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STUART W. SCARFF, ESQ.  
JOSEPH N. PEW, V, ESQ. \*  
ANNE C. BURGESS, PARALEGAL

PHONE: 206.236.1500  
FAX: 206.382.0245  
WWW.SCARFFLAW.COM

\*ALSO ADMITTED IN MINNESOTA

September 10, 2013

*Sent via email only ([tedwatts@ohswlaw.com](mailto:tedwatts@ohswlaw.com))*

Charles E. Watts, Esq.  
Oseran Hahn Spring Straight Watts PS  
10900 N.E. Fourth Street #1430  
Bellevue, Washington 98004

**RE: Miller vs. Gartz**

Dear Ted:

I enjoyed talking with you on August 28<sup>th</sup> and apologize for not getting back to you sooner regarding the possibility of you and I meeting at our clients' mutual properties. The thought was to personally view the trees that my client, Shane Miller, planted four years ago and that allegedly block your client's view to the south. I also wanted to inspect the major remodel/improvements that your client, Mr. William Gartz and Ms. Robin Holt (hereinafter "Gartz") undertook to their home and have significantly impacted my client's privacy.

While I believe it may be important to inspect the properties and better understand the extent of the privacy invasion and alleged view blockage, I believe it is also important to spell out all of the issues at hand.

As you probably know, the Gartz are both licensed and experienced architects and very knowledgeable as to property boundaries, surveying, measurement, setback codes, etc. I have reviewed numerous pictures provided by Mr. Miller and survey drawings produced by surveyors which support the issues and concerns raised below.

1. Setbacks and Home Improvements – The Gartz undertook a major remodel to their home in 2008 and they failed to comply with the City of Mercer Island's setback rules requiring a combined 15 foot wide side setback. Recent survey work by Group 4, Inc. illustrates that the Gartz' improvements are approximately four feet from their northern boundary and 5 feet from their southern boundary, totaling only 9 feet. The actual improvements differ from Gartz' site plan submitted to the City of Mercer Island on October 18, 2007, which shows a 7.65 foot setback on one side and a 7.35 foot setback on the other side for a total setback of 15 feet. The setback measurements the Gartz provided to the City are inaccurate, a fact confirmed by surveys commissioned by the Gartz at that time. Failure to comply with City setback requirements has caused material damages to the privacy,

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usability and value of Mr. Miller's home. In 2007, the Gartz sent a letter to their neighbors informing them that they were going to resurface exterior walls and railings, but they did not indicate that they were going to be extending/expanding their building footprint in any manner whatsoever. My client needs the Gartz to correct their non-conforming improvements so that they comply with the City setback code, thus better preserving Mr. Miller's privacy, usefulness and market value of his home.

2. Encroaching Staircase at Shoreline – Within the past few months the Gartz constructed a large concrete staircase landing that encroaches onto my client's property by approximately 3-4 feet. It also blocks a recorded easement granting access to pass along the Gartz and Lewis properties. The staircase landing is hazardous with an 8-10 foot drop to the rocks and water below, although temporary orange plastic cautions the hazard. While building the staircase landing, several feet of poured concrete was broken and removed from Mr. Miller's side of the shared property line. It is my recollection that City and Federal law prohibits construction of large staircase landings at the water's edge without proper notice and permitting. Query as to whether Mr. Gartz obtained the requisite permits for the Shoreline staircase. Also, the construction of a concrete wall that blocks access to a recorded access easement gives rise to additional claims that will be pursued by Mr. Miller and Mr. George Lewis. The encroaching staircase must be removed and the removed concrete replaced.
3. Roof Eave Extension – At the Southeast corner of their residence, the Gartz extended their roof eave approximately 1 -2 feet using long metal flashing and the new roof eave reaches to within inches of the property line and possibly crosses the property line and adversely impacts tree vegetation situated below the eave on Mr. Miller's property. Per Mr. Miller's research, the Gartz did not obtain the requisite building permits for the roof extension and the extension fails to comply with City's setback requirements. The encroaching roof eave extension must be removed.
4. Retaining walls over the property line – Within the past few months the Gartz installed two or more retaining walls that encroach on to Mr. Miller's by approximately 2-3 feet. The encroaching portion of the retaining walls must be removed.
5. Plantings over the property line – Within the past few months, the Gartz installed numerous plantings over the property line. These plantings must be removed.
6. Irrigation over the property line – The Gartz recently installed in-ground irrigation which appears to encroach onto the Miller's property. The encroaching irrigation must be removed.
7. Paver stones over the property line – The Gartz installed pavers that appear to cross the property line. The encroaching pavers must be removed.

