appellant was talking about only one shed. The garden shed and the shed mentioned in the statement refer to the same thing. However, the respondents created a concept of garden shed/sandbox, and maliciously claimed that the appellant tried to add the garden shed area to

the storage shed area (Respondents' Brief, Page 6; and page 9, line 16; Respondents' Brief, page 16), comparable to the respondents' claim on June 15, 2016 that the appellant tried to add the area of the shed to the area of the pump house (RP 118).

3) From the context of the appellant's testimony on June 15, 2016, the appellant was using different standards to determine building area, consistent with the court's ruling: *Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building."* (CP 127) On April 15, 2016, the appellants' statement related to the April 13, 2016 email with the county was consistent with government authority and building code standard. The respondents alleged that the appellant "*made no attempt to claim that the sandbox contributed to the storage shed's square footage. Thus, Mr. Zhu's testimony was inconsistent.*" (line 4-5, page 17 in Respondents' Brief). In fact, the conclusion should be the opposite: the appellant was consistent in his testimony regarding the sandbox area. The sandbox does not contribute to the shed's square footage. Instead, it contributes to the area of the whole initial building. The sandbox and the shed are two integrated parts of a building.

2. Fallacy of disguised displacement of concept

The latest example is in respondents' current Respondents' Brief by replacing the appellants' sandbox/tent area with their newly invented "garden shed/sandbox" area (Respondents' Brief, Page 6; and page 9, line 16). Their purpose is to confuse the issue and the Court of Appeals.

The covenant regulates the initial building. The respondents' disguise in their fraud lawsuit is about whether or not the appellants had built an initial building that was less than 900 square feet. In Respondents' Brief, the respondents keep talking about the storage shed and try to give the Court of Appeals an impression that the shed part is the whole initial building. The sandbox was initially built before the shed part. The respondents are trying to avoid the "**initial building**" concept in the covenant.

The respondents' fallacy is to avoid **the real topic of argument: the shed is only part of the building, not even the initial part of the building.**

3. Fallacy of incomplete evidence

The appellants are consistent in testifying the structure of the initial building: April 15, 2016, the appellant testified with government's agreement that the structure had two parts: the sandbox and the shed; on June 15, 2016, the appellant testified that the sandbox area was initially building while the shed part was built on the extension of the sandbox's

foundation. The respondents refuse to consider the structure of the appellants' initial building and isolate the shed part from the building in their argument.

In Respondents' Brief, the respondents list 3 "substantial evidence" to try to "prove" that the findings of fact in the trial court support their hypothesis that the appellants' initial building was less than 900 square feet. However, they intentionally omitted the trial court's most important finding (C.P. 127): **"***The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"** While "length times width" equaled 1160 square feet (RP 109), the trial court ordered 1160 square feet less than 900 square feet. **The respondents have chosen not to respond to any argument on the trial court's ultimate excuse to restrain the appellants and to damage the appellants' property.**

The respondents intentionally waited until the appellants' initial building had been taken down before they filed their fraud lawsuit. The respondents intentionally committed the fallacy of incomplete evidence.

When the appellant was making his testimony on RP 13, the April 13, 2016 email communication with Officer McFall (CP 102) had been handed in to the trial court judge. "*here I have a conversation with the -- (inaudible) conversation from the County, from the law enforcement*

officer -- code -- building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox." This email message had been filed in the court on April 15, 2016, but was completely ignored. Now in Respondents' Brief, the respondents intentionally ignored the appellants' argument on page 6-7 in Appellants' Brief: "*The April 13, 2016 email communication with Officer Barbara McFall supporting the appellant's testimony had been handed in to the Judge and had been filed in the court (C.P. 102). But this evidence had never been discussed or questioned in the court.*" The respondents had chosen not to respond. Instead, they try to take advantage of the appellants' English difficulty to confuse the Court of Appeals.

This email conversation (C.P. 102) conveys three messages: (1) the alleged building is about 1000 square feet, thus is in no violation of covenant; (2) the building had been taken down in March 2016 in contrary to the "*ongoing*" less than 900 square feet construction activity as claimed by Mr. Riffle and the plaintiffs (R.P. 7-8; C.P. 100, 116), thus the restraining order cannot be justified especially knowing that the 2700 square feet house was already in the building process; (3) the fact that the plaintiffs (Laska and Walsh) have been harassing the appellants is well known and documented in the County.

During the period of motion for reconsideration, the appellants pointed out that the sandbox and the shed share the same foundation and one solid wall (C.P. 174). On July 7, 2016, the government provided the official building area 970 square feet based on building code for building area definition (C.P. 51).

The respondents claim (page 22, Respondents' Brief) that the temporary restraining order "*is not appealable as a matter of right*" despite of the violation of the appellants' legal rights. But the court and the respondents had falsified the appellants' testimony as an "evidence" to issue not only the temporary restraining order on April 15, 2016 but also the permanent restraining order on June 15, 2016. Now, in Court of Appeals, the respondents are still trying to use the appellant's testimony on RP 13 as a disguise of their "*aggregation theory*".

4. Fallacy of circular reasoning

The respondents are basically making the following statement throughout their fraud lawsuit: *The appellants' violation of covenant should be punished because the appellants had violated the covenant.*

The respondents claim that, their first attorney already notified the appellants of their violation of covenant as early as in June 2015, but the appellants continued to build the initial building. Thus the respondents

came to the conclusion that the appellants knowingly violated the covenant.

The respondents claim that their second attorney, Mr. Riffle, warned the appellants of the violation of covenant in December 2015. Riffle falsely claimed the appellants continued to build the initial building with "the attempt to put a second floor on" in January 2016 (RP 7). Thus trial court came to the conclusion that the appellants were actively violating the covenant, and restrain the plaintiffs using discretion power given by Declaratory Judgment Act. However, on June 15, 2016, knowing that the defendants had committed criminal offenses (CP 100, 116; *RP 64*) to meet the condition for the application of Declaratory Judgment Act: "active", "ongoing" violation, the trial court still exercises his discretion power to destroy the appellants' property.

For this fallacy, the respondents must first prove whether the appellants violated the covenant. They could have done that in 2015 without the need to falsify evidence on April 15, 2016 and continue to falsify the appellant's testimony throughout their fraud lawsuit.

5. Fallacy of changing the subject within one argument.

In Line 17-19 on page 21 in Respondents' Brief, the respondents state, "*Unless and until Appellants construct a building that is greater than 900 square feet in area, any building that is constructed that is less than 900*

square feet violates the Restrictions." Then the respondents hastily jumped into their conclusion: "*Thus, the trial court …, and its order regarding a certificate of occupancy was an equitable-fashioned remedy within its discretion.*"

The respondents' fallacy lies in the fact they have not established, and did not even attempt to prove there is a connection between the violation of Restrictions (covenant) and a certificate of occupancy. The covenant and the certificate of occupancy are two different subjects. There is no court record on such certificate.

6. Fallacy of argument from ignorance and non-testable hypothesis

The respondents were not sure about the area of the appellants' initial building, but hired two different attorneys to allege the appellants in 2015 that the appellants' initial building was less than 900 square feet. With their "*unfolded suspicion*" (C.P. 143), the respondents went to a "*fact-finding hearing*" (RP 124). The respondents' "*substantial evidence*" includes testimony of Laska which is either a lie or a hypothesis, the appellant's testimony which contradicts the respondents' allegation, and Officer McFall's measurement of the ground level of the shed part of the initial building. The respondents' hypothesis that the appellants' initial building was less than 900 square feet is non-testable in light of law

(building code) and fact (the sandbox is the initial part of the initial building).

7. Fallacy of dogmatism, the unwillingness to even consider the opponent's argument.

In Respondents' Brief, the respondents ignored the appellants' arguments on the errors found in the trial court – the only reason that makes the two parties together. The respondents claim they treat the appellants' arguments as "an evidentiary argument" (Respondents' Brief, page 11) but refused to present any counter evidence to challenge the appellants' arguments, or even talk about whether or not the evidence in the appellants' arguments was true or false.

The respondents refused to talk about the whole initial building, and insisted on isolating the shed part from the whole building regardless of fact and law, the building code.

8. Fallacy of weasel words

In the Respondents' Brief, the respondents have created concepts and made statements that are intentionally ambiguous or misleading. One of the examples is "*garden shed/sandbox*" (Respondents' Brief, Page 6; and page 9, line 16).

In Respondents' Brief, page 15, line 13, the respondents refer to RP 75 as evidence for the "*aggregation theory*". Review RP 75, however, the

message being delivered is: **the foundation of the tent area got extended to build a shed for storage purpose.** What make it so difficult for the respondents to see this simple message? The respondents are intentionally making more difficult for the judges in the Court of Appeals to understand the whole situation of the case.

On page 9, Respondents' Brief, the respondents selectively cited truncated sentences from the appellant's testimony (RP 78) to take advantage of the appellant's language difficulty. But the true purpose is to confuse the Court of Appeals.

Respondents' Fraudulent Statement of the Case

On April 15, 2016, Riffle had already presented Laska's "supplemental declaration" (CP 116) in the court that he knew was false. Here, in face of the Court of Appeals, Riffle once again knowingly presented fraudulent statements:

1) The appellants never invited Laska et al to the appellants' property (Respondents' Brief, Page 4), let alone invited Laska et al to "view" the construction (RP 95).

2) Manipulation of time: The picture taken by county officer McFall on July 2, 2015 (Ex 5) shows the existence of the second floor of the shed. On page 4, Respondents' Brief, however, the respondents falsely claimed

"in August 2015, appellants began constructing a second story on the storage shed". August 2015 is the time when the respondents found Riffle after they fired their first attorney (RP 46; Declaration of Sharon Laska, Motion for Temporary Restraining Order).

3) The purpose of the respondents' attorneys' letters to the appellants is incorrect. Riffle's letter in December 2015 (Ex 24) threatened that no matter whether the appellants took down the building or apply for a permit for the building, the respondents would still file the lawsuit against the appellants with "*sufficient funds*". The statement that "the appellants failed to respond" to their attorneys' letter is incorrect (Appellants' Brief, page 13-14). Electronic record can be tracked although Riffle stated in the court that he did not "recall" (RP 16).

4) There was no storage shed building at all at the end of March 2016 before the respondents filed their fraud lawsuit against the appellants (Respondents' Brief, Page 5). Habitat for Humanity took down the whole building including the metal frame of the sandbox, roof, all walls except a half wall that was built to code. The building area was zero according to building code standard (RP 64). It took two days to complete the deconstruction process. The Exhibit A in Laska's Supplemental Declaration shows the status after the first day's deconstruction while

Riffle falsely claimed in the court that the appellants was in "the attempt to put a second floor on it" in January 2016 (RP 7).

