

FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2018 APR -9 AM 11:52

Linda Myhre Enlow
Thurston County Clerk

17-2-00812-34
DCLR 73
Declaration Affidavit
2898156



1 **EXPEDITE** (if filing within 5 court days of hearing)

2 Hearing is set:

3 Date: April 20, 2018

4 Time: 9:00 a.m.

4 Judge/Calendar: The Honorable John C. Skinder

5 No hearing is set

6
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON

9 THERESA J. LOWE, a single woman;
10 LOREN J. BOSSHARD and DONNA A.
11 BOSSHARD, husband and wife;
12 BURLEIGH M. CUBERT and CAROLYN
13 CUBERT, husband and wife,

14 Plaintiffs,

15 v.

16 FOXHALL COMMUNITY
17 ASSOCIATION, a nonprofit corporation,

18 Defendant.

NO. 17-2-00812-34

**DECLARATION OF
RICHARD WADLEY IN SUPPORT
OF PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

19 I, Richard Wadley, declare as follows:

20 1. I am over the age of eighteen years old, competent to testify, and make this
21 declaration based on my personal knowledge and my professional insurance career.

22 2. I have lived in the Foxhall Community for over 20 years.

23 3. My title for the last 15 years of my 33 year State Farm career was Vice President
24 Operations. I was an executive officer of State Farm Mutual Auto Insurance, Fire and
25 Causality, and Life Insurance. It entailed administering to the working lives of 2,000-2,500
26 employees. About two-thirds of those employees were claims people.

27 ///

DECLARATION OF RICHARD WADLEY - 1

Bean, Gentry, Wheeler & Peternell, PLLC
910 Lakeridge Way SW
Olympia, WA 98502
(360) 357-2852
Fax (360) 786-6943

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4. Attached hereto as Exhibit A is a true and correct copy of an email to the Foxhall Community Board, dated July 21, 2015.

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

DATED this 9th day of April, 2018, at Olympia, Washington.

Richard N. Wadley

Richard Wadley

PROOF OF SERVICE

I certify that I caused to be served a copy of the foregoing document on the following parties of record on the date below as follows:

Steve Goldstein
Shawna M. Lydon
Betts, Patterson Mines, P.S.
One Convention Place
Suite 1400
701 Pike Street
Seattle, WA 98101-3927
Email: sgoldstein@bpmlaw.com
slydon@bpmlaw.com

Robert D. Wilson-Hoss
Hoss & Wilson-Hoss, LLP
236 West Birch Street
Shelton, WA 98584
Email: rob@hctc.com

US Mail Postage Prepaid
 Electronic transmission (email)

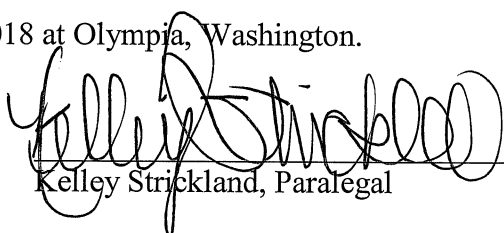
US Mail Postage Prepaid
 Electronic transmission (email)

Loren John Bosshard
Donna Anne Bosshard
5928 Foxhall Court NE
Olympia, WA 98516

US Mail Postage Prepaid

I certify under penalty of perjury under the laws of the state of Washington and the United States of America that the foregoing is true and correct.

DATED this 9th day of April, 2018 at Olympia, Washington.



Kelley Strickland, Paralegal

EXHIBIT A

From: "Dick Wadley" <r.wadley@comcast.net>
To: theresajlowe@comcast.net, bertlewis@gmail.com, fpaul@carlsongroup.com, maytownskier@comcast.net, "denise solveson" <denise.solveson@gmail.com>
Sent: Tuesday, July 21, 2015 3:21:19 PM
Subject: Trail Useage

Hello Foxhall Association Board,

I'm beginning to hear rumbling of allowing unaccompanied non-residents to use Foxhall's exclusive equestrian trails once again. We are adamantly opposed to any liberalization of the covenants without a vote of all the residents.

To allow non-resident free usage opens up serious liability issues far beyond what I contemplated when we moved into Foxhall 20 years ago.

Consider this scenario: an unaccompanied non-resident minor falls off a horse and lands on my property. The injuries result in the rider becoming a quadriplegic. The association and I am sued. The plaintiff uses joint and several liability in recovery of damages. This is a probable legal outcome:

A person or entity can be held responsible for the fault of another if a plaintiff or claimant is fault-free (bears no responsibility for the accident). For fault-free claimants, Washington law provides that all parties found to be at-fault will be jointly and severally liable for the total of the fault-free claimant's damages. This allows a fault-free claimant to collect the **total** damages from any at-fault defendant, no matter how minor his responsibility. Opinion from:<http://www.carmichaelclark.com/litigation-arbitration/joint-and-several-liability-is-it-fair/>

Last year at the association meeting, a resident claimed a certain RCW provided protection to our association and residents from liability. While I doubt this statue has been tested in court, even if was upheld, there are still expensive defense costs associated with dealing with the claim.

Also, opening up the usage of our unique HOA to non-residents will result in more traffic on the trails and the parks. Some of that increased traffic may well be undesirable and beyond our ability to enforce.

Wadley, Page 2.

Please do not make unilateral rule changes without submitting the contemplated changes to the association members accompanied by a legal opinion about the impact of joint and several liability on members of our Homeowners Association.

Finally, I suggest each of you consult with your insurance agent about the advisability of having your personal "Umbrella" insurance policy to cover situations involving Joint and Several Liability. Think what could happen if you were minimally involved in a multi-car accident which resulted in a truckload of expensive electronics being destroyed. It could be ugly without High Limits insurance protection.

I've served on the Association Board in the past and currently serve on the ACC. I care deeply about our unique community and hope to keep it in compliance with the original intent of the CC&R's we all signed, and agreed to, when we moved in.

Sincerely,

Dick Wadley
4800 Foxtrail Dr. NE
Olympia, WA