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SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF KING

CHRISTOPHER A. NIEDERMAN and
NICOLE L. NIEDERMAN, husband and
wife, and the marital community composed
thereof,

Plaintiffs,

v.

STEVE YANG and SOPHY YANG, husband
and wife, and the marital community
composed thereof; UMPQUA BANK, a
foreign bank corporation,

Defendants.

NO.
COMPLAINT

COME NOW plaintiffs, Christopher A. Niederman and Nicole L. Niederman (collectively the “Niedermans”), by and through their counsel of record, and for causes of action against the defendants above-named, state, allege, and aver as follows:

I. THE PARTIES

1.1 The Niedermans are, and at all relevant times have been, a married couple residing in Mercer Island, King County, Washington. The Niedermans are the legal owners of real property located in Mercer Island, King County, Washington.

1.2 The Niedermans are informed and believe, and on that basis allege, that Steve and Sophy Yang (individually “Steve” and “Sophy,” and collectively the “Yangs”) are, and at all relevant times have been, a married couple residing in Mercer Island, King County, Washington.

1.3 The Niedermans are informed and believe, and on that basis allege, that Steve owns as his individual property real property located adjacent to the Niedermans' real property located in Mercer Island, King County, Washington.

1.4 The Niedermans are informed and believe, and on that basis allege, that defendant Umpqua Bank is a foreign bank corporation that at all relevant times has conducted business in King County, Washington, held real property interests in King County, and has a current and existing secured lending relationship secured by real property owned by Steve and located in Mercer Island, King County, Washington.

II. JURISDICTION AND VENUE

2.1 This Court has subject matter jurisdiction of this case pursuant to RCW 2.08.010.

2.2 This Court has personal jurisdiction over the parties given their residences, ownership of real property in King County, Washington, and conduct of business in King County, Washington.

2.3 Venue is appropriate in this Court pursuant to RCW 4.12.010(1), as there is a dispute regarding title to real property located in King County, Washington; RCW 4.12.020(3), as the causes of action in this Complaint arose in King County, Washington; and RCW 4.12.025(1), as the Yangs reside in King County, Washington.

III. BACKGROUND FACTS

A. The Niederman Property

3.1 The Niedermans are the owners of the real property located at 6800 SE 96th Ave., Mercer Island, WA 98040, King County Parcel No. 30240-59098 (the "Niederman Property"), and legally described as follows:

PARCEL A:

THAT PORTION OF GOVERNMENT LOT 1, SECTION 30, TOWNSHIP
24 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING
COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 1;

THENCE NORTH 89°59'33" EAST, ALONG THE SOUTHERLY LINE THEREOF A DISTANCE OF 185 FEET;

THENCE NORTHERLY AT RIGHT ANGLES TO A POINT ON A LINE WHICH IS PARALLEL TO AND 60 FEET NORTHERLY OF THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 1, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE EASTERLY ALONG SAID PARALLEL LINE TO THE PRESENT SHORE LINE OF LAKE WASHINGTON;

THENCE SOUTHERLY ALONG SAID SHORE LINE, TO THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 1;

THENCE WESTERLY, ALONG SAID SOUTHERLY LINE 311.94 FEET MORE OR LESS, TO A POINT WHICH IS 10 FEET EASTERLY, MEASURED ALONG SAID SOUTHERLY LINE, FROM THE SOUTHWEST CORNER OF SAID GOVERNMENT LOG 1;

THENCE NORTHERLY AT RIGHT ANGLES TO SAID SOUTHERLY LINE, 35 FEET;

THENCE EASTERLY TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH SHORE LANDS SITUATE IN FRONT OF, ADJACENT TO AND ABUTTING THEREON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS AS DELINEATED ON THE PLAT OF EVAN'S ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, RECORDS OF KING COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

3.2 The Niedermans purchased the Niederman Property from Kenneth B. Simons and Carol J. Simons (collectively the "Simonses") via a Statutory Warranty Deed recorded on March 17, 2015, King County Recording No. 20150317001129.

3.3 The Simonses purchased the Niederman Property from Richard Foran, Personal Representative for the Estate of James E. Foran, via a Statutory Warranty Deed recorded on June 19, 2003, King County Recording No. 20030619002417.

B. The Yang Property

3.4 The Niedermans are informed and believe, and on that basis allege, that Steve owns as his separate property the real property located at 6660 E Mercer Way (9640 SE 68th St.), Mercer Island, WA 98040, King County Parcel No. 23960-00050 (the “Yang Property”), and legally described as follows:

THAT PORTION OF LOTS 4 AND 5, EVAN'S ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTHLINE OF SAID LOT 4, EVAN'S ADDITION WHICH BEARS S 88' 41'26" E, DISTANT 1 03.38' FROM THE NORTHWEST CORNER OF SAID LOT 4; THENCE S 05'41'39" W A DISTANCE OF 102.56' TO THE SOUTH LINE OF SAID LOT 4 AND THE TERMINUS OF THIS LINE. TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AS DELINEATED ON THE FACE OF THE PLAT; TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON; AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

3.5 The Niedermans are informed and believe, and on that basis allege, that Steve first acquired an interest in the Yang Property from his parents I-Hsing Yang and Hsu Pei-Yu Yang (collectively “Steve’s Parents”) via a Quit Claim Deed recorded on June 13, 2013, King County Recording No. 20130613001297.