5) Laska et al in fact did not use the pump house as evidence to sue the appellants on April 15, 2016 (Respondents' Brief, Page 5; CP 116). Inconsistent statement on the reason why the respondents filed the fraud lawsuit against the appellants at the end of March 2016 (Respondents' Brief, Page 5). The respondents filed their fraud lawsuit not because of the "*single story storage shed and pump house*" (Respondents' Brief, Page 5), but because of the presence of the appellants' garden and the appellants' construction activity on the tennis court – the only "active", "ongoing" "violation of Restriction" (CP 99, 116). The respondents had explicitly threatened to sue the appellants regardless whether the initial building stayed or come down (Riffle's December 2015 letter).

6) Continues to falsify the appellant's testimony on April 15, 2016 by stating "Mr. Zhu argued that the trial court should not issue a TRO because the structures on his property totaled more than 900 square feet in area". The appellant's testimony (RP 13) refers to "structure", not "structures". The email conversation with Officer McFall (CP 102) was handed in to the court at the same time when this testimony statement was made.

7) Continues to falsify the appellant's testimony on April 15, 2016 by making a subtle change of the verbatim from "*A garden shed actually is attached with a sandbox with cover*" (Verbatim Page 13) to "*A garden shed actually is attached with a sandbox* ***cover***" (Respondents' Brief, page 6, line 1). The appellant has difficulty in oral English and said "storages" while he meant "stories". From the context, it is clear that the appellant was talking about only one shed that was two-story.

8) Purposely created a concept "garden shed/sandbox" to try to confuse the judges in the Court of Appeals (Respondents' Brief, Page 6; and page 9, line 16).

9) Make ambiguous statement "measurements of counsel" for evidence for the area for the initial building (Respondents' Brief, Page 7, line 7). Riffle did not measure the dimension of the ground level of the initial building. Riffle did not have any interest in doing the measurement when he inspected the appellants' property for any possible violation.

10) Manipulates the appellant's testimony on June 15, 2016 (Respondents' Brief, Page 9, line 4-10). The authentic expression can be found on page 78 in the verbatim, which is a much more understandable expression: the areas under roof. The respondents take advantage of the appellants' language difficulty and intentionally make selective quotations to distort

the appellant's testimony and to confuse the judges in the Court of Appeals.

11) The appellant did not "*contend that the square footage of the storage shed should be calculated not only by the dimensions of the building itself, but by the dimensions of an extending concrete slab*" as the respondents claimed (Respondent's Brief, page 9). The area 1160 square feet calculated by Riffle (RP 109) was the area of the concrete slab that the respondents were trying to destroy. On June 15, 2016, the appellant talked about different standards to determine building area: "*any area under the roof should be taking into account*" (RP 82), or "any area I artificially create and I can utilize." (RP 82)

Evading the Issues by Making "Counterstatement"

The appellants had presented 2 issues for review:

1) What is the area of the initial building on the appellants' property?

2) What is the legal ground to order damaging and destroying the appellants' property? Is there any court record to support the order to mandate the appellants to produce a certificate of residency to the plaintiffs?

The respondents presented 3 "counterstatements" of the issues:

1) "Substantial" "evidence" supports the trial court's ruling that the

appellants violated the covenant.

2) The appellants knowingly built the initial building less than 900 square feet. The trial court thus orders the appellants to produce a certificate of occupancy, or face the demolishment of the secondary building, the water pump house on January 1, 2017.

3) The respondents and their attorney, and the trial court had no misconduct or violation of law.

Here the respondents are trying to avoid being specific. The respondents are trying to avoid any direct argument on any specific evidence. One of the examples is: the respondents avoid talk about whether there is any legal ground for the trial court to order "no tennis court" (RP 157; Appellants' Brief, page 25)

In order to make "counterstatement" 1) and 2), the respondents must first answer the fundamental question: **what is the area of the appellants' initial building?!** The truth is: the appellants can only violate the covenant if the initial building was less than 900 square feet. By law (according to building code), the initial building on the appellants' property consisted of the tent/sandbox part and the shed part, and was 970 square feet. This building area is verifiable on site and by the government's authority.

A "certificate of occupancy" came from nowhere in the trial court's

record. Instead of providing any argument, clue or hint in the covenant or any "established" law that there is a connection between the covenant and the "certificate of occupancy", the respondents are trying to make the issue ambiguous by depicting the appellant as an individual knowingly violating the covenant. The respondents had skipped reading the appellants' bolded statement in the Appellants' Brief: **Mr. Riffle should not question the appellant's credibility against the evidence (R.P. 131). What he could question is, in fact, the standard that should be followed for building area determination.** This is why we need a legal system. The applicable law, building code, provides the standard. If building code is not followed, the initial building could be less than 400 square feet (CP 83), or more than 1160 square feet (RP 82, 109) according to "any area that is artificially created with building materials". The government's official area for the alleged building 970 square feet based on building code has resolved the dispute between the plaintiffs and the appellants.

The appellants do not propose or claim any misconduct or felony committed by the respondents without pointing out to a specific evidence. The respondents evidenced themselves in their fraud lawsuit to try to deprive the appellants' legal rights. The respondents' fraud had been proved by facts and the government officials' testimonies. For "counterstatement" 3), the respondents have not been able to answer any

of the fundamental questions raised by the appellants in Assignment of Errors in Appellants' Brief. Just list two of the questions: Is there violation of Federal Rules of Civil Procedure, Rule 56 (c)? Did Riffle knowingly make false statements in the court (RP 7-8)?

INCOMPLETE STANDARD OF REVIEW

The "substantial" standard proposed by the respondents is associated with not only "rational" and "facts" but also "legal procedures" and "laws".

The trial court's judgments drafted by Riffle from hearings on April 15 and June 15, 2016 were not actual findings of fact but the contrary to fact. The trial court's judgment of the initial building being less than 900 square feet by singling out the shed part from the whole building is irrational, and in violation of law, the building code.

"Substantial evidence" should not exclude any dispute. The "findings of fact" include all findings and evidences no matter the respondents like them or not. The trial court had come to a conclusion in violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures.

The respondents also "forgot" to mention the law used by the trial court: the Declaratory Judgment Act. The respondent "forgot" to mention

whether the Declaratory Judgment Act had been used appropriately by the trial court.

Introduction: Respondents' Failure to Respond

The only reason that makes the appellants appeal the court judgment and decision is because there are errors in the trial court procedure. The respondents have failed to respond to the following arguments related to errors found in the trial court:

1. Appellants' Brief, Page 1: *It had been* ***proved by the county building officers*** *and plaintiff Sharon Laska's own testimony that the plaintiffs started the lawsuits and alleged the appellants' violation of community covenant with* ***fraudulent claims*** *(C.P. 116; C.P. 98 filed on April 19; C.P. 87; C.P. 72, 43-48 with county officers' testimonies).* **The respondents failed to provide counter evidence or explanation** on how the appellants were wrong in making the above statement.

2. Appellants' Brief, Page 2: The trial court's judgment of the alleged building being less than 900 square feet was contrary to facts and evidences, and is against the law, building code. In Respondents' Brief, t**he respondents refuse to talk about the**

structure of the initial building, and refuse to talk about building code.

3. Appellants' Brief, Page 2: The order to restrain the appellants and to destroy their legal property was given based on matter outside the court record, and cannot be justified based on any law or contract. **The respondents failed to respond in that they were not able to associate a "certificate of occupancy" with "an initial building not less than 900 square feet" in the covenant, or with any Washington State's "settled law". The respondents failed to respond why the appellants' tennis court had to be destroyed.**

4. Appellants' Brief, Page 2: **Violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures**

The Court entered a judgment that completely excludes any evidence or testimony from the appellant (C.P. 52). **The respondents completely ignore this fundamental legal argument,** and refuse to provide any counter evidence that the trial court did not violate the civil procedure.

Take a look at the temporary restraining order, where is the appellants' testimony and evidence of a building less than 900 square feet? There was

none. Where is the evidence of the initial building being less than 900 square feet? There was none.

Take a look at the permanent restraining order, where is the appellants' testimony on the construction of the initial building? There was none. What is the standard used to judge the initial building was less than 900 square feet? There was none. Where is the appellants' dispute on how the area of a building can be calculated? There was none.

If the appellants had not appeal this fraud lawsuit, is there any way for anybody outside the trial court know about the presence of a dispute, the cry of the oppressed? No. **This is an explicit violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures.**

5. Appellants' Brief, Page 3: *Inappropriate application of Declaratory Judgment Act.* The respondents failed to respond although they have **intentionally created the condition for the application of Declaratory Judgment Act** using falsified evidence: "active", "ongoing" violations.

6. Appellants' Brief, Page 6: **Errors in admitting evidences (Violation of Federal Rules of Evidence 2015)**

1) A key evidence provided by the appellant had been ignored and omitted: the building has two integrated parts: the sandbox/tent and the shed. **The respondents failed to respond in that they**

intentionally created a concept "garden shed/sandbox" to try to confuse the Court of Appeals. The respondents' intention and behavior is consistent with how they falsified the appellants' testimony in the trial court (RP 13).

2) *A misbelief of the appellant's testimony on June 15, 2016 was inappropriately used as an evidence to go against the appellants by labeling the appellant having two different "theories".* **The respondents failed to respond in that they failed to point out if the appellants was wrong in presenting** the appellant's own understanding of "*any area I artificially create and I can utilize*" (R.P. 82) by taking into account of all areas under roof in the June 15 court hearing (R.P. 78-79, 81-82, 118-119); and if the appellants had ever made inconsistent testimony in the structure of the initial building, and the **tent/sandbox area.**

The respondents failed to respond to the appellants' following assertion: Mr. Riffle should not question the appellant's credibility against the evidence (R.P. 131). What he could question is, in fact, the standard that should be followed for building area determination.

In fact, the appellant's standard of all areas under roof or any area artificially created is consistent with the trial court's ruling:

"*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building"* (CP 127)

3) Appellants' Brief. Page 11: Bias in admitting evidences.

