

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

CITY OF SHORELINE, a Washington
municipal corporation,

Appellant,

v.

SNOHOMISH COUNTY BOUNDARY
REVIEW BOARD, a Washington municipal
corporation,

Respondent,

and

RONALD WASTEWATER DISTRICT, 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. 14-2-06647-1

OLYMPIC VIEW'S ANSWER
TO SHORELINE'S NOTICE OF
APPEAL, NOTICE OF
CROSS-APPEAL, AND CLAIM
FOR DECLARATORY JUDGMENT

Comes now Olympic View Water and Sewer District (“Olympic View”), by and through its counsel of record, Thomas M. Fitzpatrick of Talmadge/Fitzpatrick PLLC, in answer to the Notice of Appeal filed by the City of Shoreline (“Shoreline”) does hereby state and allege as follows:

1. In answer to the prefatory statement, Olympic View admits the Decision denied the proposed assumption of the Ronald Wastewater District (“Ronald”) by Shoreline within certain portions of Snohomish County. Olympic View further admits the proposed assumption did not cover certain properties located in the Town of Woodway (“Woodway”). Olympic View further admits that the King County Boundary Review Board approved the assumption of Ronald by Shoreline within the boundaries of Shoreline which is entirely in King County. Olympic View admits the decision of the King County Boundary Review Board does not apply to Snohomish County. As to the balance of the prefatory statement, Olympic View believes the same to be true.

2. In answer to Section I A, Olympic View believes the first three sentences to be true. The final sentence in this section is a legal contention not requiring answer.

3. In answer to Section I B, Olympic View admits the same.

4. In answer to Section I C, Olympic View admits all the entities listed in said section are interested parties and that Snohomish County, Woodway, and Olympic View all invoked the jurisdiction of the Snohomish County Boundary Review Board to review the proposed assumption of Ronald by Shoreline within Snohomish County pursuant to the Notice of Intent filed by Shoreline. Olympic View admits those three

entities, and any other interested party that wishes to participate are respondents in this action.

5. In answer to Section II, Olympic View believes the first paragraph of said section to be true.

In regard to the second paragraph of Section II, Olympic View believes the first sentence to be true. Olympic View is without sufficient information as to the truth or falsity of the second sentence of said paragraph, and therefore denies the same. Olympic View specifically denies the third sentence of said paragraph.

In regard to the third paragraph of Section II, Olympic View believes the same to be true, although it denies the Interlocal agreement provided for an “orderly” assumption of Ronald by Shoreline.

In regard to the fourth paragraph of Section II, Olympic View believes the same to be true with the exception of footnote 3. Olympic View denies Woodway subsequently withdrew its invocation of the jurisdiction of the Boundary Review Board for Snohomish County for review of the proposed assumption.

In regard to the fifth paragraph of Section II, Olympic View believes the same to be true, except for footnote 4. The King County Boundary Review Board decision contained errors, at least one of which was the legal description that was changed at a public meeting of the King County Boundary Review Board on September 16, 2014. The change in legal description makes clear that the action of the King County Boundary Review Board was limited to King County and does not involve the proposed assumption in Snohomish County.

In answer to Section III, Olympic View denies the allegations contained therein.

In answer to Section IV, said section is a prayer for relief that does not require a specific answer. Should such answer be required, Olympic View denies Shoreline is entitled to such relief.

In further answer to Shoreline's Notice of Appeal, and by way of affirmative defense, Olympic View states and alleges as follows:

1. Insufficiency of service of process by Shoreline.
2. Failure to join necessary and indispensable parties.

In further answer to Shoreline's Notice of Appeal, and by way of cross-appeal or counterclaim against Shoreline, and cross-claim against Ronald, Olympic View states and alleges as follows:

1. Olympic View is a municipal corporation, a combined water and sewer district, operating under the laws of the State of Washington with its principal place of business in Snohomish County. The area lying within Snohomish County was the subject of the proposed assumption is within the boundaries of Olympic View and has been going back to 1947 when Olympic View was only a water district. It is the water provider to the area. In 1966, providing sanitary sewer service was added as a function of Olympic View.