3.6 The Niedermans are informed and believe, and on that basis allege, that Sophy quit claimed her community interest in the Yang Property to Steve through a Quit Claim Deed recorded on June 13, 2013, King County Recording No. 20130613001298.

3.7 The Niedermans are informed and believe, and on that basis allege, that Steve's Parents quitclaimed the remainder of their interest in the Yang Property to Steve via a Quitclaim Deed recorded May 4, 2018, King County Recording No. 20180504000497.

3.8 The Niedermans are informed and believe, and on that basis allege, that the Yang Property is subject to a Deed of Trust in favor of Umpqua Bank in the amount of \$1,900,000, recorded on November 19, 2019, King County Recording No. 20191119001016. The Niedermans are informed and believe, and on that basis alleged, that the \$1,900,000 Deed of Trust secures a construction loan for the Yangs' construction of a new home on the Yang Property.

C. History of the Niederman and Yang Property

3.9 The Niederman Property and the Yang Property share a common boundary.

3.10 The Niederman Property, the Yang Property, and four adjacent parcels, were originally under common ownership.

3.11 In December of 1976, prior to Steve or Steve's Parents acquiring an interest in the Yang Property, what is now the Yang Property, together with four other parcels, were developed as part of the "Evans Addition" as reflected in a recorded Short Plat Dedication, a true and correct copy of which is attached as Exhibit A. The Yang Property is referred to as Lot 5 in the Short Plat Dedication. The Niederman Property was not part of the Evans Addition.

3.12 Both the lots that make up the Evans Addition, and the Niederman Property, can be accessed only by a private lane as reflected in the Short Plat Dedication.

3.13 The Short Plat Dedication further provides that: "THE OWNER AND GUESTS OF THE RESIDENCE AT 6800 96TH SE [the Niederman Property] HAVE THE RIGHT TO USE THE 10' ROAD EASEMENT FOR INGRESS AND EGRESS PURPOSES." To that end, the Short Plat describes and established an easement 10 feet wide

that terminates at the Niederman Property, and allows direct access to the private lane from the Niederman Property (the “Easement”).

3.14 At the time the Short Plat Dedication was created, the Easement allowing the Niederman Property access to the private lane did not cross any portion of what is now the Yang Property. Instead, it crossed what is referenced in the Short Plat Addition as Lot 4.

3.15 The Niedermans are informed and believe, and on that basis allege, that neither Steve, Sophy, nor Steve’s Parents have ever owned Lot 4 to the Short Plat Addition.

3.16 In 1994 Steve’s Parents, who at the time owned the Yang Property, and the owners of Lot 4, agreed to the Evans/Yang Lot Line Revision (the “Lot Line Revision”), which was recorded under King County Recording No. 9412229001. A true and correct copy of the Lot Line Revision is attached as Exhibit B.

3.17 The Lot Line Revision served to increase the square footage of Lot 5 (the Yang Property), and decrease the size of Lot 4. It also relocated what is referred to as a “Vehicle Turn Around Easement” that is used by the Niederman Property and the owners of Lots 1-5 to, *inter alia*, turn cars around to drive up the private lane.

3.18 Each of the five parcels in the Evans Addition is subject to a Road Maintenance Agreement for the private lane. The Niederman Property is not, and has never been, subject to the Road Maintenance Agreement.

3.19 When the original residence on what is now the Niederman Property was constructed, a driveway was built that was 15-feet wide, and partially overlapped the location of the Easement as set forth in the Short Plat Dedication.

3.20 At all times since the original residence was constructed on the Niederman Property in the 1970’s, the owners of the Niederman Property have used a 15-foot wide path beginning in the location of the actual driveway located on the Niederman Property to the private lane. This path has never matched the location of the Easement. The Easement as used

differs from the Easement as set forth in the Short Plat Dedication in that it is 15-foot wide instead of 10 feet, and extends 10 feet further east than the Easement as set forth in the Short Plat Dedication.

D. The Niedermans Remodeled the Residence on Their Property in Accordance With All Applicable Legal Requirements

3.21 When the Niedermans purchased their real property it had, for many years, a residence located on it with a driveway that did not match the location of the Easement. The driveway in sum occupied the easterly half of the Easement, and extended an additional 10 feet past the easterly edge of the Easement.

