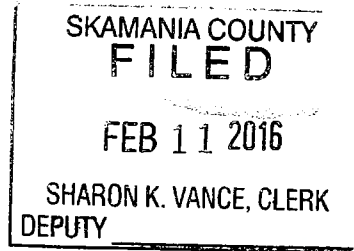


Return Address: KEITH F. GROVES
4126 SE. 74th
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<i>Document Title(s) or transactions contained herein:</i>	
Abandonment of Easements	
<i>GRANTOR(S) (Last name, first name, middle initial)</i>	
Groves, Keith F. et al Groves, Susan K. et al	
<input type="checkbox"/> Additional names on page _____ of document.	
<i>GRANTEE(S) (Last name, first name, middle initial)</i>	
Riverside Estates Home Owners Association	
<input type="checkbox"/> Additional names on page _____ of document.	
<i>LEGAL DESCRIPTION (Abbreviated: i.e., Lot, Block, Plat or Section, Township, Range, Quarter, Quarter)</i>	
Lot 2 of Riverside Estates	
<input type="checkbox"/> Complete legal on page _____ of document.	
<i>REFERENCE NUMBER(S) of Documents assigned or released:</i>	
Bk / Pg B / 45	Bk / Pg B / 44
<input type="checkbox"/> Additional numbers on page _____ of document.	
<i>ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER</i>	
02-05-29-3-0-0500-00	
<input type="checkbox"/> Property Tax Parcel ID is not yet assigned	
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA

KEITH F. GROVES AND SUSAN K.
GROVES

No. 14-2-00158-6

PLAINTIFFS,

vs.

STIPULATED FINAL ORDER RE:
ABANDONMENT OF EASEMENTS

RIVERSIDE ESTATES HOME OWNERS
ASSOCIATION,

DEFENDANT

1. **Hearing:** This matter came on regularly for hearing FEBRUARY 11, 201⁶₅ on motion.

2. **Procedural History:**

a). This matter concerns two easements that burden Plaintiffs' real property and prevent them from properly siting their proposed residence due the location of the easements and the requirements for placing the necessary septic system.

b). Plaintiffs filed suit on December 10, 2014 alleging common law abandonment of the two easements and seeking Declaratory Relief to have this court judicially determine whether the two easements at issue have been abandoned pursuant to the common law of Washington State, and if so, to quiet title in those two easements in favor of Plaintiffs.

c). Defendant Riverside Estates Home Owners Association was served on January 12, 2015. A Notice of Appearance was entered on behalf of the Defendant by Donald G. Grant on or about January 16, 2015. No Answer to the Complaint has been filed.

1 **3. Parties Involved:** Plaintiffs were represented by Philip R. Andrews of Morse Bratt
2 Andrews & Foster, PLLC. Defendant was represented by Donald G. Grant of Donald G. Grant, P.S..

3 **4. Materials Considered:** This Order is based upon the motion, the court file, the
4 stipulation of the parties, and Washington State Case Law on common law abandonment.

5 **5. Findings of Fact:**

6 a). Plaintiffs own Lot 2 Riverside Estates.

7 b). Plaintiffs' parcel is burdened by two easements. One of the easements is for a
8 "waterway" to remove surface water from a creek and drain it to a common area "lake" on the common
9 areas of Riverside Estates. The second easement is for "maintenance of the waterway".

10 c). Neither easement has ever been used in thirty four (34) years.

11 d). Neither of the easements are legally capable of being used for their intended
12 purpose nor necessary for their intended purpose as an alternate method has been in place for over 34
13 years.

14 e). The Department of Ecology, on March 13, 1981, cancelled the necessary permit
15 to appropriate the public surface waters which were to have run through the easement which burdens
16 Plaintiffs' property.

17 f). The non-use was intentional on the part of the permittee.

18 g). The permit was cancelled because the permittee had not complied with the
19 development schedule included in the permit.

20 h). The permittee had not complied with the development schedule because the
21 permittee had established a ground water project to take the place of this surface water supply and
22 therefore this surface water supply was no longer required.

23 i). The permittee intended to abandon the easement when the permittee developed
24 the alternative and purposefully and intentionally let the permit lapse or be otherwise cancelled.

25 j). The cancellation of the of the surface water permit by the Department of Ecology
26 for the State of Washington in 1981 rendered the easements unusable.

1 k). The development of an alternative via ground water during the 1970's rendered
2 the easements unnecessary.

3 l). It is impossible for the easements to be used going forward for their intended
4 purposes without a surface water permit.

5 m). In the 34 years since the surface water permit was cancelled, to the best of
6 anyone's knowledge, another permit has never been requested.

7 n). The easements are unused and unnecessary.

8 o). Plaintiffs cannot currently build the home they desire on the property as the
9 necessary septic system cannot be properly sited due to the existence of the unused and unusable
10 easements.

11 **6. Conclusions of Law:** The court finds the following:

12 a). Plaintiffs' Complaint sets forth a clear and cognizable common law cause of
13 action sounding in Abandonment of the two easements burdening Plaintiffs' property which is properly
14 before the court.

15 b). Plaintiffs' Abandonment cause of action as plead is not a statutory cause of action
16 seeking to alter or amend a short plat subject to RCW 58.17 and/or Skamania County Code 17.61 and is
17 not governed, preempted or limited by RCW 58.17 or Skamania County Code 17.61.

18 c). The court has jurisdiction pursuant to RCW 7.24.020 to hear and decide Plaintiffs'
19 common law Abandonment claim regarding the two easements which burden Plaintiffs' real property.

20 d). Non-use of a platted but never opened easement coupled with long term use of a
21 substitute way will also support a finding of abandonment.

22 e). The continued non-use of the easements that burden Plaintiffs Lot 2 Riverside
23 Estates together with the impossibility of the easements being used going forward for their intended
24 purposes **and** the development of an alternative method of water attainment renders the easements which
25 burden Plaintiffs' parcel abandoned as a matter of law pursuant to the common law of the State of
26 Washington.

7. **Relief Granted:**

a). The easements which burden Plaintiffs' Lot 2 Riverside Estates are hereby declared, ordered and adjudged to be abandoned as a matter of law pursuant to the common law of the State of Washington.


b). The abandoned easements on and across Plaintiffs' Lot 2 Riverside Estates hereby no longer burden Plaintiffs' Lot 2 Riverside Estates.

c). The abandoned easements on and across Plaintiffs' Lot 2 Riverside Estates hereby no longer benefit any other parcel or common area.

d). There is no award of costs or fees to either party.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated this 1 day of ~~December~~^{FEBRUARY}, 2018⁶.



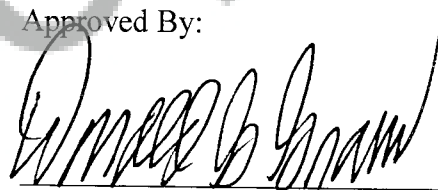
Judge/Commissioner

Presented By:



PHILIP R. ANDREWS, WSBA #38179
Attorney for Plaintiff

Approved By:



DONALD G. GRANT, WSBA #15480
Attorney for Defendant

Unofficial
Copy

State of Washington } SS
County of Skamania }

I Sharon K. Vance, County Clerk of the Superior Court of Skamania County, Washington, DO HEREBY CERTIFY that this instrument, consisting of 4 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at Stevenson, Washington,
this date 02/11/2016 Sharon K. Vance
Sharon K. Vance County Clerk
BY Bruce [Signature] Deputy