2. Ronald currently has approximately six sanitary sewer customers in Snohomish County. Four of those customers are located in Woodway. In its proposed assumption, Shoreline never sought to assume Ronald in regard to those four customers located in Woodway. That leaves two customers, the old petroleum plant at Point Wells

and a building associated with the Brightwater outfall. No other area in the proposed assumption area currently has sewer service by any provider.

3. Ronald provides service to the two customers in the Point Wells area as a result of a developer agreement between Standard Oil, a former owner of the plant at Point Wells, which entered into an agreement with Sewerage and Drainage Improvement District No. 3 of King County for sewer service after Standard Oil constructed the infrastructure in approximately 1970-71. Permission was never sought, nor given, by Olympic View for this service to be provided within its boundaries. Similarly, Woodway has only given Ronald permission on a temporary basis to provide sewer service to lots in Woodway that Shoreline did not seek to assume in its proposed assumption of Ronald.

4. Sewerage and Drainage District No. 3 was formed in 1941. It was a Diking, Drainage, and Sewerage Improvement District under what was then RCW Tile 85.08, since repealed. It was commonly known as the Richmond Beach sewer system.

5. King County operated District No. 3 as a Sewerage and Drainage District until March 1984. It always represented that its corporate boundaries were entirely within King County. In March 1984, King County by ordinance abolished District No. 3 and changed its operating authority to the County Services Act contained in RCW 36.94 et seq. RCW 36.94.020 prohibits a county from operating a sewer system in another county.

6. In 1985, King County divested itself from sewer operations, other than treatment. It entered into an agreement with Ronald to transfer the Richmond Beach sewer system (the "System") to Ronald.

7. Thereafter, King County and Ronald filed a joint petition in the King County Superior Court, Cause No. 85-2-17332-5, to approve the agreement and to annex to Ronald the System described in Addendum A to the Agreement which was a legal description. Said addendum includes areas in Snohomish County now subject of the proposed assumption. The Court on an agreed motion granted the petition, including the annexation language which included Snohomish County areas in the legal description. Neither Olympic View nor Woodway was ever given formal notice of the superior court action, were not parties to the action, and had no knowledge of its existence until recently.

8. Thereafter, Ronald took actions inconsistent with any claim that its corporate boundaries extended into Snohomish County. It issued maps showing its boundaries as being limited to King County. It entered agreements with Woodway saying it operated a sewer system in King County. It represented to Woodway it was only providing temporary service to areas in Woodway.

9. It was not clear until the present assumption proceeding that Shoreline and Ronald were going to claim that the areas subject to the proposed assumption were within the boundaries of Ronald and that Olympic View should be prevented from being the sewer provider to an area which is within its own boundaries. There now exists an actual, present, and existing dispute as to whether Ronald's corporate boundaries extend into Snohomish County and include the areas of the proposed assumption.

10. Olympic View is entitled to have this Court determine that the Decision is affirmed, in part, because Ronald has no areas in Snohomish County within its corporate boundaries, pursuant to RCW 36.93.160 and RCW 7.24 et seq.

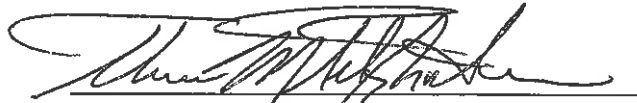
11. In its Decision, the Boundary Review Board found that the proposed assumption hindered the objective of creation of and preservation of logical service areas contained in RCW 36.93.180(3). The logical service provider is Olympic View because the area is within its corporate boundaries, it can provide treatment capacity, and it has existing sewer infrastructure to the east of the area. Olympic View also presented evidence that if it is the sewer service provider, it can provide the service at a cheaper price than Ronald/Shoreline.