3.22 The Niedermans made the decision to remodel the existing residence on the Niederman Property.

3.23 Prior to beginning construction on the remodel, the Niedermans applied for and obtained all legally required building permits from the City of Mercer Island (the “City”). Part of the permit application process included submitting plans for approval. The plans submitted by the Niedermans, and approved by the City, among other things reflected the location of the Niedermans’ proposed new driveway being exactly where the previous driveway had been located since the original residence was constructed in the 1970’s.

3.24 As part of doing so, the Niedermans retained design professionals, and submitted all required applications to the City of Mercer Island (the “City”). The plans submitted and approved call for a new driveway to be poured in exactly the same location where the previous driveway had been located on the Niederman Property for approximately 40 years, and which did not match the location of the Easement.

3.25 Following the Niedermans’ submittal of their proposed building plans, which reflected that they did not intend to move the previous location of the driveway, the Yangs had a 30-day period between August 21, 2017 and September 19, 2017 to submit a public comment addressing or objecting to the driveway’s location. Despite receiving proper notice of the Niedermans’ project, the Yangs submitted no comments.

3.26 Following the City's approval of the Niedermans' building permit, under RCW 36.70C.040(3), the Yangs had 21 days to file a LUPA petition challenging the City's decision. The Yangs again failed to act within the statutorily-defined period.

3.27 As a result of not acting within the statutorily defined time periods, the Yangs lost any legal right they may have had to object to the location of the Niedermans' driveway.

3.28 Part of the Niedermans' construction process involved reconnecting a new gas line from the Niedermans' home to the existing gas line that has for years supplied many of the homes in neighborhood with natural gas, including the Yangs'.

3.29 Because approximately five feet of the gas line is located on the Yangs' property, the Niedermans sought the Yangs' permission to reconnect their new gas line, and even offered to make a \$10,000.00 contribution toward the maintenance and improvements to the private lane, despite not being parties to the Road Maintenance Agreement.

3.30 In response, the Yangs asked the Niedermans to first obtain permission from the other neighbors, and indicated that if the Niedermans could do so they too would agree. After the Niedermans received permission from the other neighbors, the Yangs declined to agree.

3.31 As a result of the Yangs' refusal, the Niedermans were forced to drill a new gas line at a cost of more than \$22,000.00.

E. The Yangs' Pattern of Harassing Activities

3.32 After missing all applicable deadlines to file a comment in response or otherwise object to the Niedermans' building permit application, the Yangs lodged approximately 16 separate, frivolous complaints with the City involving the Niedermans' construction. The City dismissed each and every one of the Yangs' complaints without a finding of wrongdoing or requiring the Niedermans to take corrective action of any kind.

3.33 The Yangs then began a pattern of harassment toward the Niedermans involving, *inter alia*, partially blocking the Niedermans' driveway by parking automobiles adjacent to it; partially blocking the Niedermans' driveway by parking automobiles in the Turn Around Easement; partially blocking the Niedermans' driveway by placing traffic cones, signs, emergency tape, and large flower pots so as to restrict ingress and egress to a limited portion of the driveway; shining a flashlight into the Niedermans' home at approximately 10:00 p.m.; and moving the Niedermans' garbage cans from where they have long been left for pick-up by Recology, and where Recology instructed the Niedermans they should be placed.

3.34 Despite repeated requests by the Niedermans that the Yangs stop their pattern of harassing activity, the Yangs have steadfastly refused to do so.

F. The Yangs Knowingly Submitted an Application to the City to Construct a New Residence That Misrepresented the Location of the Niedermans' Driveway

3.35 The Yangs have torn down the residence located on the Yang Property, and are in the process of building a new residence.

3.36 As part of their permit application to the City, the Yangs wrongfully submitted proposed plans to the City that failed to reflect the actual location of the Niedermans' driveway as already approved by the City, and as it had been located for more than 40 years.

3.37 The Yangs had no basis in fact or law to believe that the Niedermans' driveway was or would ever be constructed as represented on the building plans the Yangs submitted to the City. Certainly the Niedermans never informed the Yangs they intended to place their driveway in a manner than conformed to the Yangs' plans as originally submitted to the City.

3.38 The Niedermans accordingly are informed and believe, and on that basis allege, that the Yangs knowingly and intentionally submitted inaccurate building plans to the City with the intent to deceive the City in a wrongful and ineffective attempt to negatively affect the Niedermans' rights.

3.39 After the inaccuracy in the Yangs' building plans was discovered, the City rescinded the Yangs' building permit, forced them to accurately redraw and resubmit new plans that, *inter alia*, accurately reflected the true location of the Niedermans' driveway. The City subsequently issued the Yangs a permit on the express condition that they remove a site plan note expressing possible alteration of the location of the Niedermans' driveway.