Prejudicial and frivolous evidences from the plaintiffs were admitted while the appellants' evidences were ignored. **None of the respondents' exhibit pictures showed any proof of the building area. The respondents failed to point out which of their Exhibit pictures indicates the area of the appellants' initial building.**

7. Orders were issued without evidence; Statements were made against facts. Without evidence, the Court can "*just hit the brakes*" even there is no evidence, and then "*hit the reset button*" if the plaintiffs were wrong, regardless of the harm they put on the appellants (RP 17). Riffle obtain a restraining order from the court by simply claiming his clients as "*reasonable people*" (R.P. 16). **The respondents failed to explain what "brakes" they are trying to hit, and what made Riffle believe other respondents are "reasonable".**

8. Abuse of Discretion in violation of Washington State Court Rules: Code of Judicial Conduct, Rule 2.3 Bias, Prejudice, and Harassment; Rule 2.4 External Influences on Judicial Conduct

1) Followed the law only when it is useful; the law was purposely utilized or neglected at the Judge's personal will. **The respondents failed to respond in that they intentionally omitted the most important judgment in the trial court** (C.P. 127)**: "***The fundamental flaw in the defendant's argument is that they equate "building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC").***"**

The trial court ordered a building on the same property not subject to the building code. However, the fact is: can anyone name a single building in the United States that is not subject to building code regulation? The answer is: No. Even a building without a permit does not mean that it can escape the regulation of building code. The second question is: does the covenant tells us the buildings in the community are not subject to building code regulation? The answer is: No. Another question is: does the Judge not know about building code? The Judge himself already provided the answer: No. Suppose the appellants chose to apply for a building permit for the alleged building instead of taking it down, the County would have issued a building permit for 970 square feet. Can anybody or any court change this fact? The answer is: No. In conclusion, the trial court judge is creating his own law to

govern the alleged building to make sure it was less than 900 square feet.

This is the foundation on which the trial court's decision to restrain the appellants and to destroy the appellants' property is based, the respondents have provided no argument at all.

2) *De Novo interpretation of the "initial building" that is subject to covenant restriction is needed.* The respondents failed to respond in that they **failed to point out their "*point*" in the covenant but simply claiming "*everything should be destroyed*"** on the appellants' property.

3) The order was issued based on matter outside the court record.

The respondents failed to provide answer to how the concept of certificate of occupancy came into the trial court.

Erroneous and Invalid Arguments with Manipulation and Falsification of Evidence

The respondents had abandoned the following "evidences" used in the trial court:

1) C.P. 146, a more direct evidence. How can the respondent choose not to use this evidence in the Court of Appeals? This is because it was Officer Warren who represents the government to officially declare the whole

initial building of the appellants was 970 square feet based on building code. The respondents have been defending themselves by ignoring the government's official letter on July 7, 2016. Keep in mind that it was Officer Warren who found the mistake of Officer McFall in July 2015 (CP 83) and came to the appellants' property in October 2015 to issue the "Stop Work" notice due to violation of building code. When the building code was not followed, Officer McFall considered the building was less than 400 square feet (CP 83). The respondents did not accept it and continued to put pressure on the County until McFall's director Officer Warren intervened.

2) The appellants "*did nothing to combat the allegation that this was less than 900 square feet, other than tear the building down.*" (R.P. 129) The respondents abandoned this argument because of their own contradictory arguments. This is an evidence of Riffle's tampering with evidence.

3) The respondents stated the 2015 building code provided by the appellants is "*inadmissible*" and proposed the 2012 building code (C.P. 143); while the Judge rules the building code does not apply to the alleged initial building at all (C.P. 130). The respondents abandon the argument on building code because they know that the appellants' initial building is indeed 970 square feet according to building code. The respondents are

afraid of any discussion of building code, the law for building area determination.

4) Keep in mind that the trial court's most important finding is: **"***The fundamental flaw in the defendant's argument is that they equate "building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"**

How can the respondents abandon the trial court's most important finding?!

After giving up the above positions/arguments, the respondents still want to argue based on their "substantial evidence". While doing so, the respondents did not forget to create **the following "substantial evidence":**

Falsifying the appellants' testimony in the Court of Appeals:

In Respondents' Brief, page 16, line 14-16: "*Mr. Zhu contended that the trial court should not issue a TRO because the garden shed/sandbox and storage shed totaled more than 900 square feet in area.*"

The appellants have been using the tent and sandbox area interchangeably. Throughout the trial court hearing, all parties had been talking about the shed that was two-story. The garden shed to "put tools away" is the same thing as the storage shed. It is the shed part of the building.

According to the respondents' "substantial" standard, **can any rational person interpret two parts of a structure into two different buildings?!**

Now in the Court of Appeals, the respondents continue to remain silent on the April 13 email communication with Officer McFall because they understand that even before the court hearing, Officer McFall agreed that **the two-story shed is only part of the building, not even the initial part of the building**.

In light of the fact that **the two-story shed is only part of the building, not even the initial part of the building,** all of the respondents' **circular arguments** fall apart. In the Plaintiffs' Response to Defendants' Motion for Reconsideration (CP 143), the respondents questioned whether the metal frame of a $200 tent can be counted as a building, and questioned the credibility of the picture taken by themselves secretly (not invited, the appellants were unaware) showing a common wall and the concrete foundation of the sandbox/tent area and the shed area. Now in the

Court of Appeals, the respondents give up their previous position and committed the logical fallacy of **circular argument** to avoid getting into the **real topic of argument**.

The appellants do not have the habit of evading any challenging argument. Here the appellants would like to talk a little more of the respondents' "substantial evidence":

Respondents' Brief, page 13: *The record supports the trial court's finding that the storage shed was less than 900 square feet.*

The **testimony of Laska (and accompanying exhibits)** had been proved fraudulent by the testimonies of government officers and the manager of Habitat for Humanity who helped with taking down the appellants' initial building. None of Laska's exhibits show any area of a building.

The **testimony of Mr. Zhu (the appellant)** proposed all areas under roof as the standard to determine the shed part of the building. This standard should be admissible according to the trial court's ruling: "*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building*". The respondents had never proposed any standard to determine the area of the building. The trial court did rule with one standard on April 15, 2016: "at commencement of construction" (R.P. 18). According to this standard, the sandbox, the initial part of the

building, should be counted together with the shed part of the building, totaling an area of about 1000 square feet (R.P. 13). The trial court did also rule with another standard on June 15, 2016: *THE COURT: Actually the formula might be easier length times width (R.P. 101)*. The respondents calculated part of the building area as 1160 square feet according this standard. In light of the trial court's ruling of "*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building*", the appellant may use his own standard of "*I seen the covenants say that square foot in area. That mean any area I Artificially create and I can utilize*." (R.P. 82) The 1160 square feet concrete slab could be the ground level of the initial building according this standard. The appellant's testimony in fact supports that even the shed part of the building was over 900 square feet depending on what standard is used to determine the area. **Mr. Riffle and the Court should not question the appellant's credibility against evidence** (R.P. 131, 154)**. What could be questioned is, in fact, the standard that should be followed for building area determination.** In the Defendants' Motion for Reconsideration, the appellants (defendants) emphasized the law, building code as the only acceptable standard for the court's judgment. The respondents have avoided any discussion of building code in the Court of Appeals.

Now the respondents have only one "*substantial evidence*" left: **the measurements of Officer McFall** (Respondents' Brief, page 13). Officer McFall's July 1, 2015 letter (CP 83) states that the shed was less than 400 square feet according to her measurements and therefore the appellants did not have to take down the building because of no violation of county code. The respondents did not accept this letter and continued to appeal to the County until building code prevailed (R.P. 55). At the end of October 2015, the appellants had to make a choice to either take down the building or to apply for a building permit (for a 970 square feet building). If Officer McFall continued her mistake in neglecting the building code, Officer McFall may declare that even the shed part of the building was more than 900 square feet. When the respondents cited Officer McFall's mistake as their "*substantial evidence*", the respondents must clarify how a "*rational fair-minded person*" would believe the mistake was not a mistake, and why they did not accept Officer McFall's mistake in 2015 and now they want to rely on it. The respondents should not just cite out of context for what they need, but provide all the related evidence.

Nonetheless, however, this is the only measurement used by the respondents to try to claim (**not prove**) the appellants' initial building was less than 900 square feet in area. Riffle had the opportunity to come to the appellants' property to inspect for any possible violation of covenant. He

could have at least provided the measurements of the ground level of the shed part of the initial building. But Riffle chose not to do so. Instead, he measured the secondary building, the water pump house in great details although the pump house is obviously far less than 900 square feet (less than 1/10) because he knew his job was to take down the water pump house as requested by his fund provider (the respondents).

In conclusion, based on the above facts, no rational fair-minded person would believe the respondents have any "substantial evidence" to claim the appellants' initial building was less than 900 square feet. There is also no "substantial evidence" that even the shed part (storage shed/garden shed) of the initial building was less than 900 square when building code was not followed in the trial court.

Now that the respondents have lost all their three **"substantial"** evidences, the appellants would like to point out a few more errors the respondents intentionally made in their two other **"thinly veiled"** arguments (Respondents' Brief, page 11, respondents' excuse for not responding to Assignment of Errors in Appellants' Brief):

b. *The trial court did not fail to consider the "sandbox/tent" area, and the July 7, 2016 letter is not part of the record. (Respondents' Brief, page 14-15)*

The appellant (Mr. Zhu) first testified about the sandbox/tent area during the TRO hearing on April 15, 2016 instead of during the permanent injunction hearing on June 15, 2016. The trial court did not allow the appellants to make further testimonies (R.P. 19, 20). The appellant's testimony (R.P. 13) had been twisted and falsified into an "aggregation theory" (Respondents' Brief, page 15, line 12) by interpreting "two part" of a "structure" into shed plus garage (R.P. 18) on April 15, 2016, storage shed plus pump house (R.P. 118) on June 15, 2016, and garden shed/sandbox plus storage shed (Respondents' Brief, page 9, 16) now in the Court of Appeals. The trial court and the respondents have been relying on their "aggregation theory" allegedly coming from the appellant's testimony in the TRO hearing on April 15, 2016.

In Respondents' Brief, page 15, line 13, the respondents refer to RP 75 as evidence for the "aggregation theory". Review RP 75, however, the message being shown is: **the foundation of the tent area got extended to build a shed for storage purpose.** What make it so difficult for the respondents to see this simple message? What make them so outrageous to present RP 75 as an evidence for "aggregation theory" to the Court of Appeals?

