

Received Date: Tuesday, October 14, 2014

Received Time: 3:33 p.m.

Accepted by: Jessica Simulcik Smith

City of Shoreline

Summons & Complaint Number: SC-14-003

Plaintiffs: Ronald Wastewater District

- **Summons**
 - **Notice of Appeal**
-

Emailed Tuesday, October 14, 2014 to:

- * Julie Ainsworth-Taylor, Interim City Attorney
- * Robert Hartwig, Administrative Services Director
- * Debbie Tarry, City Manager
- * John Norris, Assistant City Manager
- * WCIA

Email copied to:

- * Darcy Forsell
- * Sharon Oshima
- * Jessica Simulcik Smith
- * Heidi Costello
- * Carolyn Wurdeman

RECEIVED 3:33pm

OCT 14 2014

[Handwritten signature]

CITY CLERK
CITY OF SHORELINE

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

RONALD WASTEWATER DISTRICT, a
Washington municipal corporation,

Appellant,

v.

STATE OF WASHINGTON BOUNDARY
REVIEW BOARD FOR SNOHOMISH
COUNTY, a Washington municipal corporation,

Respondent,

and

CITY OF SHORELINE, a Washington
municipal corporation; SNOHOMISH
COUNTY, a Washington municipal corporation;
OLYMPIC VIEW WATER AND SEWER
DISTRICT, a Washington municipal
corporation; TOWN OF WOODWAY, a
Washington municipal corporation; CITY OF
EDMONDS, a Washington municipal
corporation; KING COUNTY, a Washington
municipal corporation; and the ALDERWOOD
WATER AND WASTEWATER DISTRICT, a
Washington municipal corporation, NORTH
CITY WATER DISTRICT, a Washington
municipal corporation.

Interested Parties.

NO. 14 2 06687 1

SUMMONS & NOTICE OF
APPEAL

TO THE RESPONDENT: City of Shoreline.

SUMMONS & NOTICE OF APPEAL - 1

**Van Ness
Feldman** LLP
719 Second Avenue Suite 1150
Seattle, WA 98104
(206) 623-9372

1 A lawsuit has been started against you in the above-entitled court by Ronald
2 Wastewater District, appellant. Appellant's claim is stated in the written Notice of Appeal, a
3 copy of which is served upon you with this summons.

4 In order to defend against this lawsuit, you must respond to the Notice of Appeal by
5 stating your defense in writing, and by serving a copy upon the person signing this summons
6 within 20 days after the service of this summons, excluding the day of service, or a default
7 judgment may be entered against you without notice. A default judgment is one where
8 appellant is entitled to what it asks for because you have not responded. If you serve a notice
9 of appearance on the undersigned person, you are entitled to notice before a default judgment
10 may be entered.

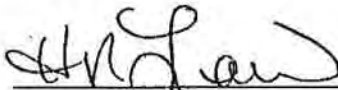
11 You may demand that the appellant file this lawsuit with the court. If you do so, the
12 demand must be in writing and must be served upon the person signing this summons. Within
13 14 days after you serve the demand, the appellant must file this lawsuit with the court, or the
14 service on you of this summons and complaint will be void.

15 If you wish to seek the advice of an attorney in this matter, you should do so promptly
16 so that your written response, if any, may be served on time.

17 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the
18 State of Washington.

19 DATED this 9 day of October, 2014.

20 VAN NESS FELDMAN LLP

21 By: 
22 Duncan M. Greene, WSBA #36718
23 H. Ray Liaw, WSBA# 40725

24 Attorneys for Ronald Wastewater District

25 719 Second Avenue, Suite 1150
26 Seattle, WA 98104
T: (206) 623-9372
E: dmg@vnf.com; hrl@vnf.com

SUMMONS & NOTICE OF APPEAL - 2

 **Van Ness
Feldman** LLP
719 Second Avenue Suite 1150
Seattle, WA 98104
(206) 623-9372

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

RONALD WASTEWATER DISTRICT, a
Washington municipal corporation,

Appellant,

v.