IV. FIRST CAUSE OF ACTION – DECLARATORY RELIEF

4.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

4.2 There is an actual, present dispute between the parties to this lawsuit, which is, therefore, subject to adjudication by this Court, concerning the size and location of the Easement, and rights to use the Turn Around Easement.

4.3 The Niedermans request declaratory relief pursuant to RCW 7.24 *et seq.* that they have and are entitled to a 15-foot wide prescriptive easement running from the private lane referenced above to their driveway as the driveway presently exists and has at all relevant times existed, in an exact location to be proved at the time of trial.

4.4 The Niedermans further request declaratory relief pursuant to RCW 7.24 *et seq.* that their prescriptive rights accrued prior to Steve or Sophy owning any interest in the Yang Property, and that as such neither Steve nor Sophy have, or have ever had, the right or ability to affect the Niedermans' prescriptive rights.

4.5 The Niedermans also request declaratory relief pursuant to RCW 7.24 *et seq.* that they have full and equal use of the Turn Around Easement, and that the area that comprises the Turn Around Easement, by its very nature, cannot be used for the parking of automobiles, and must be kept clear.

4.6 The Niedermans are entitled to recover their attorneys' fees pursuant to RCW 7.28.083(3) and *Workman v. Klinkenberg*, 6 Wn. App.2d 291 (Div. 1 2018).

V. SECOND CAUSE OF ACTION – QUIET TITLE TO EASEMENT

5.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

5.2 The claims and contentions of the Yangs regarding the location and size of the Easement constitute a cloud on the Niedermans' title.

5.3 The Niedermans, their predecessors, and their guests and invitees have, for approximately 40 years, had a 15-foot wide driveway located in a position other than that indicated by the Easement.

5.4 The Niedermans, their predecessors, and their guests and invitees have, for approximately 40 years, driven over the real property owned by Steve and his predecessors and used the Niedermans' entire driveway for ingress and egress.

5.5 The actions of and use by the Niedermans, their predecessors, and their guests and invitees of Steve's real property, which has lasted substantially more than 10 years, has been hostile, actual, open and notorious, continuous and uninterrupted, and over a uniform 15-foot wide route, adverse to Steve and his predecessors, and occurred with the knowledge of Steve and his predecessors at a time when they were able at law to assert and enforce their rights.

5.6 For several decades Steve and his predecessors failed to any way oppose, comment on, or attempt to legally prevent the Niedermans, their predecessors, and their guests and invitees from their open, notorious, and adverse use of a 15-foot wide access and driveway located other than in the location indicated in the Easement.

5.7 The use of the 15-foot wide route and driveway by the Niedermans, their predecessors, and their guests and invitees, has been exclusive to them.

5.8 As a result of the above-described actions, the Niedermans have acquired a 15-foot wide easement by prescription in an exact location to be established at trial, and are entitled to a Judgment quieting title over such easement by prescription.

5.9 The Niedermans are entitled to recover their attorneys' fees pursuant to RCW 7.28.083(3) and *Workman v. Klinkenberg*, 6 Wn. App.2d 291 (Div. 1 2018).

**VI. THIRD CAUSE OF ACTION
QUIET TITLE TO PRESCRIPTIVE EASEMENT FOR
USE OF VEHICLE TURN AROUND EASEMENT**

6.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

6.2 The claims and contentions of the Yangs described above regarding the Turn Around Easement constitute a cloud on the Niedermans' title.

6.3 The Niedermans, their predecessors, and their guests and invitees continuously used the Vehicle Turn Around Easement as reflected on the Short Plat Dedication from its filing until 1994. Their use included, *inter alia*: (a) ingress to and egress from the Niederman Property; (b) turning cars around in connection with ingress to and egress from the Niederman Property; (c) leaving garbage and recycling cans out for pickup as directed and requested by disposal companies; and (d) other related uses.

6.4 The above-described use of the Vehicle Turn Around Easement by the Niedermans, their predecessors, and their guests was hostile, actual, open, and notorious, and continuous for more than ten years.

6.5 As a result of such use, the owners of the Niederman Property obtained prescriptive rights for such uses in approximately 1989, or 10 years after the Short Plat Dedication was recorded.

6.6 The 1994 Lot Line Revision slightly relocated the Vehicle Turn Around Easement. Such relocation did not affect the rights associated with the Niederman Property.

6.7 Following the Lot Line Revision, the use of the Vehicle Turn Around Easement by the Niedermans, their predecessors, and their guests and invitees did not change in any material way.

6.8 Even assuming that the Lot Line Revision did affect prescriptive rights associated with the Niederman Property, the Niedermans, their predecessors, and their guests and invitees have used the Vehicle Turn Around Easement in a hostile, actual, open and notorious, hostile, and continuous manner since 1994.

6.9 The Yangs' recent pattern of harassment and wrongful blocking of the Niedermans' driveway access is of no legal force or effect regarding the Niedermans' prescriptive rights.