The respondents are most afraid of the government's official letter on July 7, 2016 to clarify the area of the appellants' initial building as 970

square feet based on building code. The respondents had tried very carefully not to mention it. In the Plaintiffs' Response to Defendants' Motion for Reconsideration, the respondents (plaintiffs) did not even mention this letter at all. The appellants (defendants) were totally fine with it as long as they began to talk about building code. However, the respondents tried to cover the fact by falsely claiming to the court that the 2015 building code proposed by the appellants was not admissible, and they proposed the 2012 building code. In fact, the 2015 and 2012 building codes are identical in defining building area (C.P. 132). The trial court mentioned that the appellants "*made no showing why this information could not have been made available for the June hearing with the exercise of due diligence*". However, the fact is: The appellants' testimony on April 15, 2016 and the April 13 email communication with Officer McFall regarding the integrated sandbox-shed structure are both consistent with the building code standard. In addition, ***standard and law do not have to be discovered earlier or later,*** **the building code is always available for people to follow.** The trial court then ruled the building code is not applicable for the appellants' initial building:

If the respondents and the trial court followed and obeyed the law, the appellants would not have had to turn to the government for support and protection. There would be no July 7, 2016 letter from the government to

clarify the official area of 970 square feet for the initial build, and to protect the water source the appellants live upon.

Similarly, now the trial court's deadline to destroy the appellants' water pump house had passed, the appellants turn to the government's law enforcement agencies for protection. All of the respondents including Riffle are now under investigation. The trial court judge is also under investigation by legal authority. Suppose, one of the respondents will be convicted of perjury in the first degree, he or she may make his/her claim to the Court of Appeals that, "**No! My felony does not count because my conviction is after the June 15, 2016 court decision.** " Is it rational for he/she to say that?

Nonetheless, the appellants had appropriately appealed both the June 15, 2016 court order, as well as the judgment on Defendants' Motion for Reconsideration. The government's July 7, 2016 official letter is part of the court record. Again, the appellants' initial building was 970 square feet. This is official. This is indisputable.

c. *The trial court properly considered Mr. Zhu's statements from the TRO hearing to determine credibility.* (Respondents' Brief, page 16-17)

The appellant made a statement with email evidence to question the respondents' credibility (RP 16): Riffle refused to acknowledge that he

had received the appellant's email on December 8, 2015 notifying that the initial building was going to come down (CP 114-115). Riffle denied any knowledge of this email because he was knowingly using Laska's fraudulent Exhibit A (Laska's Supplemental Declaration) to falsely claim that the appellants were actively building and actively violating the covenant while in fact there had been no building activity for 5 months.

The respondents falsified in front of the Court of Appeals in line 15-16 on page 16 in Respondents' Brief: "*the garden shed/sandbox and storage shed totaled more than 900 square feet in area*". Falsifying the appellant' testimony does not change the fact. The respondents' purpose is to try to confuse the issue so that they can convene the Court of Appeals to let the trial court make the final judgment.

In terms of the appellant's credibility, what did the trial court find? Here is the list:

1) The appellant's testimony on April 15 ,2016 on a structure having two parts, the sandbox and the shed had been falsified multiple times by the respondents and the judge (R.P. 13).

2) The sandbox/tent area is the initial part of the building (R.P. 75).

3) There are different standards to determine the building area, i.e., all areas under roof (RP 81, 82), any area that is artificially created with building materials (R.P. 82).

4) The government building code officers agree that the building had two parts, the sandbox and the shed area (CP 102).

5) The appellant alleged that Riffle was lying in the court by saying he did not received the appellant's email on December 8, 2016. The appellant presented the electronic record showing the email had been sent to Riffle's email address successfully.

6) The appellant stated the respondents were not invited. Instead, they knocked on the door on the appellants' RV. "*The County show me -- show me a letter -- a claim from Walsh and Laska that I pose a high risk to the public. And my son pose a high risk to other school-age children*" (RP 95).

7) The appellant alleged that Riffle was lying to the court once again on June 15, 2016 (RP 118). In the June 15, 2016 hearing, Riffle did not respond directly when the appellant said "*Totally wrong. You are not telling the truth*" because Riffle did say "*You can correct me if I am wrong*". However, now in the Court of Appeals, Riffle became very certain that the appellant was saying a garden shed and a storage shed together totaled an area about 1000 square feet (Respondents' Brief, page 16).

On line 4-5, page 17 in Respondents' Brief, the respondents argued that the appellant "*made no attempt to claim that the sandbox contributed*

to the storage shed's square footage. Thus, Mr. Zhu's testimony was inconsistent."

In fact, the conclusion should be the opposite: the appellant was consistent in his testimony regarding the sandbox area. The sandbox does not contribute to the shed's square footage. Instead, it contributes to the area of the whole initial building. The sandbox and the shed are two integrated parts of a building.

Now it is clear that the respondents do not have any valid argument to support their claim that the appellants' initial building was less than 900 square feet. But this does not prevent the respondents from starting a fraud lawsuit to reach their goal. The respondents' goal is to harm the appellants.

Now take a look at the respondents' argument on page 17 in Respondents' Brief: "*The trial court's decision regarding the pump house and certificate of occupancy is clearly supported by settled law and was an equitably-fashioned remedy within its discretion*".

In the respondents' examples, the buildings violating restrictions were ordered to be torn down to the foundation. These cases are not comparable to the appellants' water pump house unless the respondents can provide any information in Heath case that Uraga violated the roof design restriction in his residential house, and consequently his garage had to be

torn down, and his utility box, green house or dog house had to be torn down as well.

1) There can only be one “initial building” that can be less than 900 square feet. Only an initial building less than 900 square feet is an offending structure. The appellants’ water pump house, the secondary building, is an accessory building allowed by the covenant. There is no indication in the covenant that it can become an offending building. In as early as June (with first attorney) or August (with second attorney) in 2015, the respondents could have sued the appellants without the need to falsify evidence in April 2016, and used a “*fact finding hearing*” (RP 124) to order the appellants’ initial building to be torn down and prevent the pump house to be built. It was the respondents’ failure to sue the appellants in 2015 that led to the construction of the secondary building, the pump house. It was the respondents who allowed the construction of the pump house. How can it become an offending building now? In the April 15, 2016 court hearing, when the respondents falsely claimed the appellants were actively building an initial building less than 900 square feet (Laska’s Supplemental Declaration, CP 116), the completed pump house is already there with window and roof. Why didn’t the respondents simply just claim the pump house as the initial building and get the court order to tear it down? The pump house is only 1/10 the size of the initial building.

If the respondents were so sure about the area of the appellants' initial building, they should be sure about the area of the pump house without the need to provide any measurements to the court.

2) How can the destruction of the appellants' water pump house become a remedy for the alleged violation of covenant? The remedy can only be a building no less than 900 square according to the covenant. The covenant does not place any requirement on a certificate of occupancy. In November 2016, the appellants already have a 2700 square feet house although the certificate of occupancy is still not available until now. The destruction of the pump house will make the appellants unable to live in their house because of no water access. Of course, the respondents do not care. In fact, this is what they have been looking for. This is the purpose of the respondents' fraud lawsuit against the appellants.

The respondents were unable to justify the certificate of occupancy requirement to protect the appellants' water pump house. In Line 17-19 on page 21 in Respondents' Brief, the respondents state, "*Unless and until Appellants construct a building that is greater than 900 square feet in area, any building that is constructed that is less than 900 square feet violates the Restrictions.*" Indeed, a certificate of occupancy cannot be found anywhere in the covenant. The appellants already have a building of 2700 square feet in November 2016. As neighbors, the respondents see the

building every day. But they still want to destroy the appellants' pump house under the excuse of lack of certificate of occupancy. The respondents hastily jumped into their conclusion: "*Thus, the trial court …, and its order regarding a certificate of occupancy was an equitable-fashioned remedy within its discretion.*" Now the appellants have the 2700 square feet house without a certificate of occupancy, and the appellants may never be able to get the certificate without the pump house. What is the remedy if there was violation of covenant? Is it the harm that must be forced upon the appellants?!

Now turn to the respondents' statement in line 17-18 on page 20 in Respondents' Brief: "*the trial court's decision to give appellants a short time frame to construct a compliant house is actually generous, not discriminatory*". By code, the appellants' building permit is good for two years and can be extended (CP 51). In addition, it is the building contractor instead of the appellants who can control how soon the building can be finished. Furthermore, the covenant does not require a certificate of occupancy. The trial court's judgment is undoubtedly discriminatory.

The certificate of occupancy only comes from the respondents' desire as expressed in their settlement terms. But Riffle's email for the settlement terms (C.P. 175) was not provided to the Court until after the permanent restraining order had been issued. The requirement of a

certificate of occupancy suggests that the Judge agrees with the respondents that the appellants should not live on their own property without a house. But how did the trial court Judge know about the respondents' desire? Now turn to the respondents' final very brief argument:

"*Appellants' conclusory allegations of fraud, constitutional violations, and misconduct are clearly meritless and do not warrant judicial consideration*."

The respondents choose not to talk about all the evidences and even the evidence most important to them in the trial court. The respondents stated "*those claims are unsupported by reasoned legal argument*". The appellants agree that the respondents are not convicted until they are prosecuted and trialed. But the evidences are there. The crime had been committed.

Riffle is a very "skilled" attorney. He knew that "*a TRO is not appealable as a matter of right*" and therefore he believed all the fraud and perjury he and other respondents had committed on April 15, 2016 do not matter. Riffle found the hole in the legal system and instructed other respondents not to sue the appellants while the building was still intact, and made falsified claims to meet the requirements for a declaratory judgment. The respondents believed, all they need is the TRO drafted by

the respondents and signed by the judge declaring that the appellants was actively violating the covenant and continued to violate the covenant if the TRO was not issued. Then the statement authorized by the court in TRO will automatically become the "substantial evidence" they need to get the permanent restraining order to deprive the appellants of their legal rights. The truth stands. Until now, the trial court and the respondents have been relying on their falsification of the appellant's testimony (RP 13) in the TRO hearing to harm the appellants. The harm caused by the fraud is evident and significant. The respondents will be brought to justice.

No Premise to Support Respondents' Conclusion

Government authority has clarified that the appellants' initial building is 970 square feet. The respondents have no measurement of the appellants' initial building and have no authorized proof of the building area being less than 900 square feet.

The appellants knew about the covenant and knew the initial building could be more than 900 square feet depending on what standard is used to determine the building area, consistent with the trial court's ruling: *Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building."*

The trial court and the respondents have not been able to justify the requirement of a certificate of occupancy to protect the appellants'

property. There is no court record or covenant requirement for a certificate of occupancy.

The respondents have not been able to respond to the errors found in the trial court. The respondents have not been able to provide any counter evidence for the fraud allegation.

The respondents have not been able to answer whether or not there was violation of federal civil procedure.