STATE OF WASHINGTON BOUNDARY
REVIEW BOARD FOR SNOHOMISH
COUNTY, a Washington municipal corporation,

Respondent,

and

CITY OF SHORELINE, a Washington
municipal corporation; SNOHOMISH
COUNTY, a Washington municipal corporation;
OLYMPIC VIEW WATER AND SEWER
DISTRICT, a Washington municipal
corporation; TOWN OF WOODWAY, a
Washington municipal corporation; CITY OF
EDMONDS, a Washington municipal
corporation; KING COUNTY, a Washington
municipal corporation; and the ALDERWOOD
WATER AND WASTEWATER DISTRICT, a
Washington municipal corporation, NORTH
CITY WATER DISTRICT, a Washington
municipal corporation.

Interested Parties.

04 2 06687 1
NO.

NOTICE OF APPEAL

1 Pursuant to RCW 36.93.160, the Ronald Wastewater District (the "District") files
2 this Notice of Appeal of the following decision of the State of Washington Boundary
3 Review Board for Snohomish County ("Boundary Review Board"), a copy of which is
4 attached hereto as Exhibit A: BRB No. 04-2014, Findings and Decision, adopted on
5 September 11, 2014 (the "Decision"). The Decision denied the proposed assumption of
6 that portion of the District lying within Snohomish County, pursuant to RCW 35.13A.030,
7 by the City of Shoreline (the "Assumption"). Attorneys for the District are Duncan M.
8 Greene, WSBA #36718, and H. Ray Liaw, WSBA #40725, Van Ness Feldman, 719
9 Second Avenue, Suite 1150, Seattle, WA 98104.

10 In support of this Notice of Appeal, and without limiting the generality of the
11 foregoing, the District states and alleges as follows:

12 **I. PARTIES**

13 **A. Appellant Ronald Wastewater District (the "District")**

14 The District is a municipal corporation, a governmental unit affected by the
15 Decision, and a person owning real property in the area affected by the Decision. As
16 described in Section II below, the District's substantial rights have been prejudiced by the
17 Decision.

18 **B. Respondents**

19 Respondent Boundary Review Board is an agency created by and operating
20 pursuant to chapter 36.93 RCW. On September 4, 2014, the Boundary Review Board
21 deliberated on the proposed Assumption and orally announced its decision to deny the
22 Assumption. On September 11, 2014, the Boundary Review Board entered the written
23 Decision at issue in this appeal.
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C. Interested Parties

Interested Party/Respondent City of Shoreline (“Shoreline”) is a municipal corporation organized as a non-code city pursuant to Title 35A RCW, and is the proponent of the proposed Assumption at issue in this appeal.

The District has also named as Interested Party/Respondent in this appeal the following parties that, pursuant to RCW 36.93.100(2), sought review of the proposed Assumption before the Boundary Review Board: Snohomish County, a municipal corporation within which the proposed Assumption is located; the Town of Woodway, a municipal corporation adjacent to and receiving minimal wastewater service from the District; and the Olympic View Water and Sewer District, a municipal corporation and water and sewer district operating under the authority of Title 57 RCW in Snohomish County that provides water service within the proposed Assumption area.

In addition, the District has named as Interested Party/Respondent in this appeal the following parties that may claim an interest in the proposed Assumption: the City of Edmonds, a municipal corporation; King County, a municipal corporation; Alderwood Water and Wastewater District, a municipal corporation and water and sewer district operating under the authority of Title 57 RCW; and North City Water District, a municipal corporation and water district operating under the authority of Title 57 RCW.

II. GROUNDS FOR APPEAL

The District’s substantial rights have been prejudiced by the Decision because, *inter alia*, the Decision and its administrative findings, inferences, conclusions, and/or decisions were: (a) in excess of the statutory authority or jurisdiction of the board; (b) made upon unlawful procedure; (c) affected by other error of law; (d) unsupported by material and substantial evidence in view of the entire record as submitted; and (e) clearly erroneous.