6.10 As a result of the above-described actions, the Niedermans have acquired a 15-foot wide easement by prescription in an exact location to be established at trial, and are entitled to a Judgment quieting title over such easement by prescription.

6.11 The Niedermans are entitled to a Judgment quieting title over an easement by prescription to use the Turn Around Easement for: (a) ingress to and egress from the Niederman Property; (b) turning cars around in connection with ingress to and from the Niederman Property; (c) leaving garbage and recycling cans out for pickup as directed and requested by disposal companies; and (d) other related uses.

6.12 The Niedermans are entitled to recover their attorneys' fees pursuant to RCW 7.28.083(3) and *Workman v. Klinkenberg*, 6 Wn. App.2d 291 (Div. 1 2018).

**VII. FOURTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

7.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

7.2 The Yangs intentionally and deliberately engaged in a long-running pattern of wrongful activities directed at the Niedermans in an effort to deprive the Niedermans of quiet enjoyment of their real property and to cause the Niedermans emotion distress. The Yangs have no reasonable basis to belief that the following activities were legal or otherwise appropriate.

7.3 The Yangs' wrongful actions include, by way of example, filing numerous frivolous complaints with the City in an attempt to cause the Niedermans to incur additional expenses in connection with their construction project; shining a flashlight into the Niedermans' home at night; repeatedly blocking the Niedermans' driveway with automobiles and other items; and otherwise unreasonably interfering with the Niedermans' use and enjoyment of their home.

7.4 The Niedermans have a reasonable belief that the Yangs will continue their now established pattern of harassment unless restrained by the Court.

7.5 The Niedermans request entry of a permanent injunction prohibiting the Yangs from: (a) in any way blocking the Niedermans' driveway with cars, traffic cones, flower pots, emergency tape, or in any other manner; (b) moving the Niedermans' garbage and recycling cans from the location in which they have long been left for pickup; (c) shining lights into the Niedermans' home during evening and nighttime hours; (d) making further frivolous complaints to the City or other governmental entity regarding the Niedermans; and (e) otherwise interfering with the Niedermans' quiet enjoyment of their home.

7.6 The Niedermans further request monetary damages for the Yangs' wrongful actions in an amount to be determined at trial.

VIII. FIFTH CAUSE OF ACTION – PRIVATE NUISANCE

8.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

8.2 The above-describe actions of the Yangs in blocking the Niedermans' access to their driveway constitutes an actionable private nuisance as defined in RCW Ch. 7.48 *et seq.*

8.3 The Niedermans are within the class of persons entitled to bring suit related to such nuisance.

8.4 The Niedermans are entitled to a warrant directing the sheriff to prohibit the Yangs from further obstructing their driveway and taking any other actions that constitute a nuisance.

8.5 The Niedermans request a penalty against the Yangs as provided for in RCW 7.48.250.

8.6 The Niedermans further request costs of abatement against the Yangs in an amount to be proven at trial.

8.7 The Niedermans further request monetary damages for prior wrongful actions in an amount to be determined at trial.

IX. SIXTH CAUSE OF ACTION – INJUNCTIVE RELIEF

9.1 The Niedermans incorporate by reference each and every preceding allegation as if fully set forth herein.

9.2 The Niedermans are entitled to temporary, preliminary, and permanent injunctive relief prohibiting the Yangs from attempting to prevent, limit, or to interfere with the continued use by the Niedermans, or their successors in title, of the Easement and the Turn Around Easement as herein described.

X. PRAYER FOR RELIEF

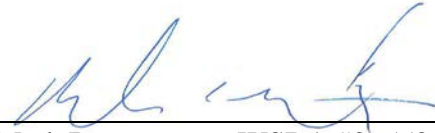
WHEREFORE, the Niedermans pray for the following relief:

1. That title be quieted in the Niedermans' favor as above-requested against all defendants;
2. Judgment against the Yangs in an amount to be determined by the Court, together with pre-judgment and post-judgment interest at the maximum amount provided for under Washington law;
3. For a warrant of abatement against the Yangs as requested above;
4. An award of their costs and disbursements herein, including reasonable attorneys' fees, jointly and severally against all defendants;

5. Injunctive relief as requested above; and
6. Such other and further relief as the Court deems just and equitable.

DATED this 10th day of May, 2020.

CARNEY BADLEY SPELLMAN, P.S.