Ordering the appellants' initial building being less than 900 square feet is illogical, unlawful, and contrary to fact.

Legal Authority Warrant Judicial Consideration

Misrepresentations and fraud upon court

In violation of Federal rules of civil procedures, the respondents illegally obtained a court order to deprive the appellants of their property rights by falsely claiming the appellants were actively violating the covenant by building multiple "initial buildings" less than 900 square feet. In order to harm the appellants, respondent Riffle knowingly made fraudulent misrepresentation to the court and intentionally made statements that he knew were false (i.e., RP 7, 8).

The trial court Judge Christopher Melly falsified the appellant's testimony in the court to assist attorney Christopher Riffle to prevail in the court (RP 18). Melly allowed Riffle to ask for a restraining order without

evidence and in face of counter evidence (RP 13; CP 102). Judge Melly did not allow the appellants to further testify in the court (RP 19, 20). Riffle obtained the order from Judge Melly by simply claiming that his clients were “pretty reasonable people” (RP 16). Riffle told Judge Melly that they can simply “hit the brake” without evidence and then “hit the reset button” even if they were wrong regardless of the harm they forced upon the victims (RP 17).

Here I’d like to make an analogy:

Scenario A: A police officer can only arrest me without going through the court if I am actively stealing from a cell phone from Walmart. The condition for the officer to use his power is the “active”, “ongoing” violation of law.

If a person took a picture of me, a picture of a cell phone in Walmart, then combine the two pictures together and manipulate the picture such that it looks like I was stealing a cell phone from Walmart. The person presents the picture to the officer. The officer trusted the person and arrested me. This is a mistake by the officer.

But if the officer already knows that the picture is actually fake, and still wants to arrest me, this is crime, deprivation of rights under the color of law. The officer is in fact a collaborator of the person who produced the fake picture.

Scenario B: The court can only destroy my property if I am "actively" violating the covenant. This is the discretion given by the Declaratory Judgment Act. The condition of using Declaratory Judgment Act is the "active", "ongoing" violation of covenant.

Attorney Riffle knowingly presented falsified evidence to Judge Melly in the court and falsely claimed that the appellants were "actively" violating the covenant. Ignoring any counter evidence, Judge Melly made a mistake. Falsifying the appellant's testimony to help the opposing part Riffle to prevail, Judge Melly became a collaborator of Riffle.

If Judge Melly did not hear the appellant, and did not see appellant's email conversation with County officer Barbara McFall presented to him at the same time and filed in the court on April 15, 2016, Judge Melly made a mistake when he applied the Declaratory Judgment Act to stop the alleged non-existent "active", "ongoing" "violations".

However, on June 15, 2016, Judge Melly undeniably knew that Riffle and his clients had falsified evidences to meet the requirements of Declaratory Judgment Act: "active", "ongoing" violations. Knowing the Act is not applicable, Judge Melly still applied the Declaratory Judgment Act to destroy the appellants' property. This is the direct evidence that Judge Melly is a collaborator of Riffle and his clients. This is crime, deprivation of rights under the color of law.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

Sharon Laska, Joseph Walsh, Peter and Jennifer Lux, Donald and Susan Sorensen, Plaintiffs, v. Maolei Zhu, Yongjie Huang, Defendants.	No. 16-2-00260-1 **Motion to Protect Defendants' Water Pump House and Equal Rights in the Community**

This court entered an order to take down Defendants' water pump house by the end of 2016 if the Defendants were unable to show to the court and the plaintiffs with a certificate of occupancy before the above deadline. Now the deadline had passed, the water pump house is still standing because Defendants' appealing process is underway. An equivalent of the certificate of occupancy was not available until May 5, 2017 as shown in Exhibit A. Now Defendants present the county's final inspection, the equivalent of the certificate of occupancy, to the court as ordered. Although this court had already ordered the water pump house to be taken down, Defendants do not believe it is this court's intent to violate Defendants' Constitutional rights and thus are compelled to submit this Motion for consideration.

Regardless of the "controversy" on whether or not the Defendants' had violated the community covenant by constructing an initial building being less than 900 square feet, the initial building no longer exists since March 2016. Defendants are now living in their 2700 feet house with water supplied from the pump house that is an accessory building allowed by the community covenant (Exhibit B). Defendants ask this court to protect Defendants' water pump house and

allow Defendants and their families to live in the community peacefully as all other community members. The supporting reasons are now listed as followed:

1. This certificate of occupancy (Exhibit A) is not possible without the water pump house. The pump house is the sole water supply to the house. Without the pump house, the building permit and construction would not have been possible in 2016 and 2017 (Defendants' Response to Plaintiffs' Motion for Temporary and Permanent Injunction).

2. Without the pump house, Defendants and their children will not be able to access water that is indispensible any time for health and life. Exhibit C Page 1-4 demonstrates Government's effort and intent to protect Defendants' health and property by preserving the water pump house. Exhibit D is an official letter from Department of Health showing the health risk concern imposed on Defendants if the pump house is destroyed.

3. This court also considered the importance of the water pump house during the June 15, 2016 hearing: "*To the extent that is has some health benefit, then I don't want to put the aquifer or the well in jeopardy and I just don't know. I just don't have enough information on that. So, with regard to the pump house, I'm not going to require that that be removed. And the reality is that once the house that's greater than 900 square feet goes in, he -- Mr. Zhu and Ms. Huang will be able to have a pump house anyway.*" (Exhibit E, Verbatim, page 156) Indeed, if the pump house had to be destroyed, a new pump house will have to be built to protect Defendants' water source. This court appears to allow Defendants to have a pump house once the residential house is built (Verbatim, page 156). Now the house is here, the house's accessory building, the water pump house, should be allowed. The purpose of a court order is not to deliberately make Defendants' life more difficult. .

4. The "fear" of the plaintiffs had been proved being groundless with the construction and completion of Defendants' 2700 square feet residential house (Exhibit F). Without

showing any actual up-to-date picture, and even through intentional misrepresentation (Supplemental Declaration of Shannon Laska in April 15, 2016 court hearing), Plaintiffs had claimed Defendants' property is a "blot" in their eyes that negatively affects their property value. It is now evident that preserving Defendants' water pump house and allowing Defendants to develop their own property do no harm on the plaintiffs at all. In fact, allowing Defendants to finish building the water pump house (adding sidings and painting) can only benefit the community "aesthetically".

This court's order to take down Defendants' water pump house and to restrain Defendants' activities to develop Defendants' own property was not possible without being misled by Plaintiffs and their attorney Mr. Riffle through falsification and manipulation of evidence. Exhibit G shows what is actually inside the water pump house: the water pressure tank that had been hidden by the plaintiffs and Mr. Riffle from their arguments. According to court record (Verbatim, page 131), Mr. Riffle claimed "*To call this a pump house is insincere certainly. It does not -- maybe it includes a well pump, but beyond that, it is certainly more than a well pump house.*" In fact, the pump house has a water pressure tank (Exhibit G) which cannot be put anywhere else since Defendants do not have a garage in their current house.

5. Plaintiffs' misconducts and intent to harm the defendants had been reported to the police and had been referred to the Prosecutor (Exhibit H). In order to drive the defendants out of their own property, Plaintiffs falsely claimed to the Government that Defendants and their then 6-year-old posed health risk to the public (Exhibit I). Knowing that the court has no jurisdiction on the building area (i.e., an experienced lawyer may not even know the measurement unit of area as shown in Verbatim, page 109), Plaintiffs falsely declared to this court that Defendants' initial building completed in October 2015 was actively under construction on "January 8, 2016" (Exhibit E, page 7). Within the U.S. justice system, this court should not place itself in a position to assist the plaintiffs to harm the defendants through falsification and manipulation of evidence.

For the foregoing reasons, Defendants ask this court to:

1. Amend the order to allow Defendants to retain their current water pump house;
2. Allow Defendants to continue developing their own property as permitted by law and community covenant.

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

_____

Signature

_____

Print Name

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

In Re: Sharon Laska, Joseph Walsh, Peter and Jennifer Lux, Donald and Susan Sorensen, Maolei Zhu, Yongjie Huang Plaintiffs, v. Maolei Zhu, Yongjie Huang , Defendants.	No. 16-2-00260-1 CERTIFICATE OF MAILING

I hereby certify and declare under penalty of perjury that I have this day provided the plaintiffs' counsel, Christopher Riffle, Platt Irwin Law Firm, 403 South Peabody Street, Port Angeles, WA 98362, on the 8th day of August, 2017.

with copies of the following documents, Motion to Protect Defendants'Water Pump House and Equal Rights in the Community, in the following manner:

❑ Via first class U.S. Mail, tracking number:

Dated: _____

_____
Signature

_____
Place signed

CLALLAM COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING DIVISION
COUNTY COURTHOUSE
223 E. 4TH ST., SUITE 5
PORT ANGELES, WA 98362-3015
PHONE: (360) 417-2380
FAX: (360) 417-2443

AWARREN@CO.CLALLAM.WA.US

July 17, 2017

To whom it may concern,

Clallam County Building Division issued a building permit to construct a single family dwelling for Maolei Zhu and Yongjie Huang at 626 Roberson Road. The permit is identified as BPT2016-00376. The single family dwelling has been inspected and received final approval on May 5, 2017 and has been approved for occupancy.

Prior to the issuance of a building permit, the property owner must provide a connection to a potable water supply via a public water source or a private well. Mr. Zhu and Ms. Huang had a well drilled on their property and had it recorded with the state. The water source was approved by Clallam County Environmental Health and is a legal existing well.

A well house was built to protect the pressure tank and electrical work that supplies power to the pump for the well. The well house is an accessory structure to the dwelling. A building permit is not required for the well house as it meets the Clallam County standards for an exempt accessory structure. It is my understanding that the neighboring homeowners want this structure taken down because it was built prior to the construction of the house and in violation of the homeowner's association restrictions regarding the sequence of construction. Meaning, the well house should have been built after the house was constructed. Although this may be true, in my opinion, it does not make sense to require that the building be taken down only to have the owners rebuild the well house to protect their well head, pressure tank and equipment from weather. This would appear to be an unnecessary expense to the homeowner. In addition, this action could possibly require them to shut off power to the well head while they tear down the building and rebuild it which would leave the homeowners without potable water for cooking, sanitation and bathing.

