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

RESIDENTS FOR PRESERVING)	
QUALITY OF LIFE ON HOOD)	NO. 04 2 00954 9
CANAL)	
)	DECLARATION OF BRAD CAREY
Plaintiff)	IN SUPPORT OF DEFAULT
)	JUDGMENT
V.)	
)	
PORT OF TAHUYA,)	
)	
Defendant)	

Brad Carey, at Shelton, Washington, under penalty of perjury
under the laws of the State of Washington, states as
follows:

I am the President of Residents for Preserving Quality
of Life on Hood Canal, a non-profit organization formed to

Smith & O'Hare, P.S., Inc.
Post Office Box 68
Silverdale, Washington 98383
Phone: (360) 692-5566
Fax: (360) 692-1373
E-Mail som@tsnet.com

1 seek reversal by the Port of Tahuya of its decision to adopt
2 the August 20, 2003 Beach Access Plan. I am familiar with
3 the fact underlying adoption of the Beach Access Plan and
4 the current circumstances of the Port of Tahuya's failure to
5 appear in or defend this action.

6 1. Plaintiff Residents for Preserving Quality of Life on
7 Hood Canal is a Washington non-profit corporation whose
8 membership is comprised of residents of the Port of Tahuya.
9 All license taxes and fees due and owing by such corporation
10 to the State of Washington have been fully paid.

11 2. Defendant Port of Tahuya is a municipal corporation
12 located in Mason County, Washington existing pursuant to RCW
13 Chapter 53.

14 3. On or about August 20, 2003 the Port Commissioners of
15 the Port of Tahuya, pursuant to Resolution 2003-02, adopted
16 a "Port of Tahuya Public Access Plan" and recited, in part
17 that it was adopted "as a part of the Port of Tahuya's
18 Comprehensive Plan".

19 4. RCW 53.20.010 authorizes a port district to adopt a
20 comprehensive scheme of harbor improvements after a public
21 hearing thereon of which notice is published once a week for
22

1 two consecutive weeks in a newspaper of general circulation.

2 4. The Port of Tahuya never conducted a public hearing on
3 the draft of the Port of Tahuya Public Access Plan which was
4 adopted on August 20, 2003. The only public hearing
5 conducted by the Port of Tahuya regarding the Public Access
6 Plan was conducted on March ~~20~~¹⁹, 2003 at which time only a
7 preliminary and incomplete draft of the Public Access Plan
8 was available for review and discussion. ... ?

9 5. RCW 53.08.260 permits Washington port districts such as
10 the Port of Tahuya to operate park and recreation facilities
11 only when such facilities are necessary to more fully
12 utilize boat landings, harbors, wharves and piers...and
13 other port facilities authorized by law pursuant to the
14 port's comprehensive plan of harbor improvements and
15 industrial development.

16 6. RCW 53.08.270 only permits port district adoption of a
17 plan for the operation of park and recreational facilities
18 after first submitting a plan for such park or recreational
19 facilities to the director of the State of Washington Parks
20 and Recreation Commission and to the governing body of any
21 county or municipal park agency having jurisdiction in the

1 area. The Port of Tahuya did not so submit the final draft
2 of its Public Access Plan in advance to such persons and
3 agencies for review prior to adoption of the Plan by the
4 Port of Tahuya.

5 7. RCW 53.08.260 only permits port districts to operate
6 park and recreation facilities when such facilities are
7 necessary to more fully utilize port facilities otherwise
8 authorized by law such as boat landings, harbors, wharves
9 and piers.

10 8. The Public Access Plan adopted by the Port of Tahuya
11 stated that the mission of the Port of Tahuya was "to
12 fulfill recreation needs" and therefore discussed, analyzed
13 and planned for park and recreational facilities as its
14 primary purpose and objective and not as parks or
15 recreational facilities necessary to more fully utilize
16 other non-park or recreation port facilities.

17 9. The Public Access Plan of the Port of Tahuya recited
18 that it was adopted pursuant to RCW Chapter 35.63.