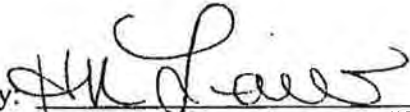
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

III. RELIEF REQUESTED

Accordingly, the District seeks the following relief from the Decision:

- (i) Entry of an order reversing the Decision and approving the Assumption;
- (ii) In the alternative, entry of an order remanding this matter to the Snohomish County Boundary Review Board for further proceedings consistent with the law and the decision of the Court;
- (iii) Entry of an order awarding the District's attorney fees, costs, and disbursements in this matter; and
- (iv) Award of such further relief as this Court deems just and equitable.

DATED this 9th day of October, 2014.

By: 
Duncan M. Greene, WSBA #36718
H. Ray Liaw, WSBA# 40725

Attorneys for Ronald Wastewater District
719 Second Avenue, Suite 1150
Seattle, WA 98104
T: (206) 623-9372
E: dmg@vnf.com; hrl@vnf.com

1 **CERTIFICATE OF SERVICE**

2 I, Amanda Kleiss-Acres, declare as follows:

3 That I am over the age of 18 years, not a party to this action, and competent to be a
4 witness herein;

5 That I, as a legal assistant in the office of Van Ness Feldman, caused true and
6 correct copies of the following documents to be delivered as set forth below:

- 7 1. Notice of Appeal;
8 2. Certificate of Service;

9 and that on October 10, 2014, I addressed said documents and deposited them for delivery
10 as follows:

11 **Via E-mail:**

12 Julie Ainsworth-Taylor
13 CITY OF SHORELINE
14 Interim City Attorney
15 City Attorney's Office
16 17500 Midvale Avenue N.
17 Shoreline, WA 98133-4905
18 jainsworth-taylor@shorelinewa.gov

19 **Via Process Service:**

20 City Manager, Manager's Designated Agent, or City Clerk
21 CITY OF SHORELINE
22 17500 Midvale Avenue N
23 Shoreline, WA 98133-4905

24 Auditor or Deputy Auditor
25 SNOHOMISH COUNTY
3000 Rockefeller
Everett, WA 98201

1 Mayor, Mayor's Designated Agent, or City Clerk
TOWN OF WOODWAY
2 23920 – 113th Place W
3 Woodway, WA 98020

4 Mayor, Mayor's Designated Agent, or City Clerk
CITY OF EDMONDS
5 121 Fifth Avenue North
6 Edmonds, WA 98020

7 Clerk of the County Council
KING COUNTY
8 516 Third Avenue, Room 1200
Seattle, WA 98104

9
10 General Manager
ALDERWOOD WATER & WASTEWATER DISTRICT
11 3626 – 156th Street SW
Lynnwood, WA 98087-5021

12 District Manager
13 NORTH CITY WATER DISTRICT
14 1519 NE 177th Street
Shoreline, WA 98155

15 Chief Clerk
16 SNOHOMISH COUNTY BOUNDARY REVIEW BOARD
17 3000 Rockefeller
Everett, WA 98201

18 General Manager
19 OLYMPIC VIEW WATER & SEWER DISTRICT
20 8128 – 228th Street SW
Edmonds, WA 98026

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

23 EXECUTED at Seattle, Washington on this 9th day of October, 2014.

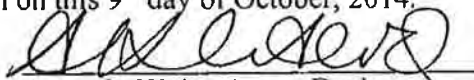
24 
25 Amanda Kleiss-Acres, Declarant

EXHIBIT A

BRB No. 04-2014

Findings & Decision - 9/11/14

1 BEFORE THE STATE OF WASHINGTON BOUNDARY REVIEW
2 BOARD FOR SNOHOMISH COUNTY

3 In re:

4 CITY OF SHORELINE PROPOSED
5 ASSUMPTION OF RONALD
6 WASTEWATER DISTRICT WITHIN
7 SNOHOMISH COUNTY

BRB NO. 04-2014

FINDINGS AND DECISION

8 **DECISION SUMMARY**

9 The City of Shoreline's proposed assumption of the Ronald Wastewater
10 District within Snohomish County (BRB No. 04-2014) is hereby **DENIED**.

11 **PROCEDURAL HISTORY**

12 On May 28th, 2014, the City of Shoreline (the "City") filed a notice of
13 intention with the Washington State Boundary Review Board for Snohomish
14 County (the "Board") proposing an assumption of Ronald Wastewater District within
15 Snohomish County. The City authorized initiation of the assumption by Shoreline
16 Ordinance No. 681.