Should it be found that Zhu and Huang be required to take down their well house, it would only be fair then to require the other homeowners who are regulated by these same restrictions be required to take down their buildings that they have constructed within the 30 foot setback to property lines or have built structures that are over 16 feet tall, which is also part of the "Rural Residential Restrictions" and contained within the same paragraph (no. 6) as the one being enforced on Zhu and Huang. It would appear that all lots that have been constructed upon and that lie within the Survey of Record for Monte Roberson (AFN2001-1061185, Survey Vol. 46, pg 66) are in violation of the "Rural Residential Restrictions". I am certain that these property owners do not want to tear down their garages, barns and houses any more than Zhu and Huang want to tear down their well house due to these restrictions which apparently have not been enforced by the homeowners while they developed their own properties.

Respectfully,

Annette Warren
Clallam County Building Official/Fire Marshal

Clallam County Department of Health and Human Services

Environmental Health Services ♦ 111 E. 3rd St. ♦ Port Angeles, WA 98362-3015
Tele: 360-417-2258 ♦ FAX: 360-417-2313

July 17, 2017
To Whom It May Concern
Regarding the well house at 626 Roberson Rd. Sequim WA
Property of Maolei Zhu

It has come to my attention that there is concern over the existing well house located at 626 Roberson Rd. in Sequim, Washington. In general a well house is an essential structure to protect the well and associated components such as pumps, pressure tanks and electrical connections. This in order to ensure the water supply remains safe and operable, and will not be subject to weather and other factors that could contaminate the water supply.

If you have any questions, please contact this office.

Sincerely,

Sue Waldrip

Sue Waldrip
Environmental Health Specialist
360-417-2334
swaldrip@co.clallam.wa.us

c: correspondence file

Clallam County Building Division

Building Permit Inspection Approvals

Permit Number: **BPT2016-00376**
Applicant: **ZHU AND HUANG**
Applicable Code: 2012R

To schedule inspections, call (24 hrs/day) **(360)417-2518** no later than 7:30 AM the day of the inspection.
$50 Reinspection Fee will be assessed for inspections not ready, or buildings with no access.
ELECTRICAL PERMITS are issued by the Washington State Department of Labor and Industries. Call (360)417-2700.
* The electrical permit must be signed off by the State Inspector prior to the County's **framing** inspection

Inspection Item	Date	Approval Signature	Notes
Address Posted	✓		
Setbacks	8/10/16	BF	
Erosion Control	✓		
Footings	8/10/16	BF	
Foundation Stem Wall	8/10/16	BF	
Underfloor Framing (prior to sheathing)	10/3/16	~~BF~~	
Hold Downs	11/2/16	BF	
Sheathing Nailing	✓		Not To Plan ok By Engineer
Truss Layout Review	✓		
Rough-in Plumbing (water supply/vents)	2/22/17	BF	
Framing*/Airseal/Glazing (Elect. Pmt. Signed-Off)	3/7/17	BF	
Insul - R 21 (Walls)	3/7/17	BF	
Insul - R 30 (Floors)	4/27/17	BF	
Insul - R 49 (Ceiling)	4/27/17	BF	
Blower Door Test Results	5-5-17	DMC	
Drywell/Alternate Drainage Plan	4/27/17	BF	
Roof Nailing By Engineer	✓		Engineers Letter
Final Inspection	5-5-17	DMC	

CLALLAM COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
COUNTY COURTHOUSE
223 E. 4TH ST., SUITE 5
PORT ANGELES, WA 98362-3015
PHONE: (360) 417-2314
FAX: (360) 417-2443

AWARREN@CO.CLALLAM.WA.US

MARY ELLEN WINBORN, DIRECTOR

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7-7-2016

RE: Maolei Zhu/Yongjie Huang
626 Roberson Rd

To whom it may concern:

Clallam County Building Department was informed of a building code violation at the above referenced property. Upon a site visit and pictures by our department (DCD) it was discovered that a two story building with an attached tent structure was built on the property without a building permit. Though the tent structure did not have a concrete slab, it was attached to the existing building by the concrete columns and footings and did contribute to the building code violation. The two story portion of the building had approximately 385 square feet on each floor and the tent structure was approximately 200 square feet. The total project exceeded the 400 square foot, single story building exemption as the building was approximately 970 square feet and two stories in height.

The owners of the property were not aware that they had violated the Clallam County Building Code and agreed to remove the structure. To my knowledge, the only parts of the building that remained after Habitat for Humanity assisted the homeowners with the removal of the structure were the concrete columns in the four corners of the building, the concrete slab and the tent poles that were embedded in concrete. The owner's inform me that since the removal of the main structure they demolished the concrete columns and the remainder of the tent frame. The County no longer considers this structure a building code violation and the case resolved.

The owners have a legally existing well house on their property. This structure was built to protect the well head and any associated equipment necessary for use of the water when they build their house or water their fields.

Mr. Zhu and Ms. Huang have been issued a building permit to construct a new home on their property (BPT2016-00376). The home is two stories and approximately 2676 square feet. The permit is valid for two years from the date of issuance (June 30, 2016). Their building permit can be extended for an additional year, provided that ½ of the building permit fees are paid to extend this permit.

If anyone has any questions regarding this project, please contact me at (360)417-2314.

Regards,

Annette Warren
Building Official/ Fire Marshal

CLALLAM COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
COUNTY COURTHOUSE
223 E. 4TH ST., SUITE 5
PORT ANGELES, WA 98362-3015
PHONE: (360) 417-2314
FAX: (360) 417-2443

AWARREN@CO.CLALLAM.WA.US

MARY ELLEN WINBORN, DIRECTOR

February 9, 2017

RE: Maolei Zhu/Yongjie Huang
626 Roberson Rd
Sequim, WA 98382

To whom it may concern:

To further clarify the letter sent to you on July 7, 2016, the initial building located on the above referenced property was approximately 970 square feet in total area. The building area was determined based on field measurements and the building code standards. The building was comprised of a two story wood framed structure of approximately 385 square feet per floor. Adjacent to the two story wood frame structure the owners erected a membrane (tent) structure that was built into the framework of the two story structure creating one single building with a total area of 970 square feet.

If there are any further questions regarding the area of the above referenced building you may contact me by phone or email and I would be more than happy to address your concerns.

Respectfully,

Annette Warren, CBO
Building Official/Fire Marshal

CLALLAM COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
MARY ELLEN WINBORN, DIRECTOR
COUNTY COURTHOUSE
223 E. 4TH ST., SUITE 5
PORT ANGELES, WA 98362-3015
PHONE: (360) 417-2321
CODE ENFORCEMENT: (360) 565-2677
BMCFALL@CO.CLALLAM.WA.US

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December 9, 2016

To Whom It May Concern

The property at 626 Roberson Road does not currently have any violations. A former case (CMP2015-00056) dealt with building without a permit but was closed in April of 2016. Mr. Zhue was very cooperative during the process and has since obtained all property permits and is in compliance.

Mr. Zhue has built a house and has a small pump house on the property. The pump house is necessary to provide protection from weather especially now with the intense cold. The residence is not finished inside and until it is complete the family is living on the property in a motorhome that is connected to their permitted septic. The county generally allows property owners to living in RV's on the property while the residence is in active construction as long as the environmental health issues such as water and septic disposal are addressed.

The original complaint against Mr. Zhue came from neighbors upset with his violation of the neighborhood HOA's. Clallam County does not enforce HOA's nor become involved in civil issues or lawsuits. We have advised the complaining parties that the case is closed and there are no longer any viable complaints to be addressed on the property.

Best Regards,

B McFall

Barb McFall
Code Enforcement
360-565-2677

Exhibit B

Defendants are already living in their house as shown above.

Exhibit D

declaration of Sharon Laska. Sharon and her husband Joe are here with us today.

THE COURT: Has a copy been provided to Mr. Zhu?

MR. RIFFLE: It's about to be.

THE COURT: Okay.

MR. RIFFLE: Yeah, I've got it right here. I just did this this morning, Your Honor.

But in -- with this, Your Honor, um, all it is is attaching three photographs that Ms. Laska took of the property. Two from January, one I think from January 8th and one on January 27th and the other in March, showing the various activities on the property.

If you look at Exhibit A, Your Honor, you see what -- what was the initial structure next to the RV there. That structure actually had a second floor on -- or the attempt to put a second floor on it, but the County got involved and ordered them to stop and take that part down because they didn't have any sort of county approval for the improvement at all, so it had to be under 400 square feet. And, um -- and Plaintiffs are remarkably concerned about that structure because it's out in the open and it's what they look at as they come into the neighborhood.

Exhibit B, taken three weeks roughly later, shows a couple of different things. You see that same RV. There's a building there to the right, looks to be something you could

client have been approaching us in a very threatening way.

THE COURT: Mr. Zhu, are you disputing that the structure, of which I have photographs attached to the declaration of Ms. Laska, are you disputing that the building is less than 900 square feet?

MR. ZHU: In the past, I construct a garden shed. A garden shed actually is attached with a sandbox with cover. And here I have a -- the County has been actually have been working really close with me, and here I have a conversation with the -- (inaudible) conversation from the County, from the law enforcement officer -- code -- building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox. And the sandbox is 200 square feet. So I have two storages -- the County say I have two storages that make me 800 square feet -- 800 square feet and 200 square feet is actually 2000 -- 100 -- 1000 square feet. So I didn't violate the covenant. So I didn't violate the covenant, I -- I'm not violating the covenant.

Here the -- Mr. Riffle and my Plaintiffs made the assumption that clearly I clear the field, there could be some building going on there, is their assumption. That's their assumption. They don't know where I put my building. I can clear the field and I can prepare for something.

CCRs with regard to this issue. As I indicated earlier, the sole provision in terms of details is the initial building shall not be less than 900 square feet in area. That doesn't address whether it's 900 feet at commencement of the construction or at completion of the construction. But I think the reasonable interpretation is it's at commencement of construction. Otherwise you run the risk of having neighbors have a less than 900 square foot shed, garage, call it what you want, and never having that particular parcel developed as the CCRs intended, which was primarily for single family residences.

I don't think that the CCRs are interpreted such that you get to aggregate all the different structures together to determine what the size of the building is. It's we're looking at one building, what's the size of that footprint. If it's greater than 900 square feet, everything is fine. If it's less than 900 square feet, you don't get to add to a garage that's also being constructed or a shed that's been constructed.

And I know Mr. Zhu, you kind of look at it from the perspective that if you aggregate all those buildings you're at 1000 square feet, but I don't think that that's the way that the CCRs would be interpreted.

I'm going to issue the temporary restraining order. That basically puts things on hold for two weeks. And the

MR. RIFFLE: And -- anyway, I think the point is made.