By 

Mark Rosencrantz, WSBA #26552
Kenneth W. Hart WSBA #15511
Attorneys for Plaintiffs

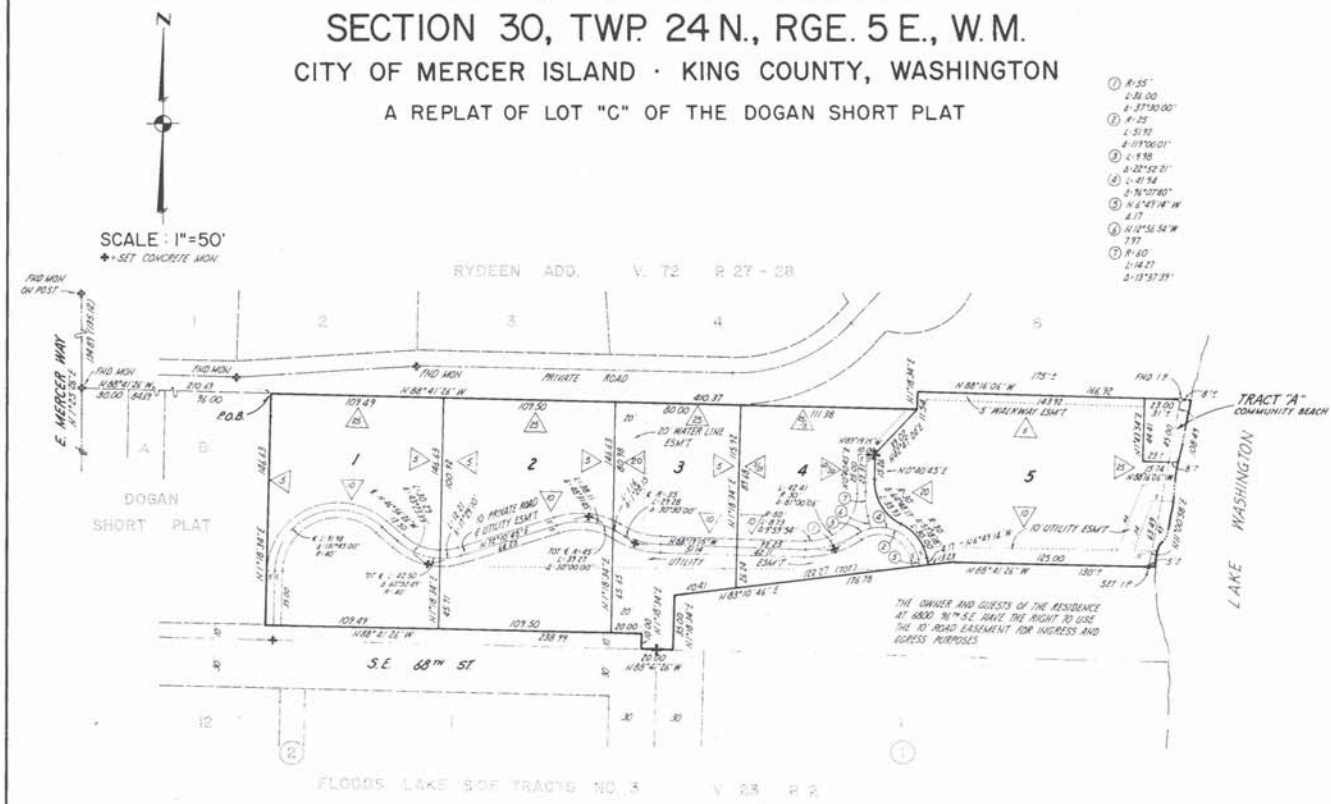
Exhibit A

EVAN'S ADDITION

SECTION 30, TWP. 24 N., RGE. 5 E., W.M.

CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON

A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT



DESCRIPTION

This Plat of Evan's Addition is a replat of Lot "C" of the Dogan Short Plat, located in Section 30, Township 24 North, Range 5 East, W.M., filed with the City of Mercer Island in May, 1974, more particularly described as follows:

Commencing at a brass monument marked with an "X" on the intersection of E. Mercer Way and the north property line of the said Dogan Short Plat extended westerly, thence S 88° 41' 26" E along the south line of the Plat of Rydeen Addition, recorded in Volume 72, pages 27 and 28, records of King County, Washington, a distance of 210.69 feet to the northeast corner of Lot "B" of said Dogan Short Plat, and the Point of Beginning, thence continuing along the south line of said Rydeen Addition S 88° 41' 26" E a distance of 410.37 feet; thence N 01° 18' 34" E a distance of 11.54 feet; thence S 88° 16' 06" E a distance of 166.92 feet to an existing iron pipe; thence continuing S 88° 16' 06" E a distance of 7.0 feet more or less to the shoreline of Lake Washington; thence southwesterly along said shoreline to the southerly line of said Dogan Short Plat extended easterly, thence along said southerly line N 88° 41' 26" W a distance of 5.0 feet more or less to an iron pipe; thence continuing N 88° 41' 26" W a distance of 125.00 feet; thence S 83° 10' 54" W a distance of 176.78 feet; thence S 01° 18' 34" W a distance of 35.00 feet; thence N 88° 41' 26" W a distance of 20.00 feet; thence N 01° 18' 34" W a distance of 10.00 feet; thence N 88° 41' 26" W along the north right-of-way of S.E. 68th St. a distance of 238.99 feet to the southeast corner of said Lot "B"; thence N 01° 18' 34" E along the east line of said Lot "B" a distance of 146.63 feet to the Point of Beginning.