17 The Board's jurisdiction was invoked by Snohomish County on July 7, 2014,
18 Olympic View Water and Sewer District on July 8, 2014 and the Town of Woodway
19 on July 9, 2014.

HEARING

1
2 On August 28, 2014, a quorum of the Board held a public hearing in public
3 meeting rooms 1 & 2 on the first floor of the Robert J. Drewel Building, 3000
4 Rockefeller Avenue, Everett, WA. Notice of the hearing was given pursuant to
5 RCW 36.93.160. During the hearing, the Board heard testimony from
6 representatives of the City, Snohomish County, Olympic View Water and Sewer,
7 the Town of Woodway, Ronald Wastewater District, The Committee of Elected
8 Officials for the Ronald Wastewater District Assumption, Alderwood Water and
9 Wastewater District, The City of Edmonds and members of the public. The Board
10 considered all written materials and other evidence that was timely submitted to the
11 Board, including but not limited to the notice of intention and attachments,
12 supplemental documentation submitted by the City, materials from Snohomish
13 County, and items submitted by Olympic View Water and Sewer, The Town of
14 Woodway, other affected governmental entities and Citizens.
15

16
17 Following testimony from all parties of record, the public hearing was closed
18 and a meeting was set for deliberation and decision by the Board for September 4,
19 2014.

20 The Board convened on September 4, 2014 to discuss the factors identified
21 in RCW 36.93.170, the objectives stated in RCW 36.93.180, and the Board's
22 authority under chapter 36.93 RCW, as applied to the proposed assumption.
23

24 On September 11, 2014, the Board met again at the same location to enter
25 and file its written decision as set forth herein.

DISCUSSION

1
2 Following the closure of the public hearing on August 28th, 2014, the Board
3 discussed the assumption proposal, pertinent testimony, and other evidence in the
4 record and reached a unanimous decision to deny the assumption at the meeting
5 of the Board on September 4th, 2014. In denying the assumption, the Board, as
6 discussed more fully below, considered all of the factors identified in RCW
7 36.93.170 and the objectives of RCW 36.93.180 and determined its decision is
8 consistent with the growth management act pursuant to RCW 36.93.157.
9

10 A. FACTORS

11
12 The Board considered and discussed the factors identified in RCW
13 36.93.170. The Board found that the City's notice of intention did not adequately
14 address the relevant statutory factors to support its proposal to assume this area.
15

16 The Board specifically considered the absence of an Interlocal agreement
17 between the City of Shoreline and Snohomish County to plan and provide cross
18 county wastewater service by the City. Citizen participation is also a factor that the
19 board discussed if the assumption was to occur. The citizens in Snohomish County
20 would not have the opportunity to vote in regards to the service rates and the
21 officials elected in this wastewater district. The Snohomish County Council Motion
22 10-185 (Exhibit A) that specifically addresses Ronald Wastewater and the sale,
23 assignment or transfer thereof is also a factor that the Board considered in making
24 a decision. No evidence was presented that indicated the Council had approved
25 the sale, assignment or transfer thereof as Motion 10-185 requires.

1 B. OBJECTIVES

2
3 The Board considered each of the nine (9) objectives set forth in RCW
4 36.93.180 and whether each objective is applicable to this assumption, and if so,
5 whether it would be hindered or furthered.

6 1. Preservation of Natural Neighborhoods and Communities. The Board
7 determined that this objective is hindered.

8 2. Use of Physical Boundaries, Including But Not Limited to Bodies of
9 Water, Highways, and Land Contours. The Board determined that this objective
10 does not apply.

11 3. Creation and Preservation of Logical Service Areas. The Board
12 determined that this objective is hindered.

13 4. Prevention of Abnormally Irregular Boundaries. The Board
14 determined that this objective does not apply.