BY MR. RIFFLE

Q. You would -- I don't expect you have a calculator on you, but you would agree thought that even at 29 feet by 40 feet, if that was actually the dimensions -- let me do the math real quick.

THE COURT: I have a calculator here if you want it -- the witness to have it.

Q. That's 1160 feet.

A. Uh-huh.

Q. But you would agree with me that the storage shed was not intended to encompass the entire area of the concrete slab?

A. Uh-huh.

Q. Okay. Now, you also testified at -- to a question the judge answered with respect to the incorporation or the inclusion of this concrete slab into the home itself.

Is that a fair characterization of the question, Your Honor?

THE COURT: Yes.

Q. Okay. So I wanted to --

MR. RIFFLE: Your Honor, this is page 4 of Exhibit 7.

Q. And as your attorney submitted to the Court,

but at that temporary restraining order hearing a few months ago in this case?

A. Say that again.

(Interpreter)

A. Yes.

Q. Okay. And at that -- and you can correct me if I'm wrong, but I'm pretty sure I understood it correctly and I actually remember the judge asking questions about this, because I believe you testified that your understanding, at least then, at that hearing, was that the buildings together -- so the, uh, in storage building together with the -- what we're calling the pump house, this building here, that it is your understanding that those buildings together had to be more than 900 square feet. Do you remember that?

A. Totally wrong. You are not telling the truth because what I said is what the sandbox -- initially the building with the sandbox where actually have the tent, so I have that. I have the concrete -- I have the concrete slab for the sandbox. And then --

Q. I'm not sure what were you --

A. The tent, the tent area. The tent area. And then because I decided to build -- I decided not to use the tent for storage for my stuff, so I decided to build the shed. So when I build the shed just by using the way I build the shed because I have to have a deck (sic) to step on so I

he understood the CC&Rs, but nonetheless did nothing to communicate or defend himself whatsoever with respect to that building, other than to tear it down.

Now, on to the pump house, the other building, um, on April 27th, 2016, I went with opposing counsel to the property and actually took pictures and measured this -- what we've called the pump house. The pump house's dimensions are nine feet one inch by ten feet three inches, and that's in the declaration, Your Honor, which is unquestionably less than 900 feet.

And then there are photographs. And this is why earlier I mentioned this declaration and those photographs, because these photographs are taken of the interior of this building. This building is -- I would say just by any measurement, an enormous building dedicated to a pump house. And, Your Honor, if you look at the photographs that were taken, there are a number of little rooms or corners of this building where there's shelving and areas for there to be all sorts of storage and other things like that.

To call this a pump house is insincere certainly. It does not -- maybe it includes a well pump, but beyond that, it is certainly more than a well pump house.

I would say under any measurement as well, Your Honor, this is a building as that term is used under the CC&Rs, and since the first building wasn't compliant under

Exhibit G

This water pressure tank occupies 1/4 of the space of the pump house.

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ALAN E. MILLET

ATTORNEY AND COUNSELOR AT LAW

P.O. BOX 1029

109-B EAST BELL STREET

SEQUIM, WASHINGTON 98382

TELEPHONE (360) 683-1119 FAX: (360) 683-5722

June 29, 2015

Maolei Zhu and Yongjie Huang
626 Roberson Road
Sequim, WA 98382

RE: Roberson Estates Restrictions Violation

Dear Maolei Zhu and Yongjie Huang:

I represent Joseph Walsh and Sharon Laska, who own property on Roberson Road. My clients have requested my assistance in enforcing the Rural Residential Restrictions which apply to all of the parcels in the Roberson Survey.

The Rural Residential Restrictions are recorded under Clallam County Recording No. 645760.

Paragraph 6 provides that:

> **6. No buildings shall be erected, altered, placed or permitted to remain on any one single parcel other than one detached single-family dwelling, one guest house, one attached or detached private garage and other accessory buildings. The initial building shall not be less than 900 square feet in area. . . .[T]he work of construction from the commencement of construction . . . shall . . . occur no later than 12 months after the commencement of construction.**

The building that you commenced constructing on the property last year does not comply with the restrictions. It is less than 900 square feet in area. You are also in violation of the Clallam County Code, which requires an on-site septic system on the property as you are residing there, and requires a building permit for your structure as it is more than one story and more than 400 square feet. If you do not remedy these violations my clients are prepared to file a lawsuit against you in Clallam County Superior Court seeking an injunction forcing compliance with the covenants. If such an action is necessary, you will be responsible for court costs and statutory attorney fees.

Sincerely,

Alan E. Millet
AEM:
cc: client

#1-2

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Stephen C. Moriarty
David H. Neupert
Patrick M. Irwin
Simon Barnhart
Christopher J. Riffle*
Allison R. Mahaney
David J. Berger

*Also licensed in Nebraska

PLATT · IRWIN
LAW FIRM

403 South Peabody
Port Angeles, Washington 98362
(360) 457-3327
Fax (360) 452-5010
Email: cjriffle@plattirwin.com

Port Townsend Office:
914 Washington Street
(360) 385-4399

Please address all mail to the Port Angeles Office

December 2, 2015

Maolei Zhu and Yongjie Huang
626 Roberson Road
Sequim, WA 98382

Re: 626 Roberson Road – Roberson Estates
Violation of Rural Residential Restrictions

Dear Maolei Zhu and Yongjie Huang:

This office has been retained by property owners within Roberson Estates to assist them with addressing your continued violation of the Rural Residential Restrictions (the "**Restrictions**") applicable your property at 626 Roberson Road.

It is my understanding you were made aware by a June 29, 2015 letter from attorney Alan Millet that the building you are constructing on your property is in violation of Paragraph 6 of the Restrictions because it is significantly less than the 900 square foot minimum limit. Copies of the Restrictions and the June 29, 2015 letter are enclosed for your reference. It is apparent you have ignored the demand of your neighbors to remedy your violation of the Restrictions. As such, it is the intent of property owners within Roberson Estates to commence legal action seeking (i) an injunction forbidding you to continue construction in violation of the Restrictions; (ii) an order requiring you to remove the non-compliant building; and (iii) reimbursement of attorneys' fees and costs incurred by property owners to enforce the Restrictions.

It is also my understanding that the Clallam County Department of Community Development issued a Notice of Violation – Stop Work order to you on October 20, 2015 because of your violation of the County's building code. Please know that regardless of whether you successfully resolve your issues with Clallam County and you are permitted to continue with construction, you will remain in violation of the Restrictions.

One of the primary purposes of the Restrictions is to ensure the improvements made to the neighborhood meet minimally acceptable standards to allow for the preservation of property values within the subdivision. My clients have complied with the requirements of the Restrictions, and fully expect you to do the same. Unless you obtain a building permit for construction of a building on your property that abides by the minimum square foot construction requirements within the Restrictions, my clients will be left with no other choice than to pursue

the legal action described above. My clients have already pooled sufficient funds to commence a lawsuit in this matter.

Should you have any questions or concerns, or if you would like to discuss this matter further, please do not hesitate to contact me.

Best Regards,

PLATT IRWIN LAW FIRM

Christopher J. Riffle

Encl.

Cc: Clients

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Your notice

12/08/15 at 8:32 AM

- To
- cjriffle@plattirwin.com

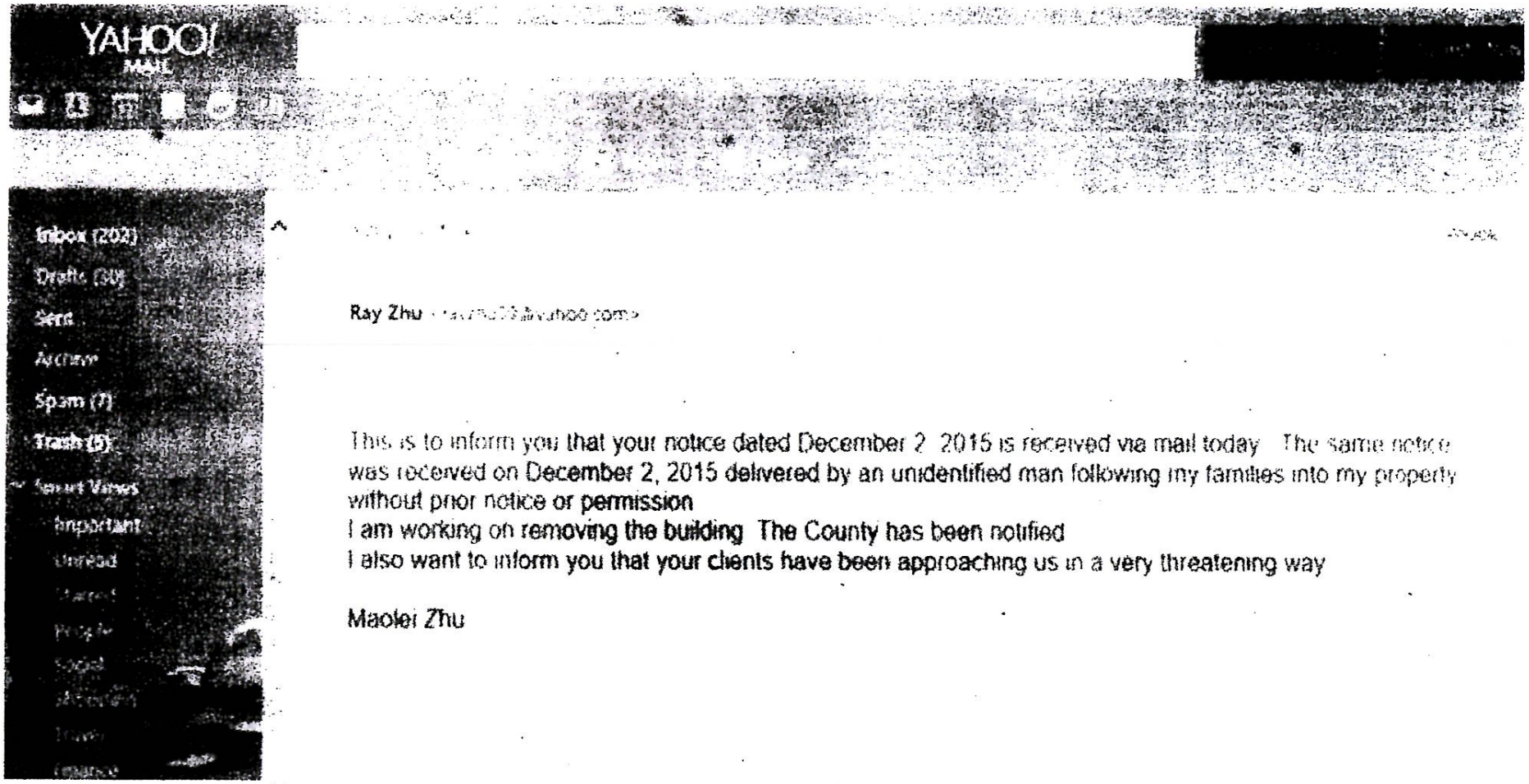
Message body

This is to inform you that your notice dated December 2, 2015 is received via mail today . The same notice was received on December 2. 2015 delivered by an unidentified man following my families into my property without prior notice or permission.