Together with the second class shorelands adjoining and lying between the northerly and southerly lines of the above described plat produced easterly.

RESTRICTIONS

- Maintenance and repair of the private road, the community beach tract "A" and all storm drainage facilities located within the utility easement, shall be the responsibility of the owners of each lot herein and each lot owner shall pay one fifth (1/5) of the cost thereof. In the event that maintenance and repair of the storm-water drainage facilities is not performed to the satisfaction of the City Engineer, after a timely demand has been made for such action, the City shall have the right to enter upon the premises and perform the necessary maintenance and repair and charge the owner of each lot for his pro rata share of the total cost of such maintenance and repair. In addition, the City or the owner of any lot shall have the right to bring an action in superior court to require such maintenance and repair to the storm water drainage facilities as is deemed necessary by the City Engineer.
- The engineered street, water, sanitary sewer, and storm drainage designs are on file with the City of Mercer Island.
- All footing and roof drains shall be signlined directly to the storm drainage system.
- Access to all lots shall be limited to the 10' private road easement.
- No land clearing permits will be issued prior to the issuance of building permits for individual single family houses.
- No land clearing, filling, or building construction shall be allowed in that portion of land lying south of the 10' private road easement except with the expressed approval of the Planning Commission.

All lots in this plat are subject to the protective covenants as recorded in volume _____ page _____ Auditors' File No. _____ Records of King County, Washington

106 1599

EVAN'S ADDITION

SECTION 30, TWP. 24 N., RGE. 5 E., W.M.

CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON

A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that I, the undersigned, owner in fee simple of the land hereby platted, hereby declare this plat and dedicate to the public forever all roads and ways shown hereon, except Tract A and the 10 foot private road, with the right to make all necessary slopes for cuts and fills and the right to continue to drain said roads and ways over and across any lot where water might take a natural course, in the original reasonable grading of the roads and ways shown hereon.

Jon Evans
Notary Public in and for the State of Washington residing at _____

PLANNING COMMISSION

Examined and approved this 15th day of December, 1976.

Chairman Sam Fry Secretary Stephen H. Carlough

ACKNOWLEDGMENTS

STATE OF WASHINGTON ss
COUNTY OF KING

This is to certify that on the 17th day of _____, 1976, before me, the undersigned a Notary Public, personally appeared JON EVANS and JOYCE EVANS his wife, to me known to be the individuals who executed the within dedication and acknowledged to me they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington residing at _____

CITY COUNCIL

Examined and approved this 15th day of January, 1977.

Mayor Bob D. Lewis Attest: Robert E. Lewis
Clerk

TREASURER'S CERTIFICATE

I hereby certify that all city assessments on the property herein contained are paid in full. This 11th day of January, 1977.

Robert E. Lewis
City Treasurer

STATE OF WASHINGTON
COUNTY OF KING

This is to certify that on the 17th day of _____, 1976, before me, the undersigned, a Notary Public, personally appeared IRENE DOGAN to me known to be the individual who executed the within dedication and acknowledged to me she signed and sealed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington residing at _____

DEPARTMENT OF ASSESSMENTS

Examined and approved this _____ day of _____, 19____.

King County Assessor _____ Deputy King County Assessor _____

LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat of Evan's Addition is based upon an actual survey and subdivision of Section 30, TWP. 24N., RGE. 5 E., W.M., that the courses and distances are shown correctly thereon; that the monuments will be set, and the 101, 400-block corners staked correctly on the ground as construction is completed, and that I have complied with the provisions of the platting regulations.



Howard E. Cornell
Howard E. Cornell
Professional Land Surveyor
Certificate No. 10927

COMPTROLLER'S CERTIFICATE

I hereby certify that all property taxes are paid, that there are no delinquent assessments certified to this office for collection and that all special assessments, certified to this office for collection on any of the property contained, dedicated as streets, alley or for other public use, are paid in full. This 26th day of JAN., 1977.

HUGH L. JAMES W. B. Martin
KING Co. COMPTROLLER DEPUTY KING Co. COMPTROLLER

DEPARTMENT OF SYSTEMS ENGINEERING

Examined and approved this 11th day of January, 1977.

Philip D. Kestelley
City Engineer

RECORDING CERTIFICATE 7701260554

Filed for record at the request of the Mercer Island City Council this 26 day of JANUARY, 1977, at 16 minutes past 12:00 P.M., and recorded in Volume 101 of Plats, pages 91,92, records of King County, Washington.