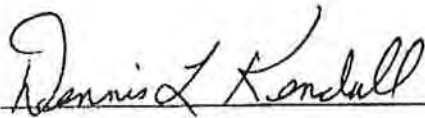
15 5. Discouragement of Multiple Incorporations of Small Cities and
16 Encouragement of Incorporation of Cities in Excess of Ten Thousand Populations
17 in Heavily Populated Urban Areas. The board determined that this objective does
18 not apply.
19
20

21 6. Dissolution of Inactive Special Purpose Districts. The Board
22 determined that this objective does not apply.


23 7. Adjustment of Impractical Boundaries. The Board determined this
24 objective does not apply.
25

1 Adopted by the Washington State Boundary Review Board for Snohomish
2 County by a vote of 5 to 0 this 11th day of September, 2014.

3
4 WASHINGTON STATE BOUNDARY REVIEW BOARD
5 FOR SNOHOMISH COUNTY

6 
7 _____
8 Dennis Kendall, Chair

9
10 FILED THIS 11th day of September, 2014.

11 
12 _____
13 Heidi Turner, Clerk of the Board

14
15
16 NOTICE

17 Pursuant to RCW 36.93.160(5), this decision shall be final and conclusive
18 unless within thirty (30) days from the date of this decision a governmental unit
19 affected by the decision or any person owning real property or residing in the area
20 affected by the decision files a notice of appeal in the Superior Court.

Exhibit A

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



CO00040491

MOTION NO. 10-185

CONCERNING APPROVAL OF THE RONALD WASTEWATER DISTRICT 2010 COMPREHENSIVE SEWER PLAN

WHEREAS, the Ronald Wastewater District (RWWD) has prepared and submitted a comprehensive sewer plan, dated January 2010, prepared by BHC Consultants, to the Snohomish County Council on February 09, 2010; and

WHEREAS, RCW 57.16.010 requires that any sewer system comprehensive plan be submitted to and approved by the county legislative authority before becoming effective; and

WHEREAS, the legislative authority, in reviewing the comprehensive plan pursuant to RCW 57.16.010, must consider three criteria: 1) whether the proposed action is in compliance with the development program outlined in the county comprehensive plan; 2) whether the action is in compliance with the basin wide sewage plan as approved by the state; and 3) whether the plan is in compliance with policies in the county comprehensive plan for sewage facilities; and

WHEREAS, statutory criteria 2 is inapplicable because the state has no applicable basin wide sewage plan for this entire area; and

WHEREAS, the Snohomish Health District officer has given approval to the plan via letter dated February 19, 2010 as required by Title 57 RCW; and

WHEREAS, the county engineer has given conditional approval of the plan via letter, dated February 25, 2010, to Ronald Wastewater District pursuant to Title 57.16.010; and

WHEREAS, the district's plan has been reviewed by the Department of Planning and Development Services and found to be generally consistent with the county's adopted GMA Comprehensive Plan, with issues related to the franchise agreement with Snohomish County and the Snohomish County Council's Docket XIII action in the Point Wells area on August 12, 2009;

NOW, THEREFORE, ON MOTION:

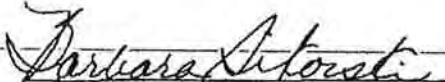
- A. The county council finds that the proposed Ronald Wastewater District's Comprehensive Sewer Plan, dated January 2010, is in general compliance with the applicable criteria for approval prescribed in RCW 57.16.010.
- B. The Snohomish County Council approves the Ronald Wastewater District's Sanitary Sewer Comprehensive Plan, dated February 2010, based on the foregoing plus review of the entire record and pursuant to RCW 57.16.010(6), subject to the following conditions:
 1. No portion of any existing or proposed sewer facilities that the Ronald Wastewater District constructs, places, maintains, operates, or otherwise uses within Snohomish County right-of-way pursuant to the authority granted to the Ronald Wastewater District by that certain Franchise Agreement authorized by Snohomish County Ordinance No. 94-030 may be sold, assigned, or otherwise transferred to King County or to any other third party without first obtaining the written consent of the Snohomish County Council, as required by the terms of the Franchise Agreement.
 2. The land use map (Figure 3.1) in the plan should be revised when the Urban Centers designation approved by the Snohomish County Council has taken effect.

PASSED this 14th day of April, 2010.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Council Chair

ATTEST:


Asst. Clerk of the Council

D-14