I am working on removing the building. The County has been notified.

I also want to inform you that your clients have been approaching us in a very threatening way.

Maolei Zhu



Ray Zhu

This is to inform you that your notice dated December 2 2015 is received via mail today The same notice was received on December 2, 2015 delivered by an unidentified man following my families into my property without prior notice or permission
I am working on removing the building The County has been notified
I also want to inform you that your clients have been approaching us in a very threatening way

Maolei Zhu

RE: case 2016-27254 update per prosecutor

Sampson, Stacy <ssampson@co.clallam.wa.us>

Mon 1/30/2017 10:10 AM

To: Ray Zhu <rayzhu13@outlook.com>;

Your case was forwarded to the Prosecutor's Office for a charging decision. This new information received today has been sent to them as well.

From: Ray Zhu [mailto:rayzhu13@outlook.com]
Sent: Monday, January 30, 2017 7:41 AM
To: Sampson, Stacy
Subject: case 2016-27254 update per prosecutor

Deputy Sampson,

After your referral of my case to the prosecutor, I had a meeting with prosecutor Mark Nichols last week. Here is the information from the meeting:

1. If anybody is trying to damage my property, either by means of explosives, or any other criminal acts, I should report to the police. The prosecutor will prosecute the person based on the police report of investigation.

2. Perjury is a criminal offense. The prosecutor will prosecute the person with criminal charge based on the police report. The prosecutor understands that the police investigation into perjury may be delayed due to urgency and priority of cases, but there should be a police report before the prosecutor can bring up a criminal charge against the suspect.

3. Conspiracy offense may be difficult to prove in the court. The prosecutor will determine if the conspiracy is chargeable in the court based on police report. However, the prosecutor gave an example of chargeable conspiracy offense: if a person put marijuana into a child's food, the person's intent is very obvious and indisputable. The person should be charged with conspiracy offense.

4. It is true that a citizen cannot bring up private action against another citizen with criminal charges. It is the prosecutor's job to prosecute a suspect with criminal offenses based on police investigation. The prosecutor cannot do the investigation. However, based on what I reported verbally, the prosecutor stated he was not ruling out the criminal offenses.

I have filed a lawsuit against the suspects (Clallam County Superior Court case 16-2-009690) entitled COMPLAINT FOR PRELIMINARY INJUNCTION; PERMANENT INJUNCTION; CIVIL PENALTIES; AND ANCILLARY RELIEF for VIOLATION OF RCW 9A.72.020, Perjury in the first degree; VIOLATION OF RCW 9A.72.080 ,Statement of what one does not know to be true; VIOLATION OF RCW 9A.72.150, Tampering with physical evidence; and VIOLATION OF U.S. Code Title 18, Part I, Chapter 13, 241 –Conspiracy against rights.

Except for RCW 9A.72.080, Statement of what one does not know to be true, all others are criminal charges. The suspects filed a motion to try to dismiss my case by choosing Judge Melly as the Judge. I filed Affidavit of Prejudice. Now no judge in Clallam County is willing to be the judge for their motion. The suspects' motion will be brought to the visiting judge on February 17. My complaint cannot and will not be dismissed because RCW 9A.72.080 still stands. In face of preponderant evidences for violation of other status, however, the suspects may

escape the charges because of “no private action allowed”. I understand that there may not be enough time for you to finish the investigation before February 17, and thus the prosecutor is unable to charge the suspects. But I wonder if there could be a preliminary police investigation report ready by the end of February 16.

The suspects have evidenced themselves for their criminal offenses. The judges also see that my case is not a civil dispute that they can simply come in and judge. Only the police investigation can bring the suspects to justice. Here I also attach some of my case analysis entitled 2nd report per prosecutor. Hope this will help facilitate your investigation process. I have a list of evidences in 18 exhibits that can be sent to you any time in need. Please let me know. Thank you.

Sincerely,
Maolei (Ray) Zhu

Health Risk to Public

Lot in question – parcel no. 043004-230020, Zoned R5

Address: 626 Roberson Road, Sequim, WA

Owners: Madlei Zhu and Yongjie Huanng

The owners and a school age boy are camping in a RV on the lot. The RV has not moved in months.
^
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According to public records:

The lot has a building permit for a septic tank, but no record of septic tank approval. – no septic installed

There is no record of permit or approval of a well or visible well head.

There is electricity.

There is a mail box.

There is no record of an occupancy permit.

There is a small building under amateur construction. If one story in will be under 400 square feet. If the building is a two story, it will be over 400 square feet. The above owners say they will live in the building, when finished. The building has no visible plumbing or water. – not being constructed to meet the building code requirements

Significant Health Risks to Public:

* Both owners are RNs working for a local senior care facility.
* There is a school age boy living on the prosperity, which poses a health risk to other school age children.
* The properity adjoins a farming irrigation system.

Department of Health and Human Services

IN THE COURT OF APPEALS
SECOND DISTRICT
WASHINGTON STATE

Court of Appeals No. 49335-7-II
Clallam County Superior Court No. 16-2-00260-1

Maolei Zhu and Yongjie Huang

Defendants-Appellants

v.

Sharon Laska, Joseph Walsh, Peter and
Jenifer Lux, Donald and Susan Sorensen,

Plaintiffs-Respondents,

APPELLANTS'RESPONSE TO RESPONDENTS'BRIEF
(Response to respondents' failure to respond)

Maolei Zhu
626 Roberson Road
Sequim, WA 98382

Table of Contents

Table of Authorities

- Statement of what one does not know to be true, RCW 9A.72.080
- Tampering with physical evidence, RCW 9A.72.150
- Perjury in the first degree, RCW 9A.72.020
- Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time, Washington State Court Rule ER 403
- Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures
- Deprivation of Rights under Color of Law, 18.U.S.C. 13.242
- Conspiracy against Rights, 18.U.S.C. 13.241
- Federal Rules of Civil Procedure, Rule 57 Declaratory Judgment
- Federal Declaratory Judgment Act
- Washington State Uniform Declaratory Judgments Act RCW 7.24.060: Refusal of declaration where judgment would not terminate controversy

The Purpose of Respondents' Brief

Instead of responding to the appellants directly, in order to confuse and mislead the Court of Appeals, the respondents recklessly manipulated and falsified evidence, and knowingly made false statements. The details of the respondents' perjury offense are listed in this Appellants' Response to Respondents' Brief. One of the examples of the respondents' perjury offense in the Court of Appeals is their deliberate creation of the "garden shed/sandbox" concept (Respondents' Brief, Page 6; and page 9, line 16), interpreting out of context from the appellant's original testimony: "*building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox*." (RP 13; C.P. 102)

Through confusing the issue, the respondents are trying to avoid the specific, fundamental question in this case: **What is the area of the appellants' initial building?** The respondents have never provided any measurement or any authorized document to "prove"[1] their hypothesis that the appellants' initial building was less than 900 square feet.

In Respondents' Brief, the respondents intentionally omit the trial court's most important finding in their "substantial evidence": **"***The fundamental flaw in the defendant's argument is that they equate*

[1]To "prove" a hypothesis, the hypothesis must be testable against both supportive and refuting evidences. Here the respondents came to the trial court with "sufficient funds" (Ex 24) and a whole bunch of pictures irrelevant with building area for "fact-finding hearings" (RP124), but only found out the official building area is about 1000 square feet based on building code, and there are different standards to determine the area. They achieved their goal to harm the appellants by falsifying, manipulating and omitting evidence, and through abuse of discretion.

*"building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"**

(C.P. 127).

The respondents have not yet responded to the errors pointed out by the appellants – the only reason that makes the appellants and respondents come to the Court of Appeals.

The respondents claim they treat the appellants' arguments as "an evidentiary argument" (Respondents' Brief, page 11) but refused to present any counter evidence to challenge the appellants' arguments, or even talk about whether or not the evidence in the appellants' arguments was true or false.

The respondents refused to talk about the whole initial building that is under the regulation of covenant and alleged by the respondents, and insisted on isolating the shed part from the whole building regardless of fact and law, the building code.

The respondents started their fraud lawsuit to restrain the appellants knowing that the appellants were actively building their 2700

square feet house. "*Specifically, the photograph of a portable toilet attached as Exhibit A to the Supplemental Declaration of Ms. Laska cannot be a photo from January 8, 2016, because it depicts a portable toilet that was only brought in by Clallam County Habitat for Humanity for volunteers while assisting Defendants with deconstruction of the storage shed in March 2015. Exhibit B of the Supplemental Declaration of Ms. Laska is not additional construction, as she describes; in fact it is the beginning of a fence for a modest vegetable garden. Exhibit C of the Supplemental Declaration of Ms. Laska is not an area excavated for a new building; it is the beginning of a 3,000 square foot tennis court."* (C.P. 72, 43-48 with county officers' testimonies)

In defiance of laws, while clearly there was no merit at all, the defendants filed a motion on merits to try to block the truth, and continued to try to destroy the appellants' property. The respondents' motion had been denied by the Court of Appeals.

The following picture is the current condition on the appellants' property. The appellants' 2700 square feet house on the background of the white van has been on the property since November 2016. The RV on the right of the picture is actually on where the initial building used to be. The appellants and their young child are currently living on the RV. The water pump house the respondents are trying to destroy is the small building

MAOLEI ZHU - FILING PRO SE

August 30, 2017 - 12:15 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	94829-1
Appellate Court Case Title:	Sharon Laska, et al. v. Maolei Zhu
Superior Court Case Number:	16-2-00260-1

The following documents have been uploaded:

- 948291_Petition_for_Review_20170830112203SC163665_3779.pdf
  This File Contains:
  Petition for Review
  The Original File Name was Petition for Review full length.pdf

A copy of the uploaded files will be sent to:

- cjriffle@plattirwin.com

Comments:

Sender Name: Maolei Zhu - Email: rayzhu13@outlook.com
Address:
626 Roberson Road
Sequim, WA, 98382
Phone: (360) 471-3356

Note: The Filing Id is 20170830112203SC163665