12. Olympic View requested the Boundary Review Board pursuant to RCW 36.93.150 to divide the assets of Ronald so that Olympic View is awarded the Ronald assets in Snohomish County and any liabilities associated with said assets. It was undisputed before the Board that the existing assets which Ronald claims in Snohomish County are not sufficient to support any substantial future development. In addition, Olympic View requested the Board to determine that the sanitary sewer functions for the area of unincorporated Snohomish County, subject to the proposed assumption, shall be assumed by Olympic View. The Board took no action on said requests. A determination should be made as to the disposition of the Ronald assets in Snohomish County and whether the provision of sewer service to Snohomish County customers should be assumed by Olympic View.

WHEREFORE, OLYMPIC VIEW REQUESTS THE FOLLOWING RELIEF:

1. Entry of an order affirming the Decision;
2. Entry of an order declaring that Ronald has no territory within its corporate boundaries in Snohomish County;
3. If necessary, entry of an order remanding to the Snohomish County Boundary Review Board for further proceedings with instructions as to the disposition of assets Ronald claims it owns in Snohomish County upon its assumption by Shoreline in King County and for the provision of sanitary sewer service to Snohomish County customers;
4. Entry of an order awarding Olympic View's attorney fees, costs, and disbursements in this matter as provided for by law.

DATED this 22nd day of October, 2014.



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(206) 574-6661

Attorney for Olympic View
Water & Sewer District

DECLARATION OF SERVICE

On said day below I emailed a courtesy copy and deposited in the U.S. Postal Service for service a true and accurate copy of Olympic View's Answer to Shoreline's Notice of Appeal, Notice of Cross Appeal, and Claim for Declaratory Judgment in Snohomish County Superior Court Cause No. 14-2-06647-1 to the following:

Julie Ainsworth-Taylor Interim City Attorney City of Shoreline 17500 Midvale Avenue N. Shoreline, WA 98133-4921	P. Stephen DiJulio Attorney for City of Shoreline Foster Pepper PLLC. 1111 3 rd Ave Ste 3400 Seattle, WA 98101-3264
Debbie Tarry City of Shoreline 17500 Midvale Avenue N Shoreline, WA 98133-4906	Duncan M. Greene H. Ray Liaw Van Ness Feldman Attorneys for Ronald Wastewater 719 Second Avenue, Suite 1150 Seattle, WA 98104
Wayne Tanaka Ogden Murphy Wallace 901 5th Ave Ste 3500 Seattle, WA 98164-2008	Scott Passey City Clerk City of Edmonds 121 Fifth Avenue North Edmonds, WA 98020
Alethea Hart Deputy Prosecuting Attorney Snohomish County Prosecutor's Office 3000 Rockefeller Ave., M/S 504 Everett, WA 98201-4046	Jeff Clarke General Manager Alderwood Water & Wastewater District 3626 156 th Street SW Lynwood, WA 98087-5021
Diane Pottinger North City Water District 1519 NE 177 th Street Shoreline, WA 98155	Ms. Terry O'Leary Chief Clerk Washington State Boundary Review Board for Snohomish County M/S #409 3000 Rockefeller Ave. Everett, WA 98201 *Sent via U.S. mail only
Lynne Danielson General Manager Olympic View Water & Sewer District 8128 228th Street SW Edmonds, WA 98026	Rebecca Guadamud Deputy Prosecuting Attorney Snohomish County Prosecutor's Office 3000 Rockefeller Ave M/S #504 Everett, WA 98201

Original with filing fee delivered by legal messenger for filing with:

Snohomish County Superior Court

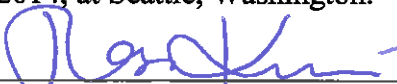
Clerk's Office

3000 Rockefeller Avenue

Everett, WA 98201

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

DATED: October ^{2nd}, 2014, at Seattle, Washington.



Roya Kolahi, Legal Assistant
Talmadge/Fitzpatrick