DEPARTMENT OF RECORDS AND ELECTIONS

Manager _____ Superintendent of Records _____

Exhibit B

EVANS/YANG LOT LINE REVISION

MI-94-1039

LOT LINE REVISION

FILE NO. CITY OF MERCER ISLAND KING COUNTY, WASHINGTON AFFIDAVIT OF OWNERSHIP

KING COUNTY Department of Assessments Examined and approved this 21 day of Dec 1994 City Engineer Scott R. Wilcox

STATE OF WASHINGTON } ss. COUNTY OF KING } (INDIVIDUAL)

ON THIS DAY PERSONALLY APPEARED BEFORE ME E-HSING YANG TO ME KNOWN TO BE THE INDIVIDUAL(S) DESCRIBED HEREIN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME TO BE HIS OWN FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN MENTIONED.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 25th DAY OF October, 1994

WITNESSETH MY HAND AND OFFICIAL SEAL FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: 11/11/95



STATE OF WASHINGTON } ss. COUNTY OF KING } (INDIVIDUAL)

ON THIS DAY PERSONALLY APPEARED BEFORE ME DONALD L. EVANS AND JEANETTE D. EVANS TO ME KNOWN TO BE THE INDIVIDUAL(S) DESCRIBED HEREIN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME TO BE HIS OWN FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN MENTIONED.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 28th DAY OF Oct 1994

WITNESSETH MY HAND AND OFFICIAL SEAL FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: 11/11/95



ACKNOWLEDGMENTS STATE OF WASHINGTON } ss. COUNTY OF KING } (CORPORATE)

ON THIS DAY OF October, 1994 THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED MAH K. NGUYEN AND OFFICER RESPECTIVELY OF WASHINGTON, WA AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF THE SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN.

WITNESSETH MY HAND AND OFFICIAL SEAL FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: 11/11/95



ACKNOWLEDGMENTS STATE OF WASHINGTON } ss. COUNTY OF KING } (CORPORATE)

ON THIS 28th DAY OF October, 1994 THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED TO ME KNOWN TO BE THE SECRETARY, RESPECTIVELY OF COUNTY OF KING PLANNING CORPORATION, THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN.

WITNESSETH MY HAND AND OFFICIAL SEAL FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: 11/11/95



LEGAL DESCRIPTION OF REVISED LOT 5

THAT PORTION OF LOTS 4 AND 5, EVANS'S ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS'S ADDITION WHICH BEARS S88°41'26"E, DISTANT 103.38' FROM THE NORTHWEST CORNER OF SAID LOT 4; THENCE S88°41'39"W, A DISTANCE OF 102.56' TO THE SOUTH LINE OF SAID LOT 4; AND THE TERMINUS OF THIS LINE.

TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AS DELINEATED ON THE FACE OF THE PLAT;

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

LEGAL DESCRIPTION OF ORIGINAL LOTS LOT 4, EVANS'S ADDITION, ACCORDING TO THE PLAT THEREOF IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON; TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON; AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT. SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

LOT 5, EVANS'S ADDITION, ACCORDING TO THE PLAT THEREOF IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON; TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AS DELINEATED ON THE FACE OF THE PLAT;

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

LEGAL DESCRIPTION OF REVISED LOT 4

THAT PORTION OF LOTS 4 AND 5, EVANS'S ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS'S ADDITION WHICH BEARS S88°41'39"W, A DISTANCE OF 103.38' FROM THE NORTHWEST CORNER OF SAID LOT 4; THENCE S88°41'26"E, DISTANT 102.56' TO THE SOUTH LINE OF SAID LOT 4; AND THE TERMINUS OF THIS LINE.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

RECORDER'S CERTIFICATE

Filed for record this ___ day of ___ 19___ at ___ M in book ___ of ___ at pg ___ at the request of FRANK R. TARVER Mgr. Certificate No. 18926 in SEPT 1994. Signature

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction with the requirements of the Survey Recording Act at the request of EVANS/YANG in SEPT 1994. Certificate No. 18926 Signature



LOT LINE REVISION FOR EVANS/YANG LOTS 4 & 5 EVAN'S ADDITION



C & T SURVEYING 2630 116th AVE. N.E., SUITE 101 Bellevue, WA 98004-1459 (206)822-0667

Table with 4 columns: DWN BY (WLA), DATE (9-27-94), JOB NO. (90167), CHKD BY (FT), SCALE (NONE), SHEET (2 OF 2), NE/4, NE/4, SEC 30, T24N, R5E, W.M.

MAP ON FILE IN VAULT Return to: City of Mercer Island Planning Department P. O. Box 1440 Mercer Island, WA 98040-1440

DECLARATION: Know all men by these presents that we, the undersigned, owners in interest of the land herein described do hereby make a lot line revision thereof pursuant to RCW 58.17.060 and declare this lot line revision to be the graphic representation of some, and that said lot line revision is made with the free consent of the owners. In witness whereof we have set our hands and seals.

Signatures of Donald L. Evans and Jeanette D. Evans.