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8. Repeatedly interfering with Mr. Miller's Workers – Mr. Gartz blocked Mr. Miller's landscaper from removing weeds and replacing trees on Mr. Miller's property that Gartz admittedly (and wrongfully) topped. The Gartz must cease and desist interfering with workers that are providing services on Mr. Miller's property.
9. Removing and burying property markers – Group 4, Inc. placed many survey markers identifying property boundary lines and within days of the markers being installed, the Gartz removed one or more of the wood boundary stakes and covered one or more of the metal pin markers with soil. Removing, relocating and/or hiding property survey markers subjects the Gartz to both criminal and civil liability. The Gartz must not interfere with, remove or relocate survey property markers placed by Mr. Miller's surveyors and must reimburse Mr. Miller for the cost he incurred resurveying the subject property.
10. Driveway use – The Gartz' workers have used Mr. Miller's private driveway for loading, unloading and turning around large vehicles. Mr. Miller provided written notice of driveway damage caused by Gartz' workers and asked that the Gartz cease using Mr. Miller's driveway. The Gartz must stop using Mr. Miller's private driveway area and compensate Mr. Miller for the damages he has incurred.
11. Inappropriate behavior/spying/stalking – Mr. Gartz has been monitoring Mr. Miller and providing written reports to Mr. Miller's ex-wife regarding Mr. Miller's girlfriend, guests, his daily routine/schedule, etc. which is inappropriate and creepy. Attached hereto are emails from Mr. Gartz to Mr. Miller's ex-wife. Mr. Gartz must immediately cease and desist all monitoring and reporting as to Mr. Miller's guests, schedule, activities, etc.
12. Timber Trespass – The Gartz knowingly and willingly, without Mr. Miller's permission, topped trees planted by Mr. Miller and growing on his property. The Gartz's actions constitute timber trespass as defined by RCW 64.12.030 and they are subject to treble damages for their actions, such damages of which will be proven in court if necessary. The Gartz must immediately cease and desist all trespasses onto Mr. Miller's property, including any further timber trespass, and reimburse Mr. Miller for the damages he has incurred.

The Gartz were ordered to pay George Lewis' attorney's fees of more than \$37,000 for a pattern of inappropriate behavior virtually identical to that of which my client is experiencing, i.e., violating the express terms of a recorded easement and encroaching on a neighbor's property.

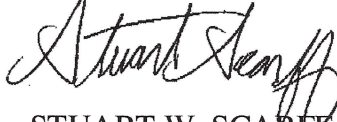
Mr. Miller has incurred substantial damages as a result of your client's action, including loss of privacy, loss of view, loss of usefulness, diminished property value, timber trespass damages, interference with access easement and destruction and removal of concrete, surveyor fees and attorney's fees.

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Please advise as to how your client intends to remedy the issues raised above. If we cannot resolve all of the above issues within the next 10 days, my client has authorized me to file a law suit against Gartz to recover the significant damages that he has incurred and to file an action against the City of Mercer Island to enforce the City's Code(s) that the Gartz have violated.

Respectfully,



STUART W. SCARFF  
Attorney at Law

SWS.acb  
cc: client

EX. B (1)

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— Forwarded Message —

From: William Gartz [REDACTED]  
To: carrie miller <carrie.mill@yahoo.com>  
Sent: Monday, July 18, 2011 11:40 AM  
Subject: Re: Favor

Just FYI,  
Shane is doing a major interior remodel for the past several months

Bill

From: carrie miller <carrie.mill@yahoo.com> Date: Fri, 17 Jun 2011 13:01:18 -0700 (PDT) To: William Gartz <[REDACTED]> Subject: Re: Favor

Hi Bill,

Thanks for the update! Unbelievable that he does not pay child support but has put on a new roof, purchased a boat, and is remodeling the house. Also, we are not even divorced yet and I heard that he moved his girlfriend in. What a character...

Thanks again for the update, I really appreciate it.

Carrie

(206) 910-4102--- On Fri, 6/17/11, William Gartz <[REDACTED]> wrote:

From: William Gartz [REDACTED]  
Subject: Re: Favor  
To: "carrie miller" <carrie.mill@yahoo.com>  
Date: Friday, June 17, 2011, 12:55 PM

Shane does seem to be doing some extensive remodel to the inside of the house. I can't see if obviously, but the landscaper said he is doing the interior work for Shane.

Bill

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Subject: Re: Favor  
From: William Gartz ([REDACTED])  
To: carrie.mill@yahoo.com;  
Date: Wednesday, September 28, 2011 8:00 AM

Hi Carrie,

So sorry to hear he is so selfish and irresponsible. I really have no contact with him. As you can imagine he doesn't invite me in for a glass of wine. All I can see what you apparently already know. The roof was repaired, the landscape done, and there was interior remodel work done as I could tell from the workers but don't know extent.

He does seem gone a lot. Hardly see him at all. Not sure where or for what purpose. Occasionally he has a girl (friend) over, but again we really don't see him much.

It sounds like you have gotten some judgements. I hope you have a lawyer working with you. You should put a lien on his property if he's not paying. Not sure if they can do that, but gotta hook him somewhere.

Again, sorry to hear.  
Bill

Please note:  
My new email address is [REDACTED] Comcast emails will continue to forward for the time being, but please update your address book and contact information. Thanks!