19 10. The Port of Tahuya is not authorized under the laws of
20 the State of Washington to conduct planning activities
21 pursuant to RCW Chapter 35.63.

1 11. The Port of Tahuya Public Access Plan is not an
2 amendment to the Port of Tahuya comprehensive scheme of
3 harbor improvements in the port district but is rather an
4 improper attempt by the Port of Tahuya to adopt a
5 comprehensive land use plan pursuant to RCW 36.70A.030 (4)
6 and RCW Chapter 35.63.

7 12. The Public Access Plan of the Port of Tahuya purports
8 to plan for recreational facilities outside of the Port of
9 Tahuya.

10 13. The Port of Tahuya is not authorized by the laws
11 creating and authorizing port districts to plan for
12 recreational facilities outside the port district
13 boundaries.

14 14. The Public Access Plan, together with any previously
15 adopted portions of the Port of Tahuya comprehensive scheme
16 for harbor improvements, fails to meet the statutory
17 requirements for a Port District comprehensive scheme of
18 harbor improvements pursuant to RCW 53.08.020.

19 15. The Port of Tahuya has failed to answer, appear in or
20 otherwise respond to the Summons and Complaint in this
21 lawsuit because the two Port Commissioners of the Port of

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1 Tahuya disagree regarding whether the Port should or should
2 not defend the lawsuit. Commissioner Christen has taken the
3 position, in a special meeting to consider the matter, that
4 the lawsuit is well founded, that the Port will benefit from
5 the entry of a judgment invalidating the Public Access Plan,
6 and that the Port should not spend public funds to defend
7 the plan.

8 16. Commissioner Olsen has submitted to the court a
9 Declaration requesting that the court not enter a default
10 judgment. She has not stated, however, any facts, material
11 or otherwise, which contradict the claims made in the
12 Plaintiff's Complaint herein. Ms. Olsen has not, for
13 instance, disputed the allegation in Paragraph 4 of the
14 Plaintiff's Complaint that the Port of Tahuya never complied
15 with RCW 53.20.010 by publishing notice of a public hearing
16 concerning the actual draft of the ^{Public} Beach Access Plan which
17 was adopted on August 20, 2003 by the Port of Tahuya. The
18 Port of Tahuya only held a hearing only with respect to a
19 prior incomplete draft of the ^{Public} Beach Access Plan. Thus the
20 public hearing requirement of RCW 53.20.010 was never
21 complied with by the Port of Tahuya with respect to the plan
22

1 actually adopted on August 20, 2003.

2 17. Similarly Ms. Olsen's Declaration does not claim that
3 the Port of Tahuya complied with RCW 53.08.270 by sending a
4 copy of its final draft ^{PUBLIC} ~~Beach~~ Access Plan to the director of
5 the State of Washington Parks and Recreation Commission and
6 to the governing body of the Mason County or municipal park
7 agency having jurisdiction in the area. The Port only sent
8 those persons a preliminary incomplete draft of that ^{PUBLIC} ~~Beach~~
9 Access Plan.

10 18. If the Port of Tahuya Commissioners decide to do so,
11 entry of the judgment herein will not prevent the Port of
12 Tahuya from solving the procedural problems underlying
13 adoption of its prior plan and amending it to satisfy the
14 requirements of RCW 53.08.270 that limits port recreational
15 facilities to those necessary to more fully utilize other
16 port facilities.

17 19. The Residents organization does not seek herein an award
18 of court costs or statutory attorneys fees in connection
19 with this action. It seeks only invalidation of the ^{PUBLIC} ~~Beach~~
20 Access Plan previously adopted by the Port of Tahuya.

21 Adoption of that plan has caused deep division in the Tahuya
22

1 community and great expense to the Port of Tahuya. We
2 believe that immediate entry of a judgment invalidating that
3 plan is important to the Port of Tahuya and its voters.

4 DATED: November 10, 2004

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BRAD CAREY

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