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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.
CANAL)	
)	COMPLAINT FOR DECLARATORY
Plaintiff)	JUDGMENT AND/OR WRIT OF
)	CERTIORARI
V.)	
)	
PORT OF TAHUYA,)	
)	
Defendant)	
)	

FIRST CAUSE OF ACTION

1. Plaintiff Residents for Preserving Quality of Life on Hood Canal is a Washington non-profit corporation whose membership is comprised of residents of the Port of Tahuya. All license taxes and fees due and owing by such corporation

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1 to the State of Washington have been fully paid.

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

5 3. On or about August 20, 2003 the Port Commissioners of
6 the Port of Tahuya, pursuant to Resolution 2003-02, adopted
7 a "Port of Tahuya Public Access Plan" and recited, in part
8 that it was adopted "as a part of the Port of Tahuya's
9 Comprehensive Plan".

10 4. RCW 53.20.010 authorizes a port district to adopt a
11 comprehensive scheme of harbor improvements after a public
12 hearing thereon of which notice is published once a week for
13 two consecutive weeks in a newspaper of general circulation.

14 4. The Port of Tahuya never conducted a public hearing on
15 the draft of the Port of Tahuya Public Access Plan which was
16 adopted on August 20, 2003. The only public hearing
17 conducted by the Port of Tahuya regarding the Public Access
18 Plan was conducted on March 20, 2003 at which time only a
19 preliminary and incomplete draft of the Public Access Plan
20 was available for review and discussion.

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SECOND CAUSE OF ACTION

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1 5. RCW 53.08.260 permits Washington port districts such as
2 the Port of Tahuya to operate park and recreation facilities
3 only when such facilities are necessary to more fully
4 utilize boat landings, harbors, wharves and piers...and
5 other port facilities authorized by law pursuant to the
6 port's comprehensive plan of harbor improvements and
7 industrial development.

8 6. RCW 53.08.270 only permits port district adoption of a
9 plan for the operation of park and recreational facilities
10 after first submitting a plan for such park or recreational
11 facilities to the director of the State of Washington Parks
12 and Recreation Commission and to the governing body of any
13 county or municipal park agency having jurisdiction in the
14 area. The Port of Tahuya did not so submit the final draft
15 of its Public Access Plan in advance to such persons and
16 agencies for review prior to adoption of the Plan by the
17 Port of Tahuya.

18 THIRD CAUSE OF ACTION

19 7. RCW 53.08.260 only permits port districts to operate
20 park and recreation facilities when such facilities are
21 necessary to more fully utilize port facilities otherwise
22

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1 authorized by law such as boat landings, harbors, wharves
2 and piers.

3 8. The Public Access Plan adopted by the Port of Tahuya
4 stated that the mission of the Port of Tahuya was "to
5 fulfill recreation needs" and therefore discussed, analyzed
6 and planned for park and recreational facilities as its
7 primary purpose and objective and not as parks or
8 recreational facilities necessary to more fully utilize
9 other non-park or recreation port facilities.

10 FOURTH CAUSE OF ACTION

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

13 10. The Port of Tahuya is not authorized under the laws of
14 the State of Washington to conduct planning activities
15 pursuant to RCW Chapter 35.63.

16 FIFTH CAUSE OF ACTION

17 11. The Port of Tahuya Public Access Plan is not an
18 amendment to the Port of Tahuya comprehensive scheme of
19 harbor improvements in the port district but is rather an
20 improper attempt by the Port of Tahuya to adopt a
21 comprehensive land use plan pursuant to RCW 36.70A.030 (4)

1 and RCW Chapter 35.63.

2 FIFTH CAUSE OF ACTION

3 12. The Public Access Plan of the Port of Tahuya purports
4 to plan for recreational facilities outside of the Port of
5 Tahuya.

6 13. The Port of Tahuya is not authorized by the laws
7 creating and authorizing port districts to plan for
8 recreational facilities outside the port district
9 boundaries.

10 SIXTH CAUSE OF ACTION

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

16 Wherefore Plaintiff prays for judgment as follows:

17 1. For a declaratory judgment declaring that the Port of
18 Tahuya Public Access Plan has not been validly adopted as a
19 result of failure to conduct a public hearing on the adopted
20 plan as required by RCW 53.08.010.

21 2. For a declaratory judgment declaring that the Port of

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1 Tahuya Public Access Plan has not been validly adopted as a
2 result of failure to submit the final draft of the plan for
3 review to the Director of the State Parks and Recreation
4 Commission and the governing body of the Mason County park
5 agency having jurisdiction of the area.

6 3. For a judgment declaring that the Port of Tahuya Public
7 Access Plan is invalid because it exceeds the authority of
8 the Port of Tahuya to plan for park and recreation
9 facilities which are not necessary for a fuller utilization
10 of permitted port district facilities.

11 4. For a judgment declaring that the Port of Tahuya Public
12 Access Plan is invalid because it was adopted in reliance on
13 and to carry out planning activity under RCW Chapter 35.63
14 which may not be validly carried out by a port district.

15 5. For a judgment declaring that the Port of Tahuya Public
16 Access Plan is invalid because it purports to plan for
17 recreation facilities outside of the Port of Tahuya port
18 district boundaries.

19 6. For a judgment declaring that the Port of Tahuya Public
20 Access Plan is invalid because neither the Public Access
21 Plan nor any prior Port of Tahuya resolutions comply with
22

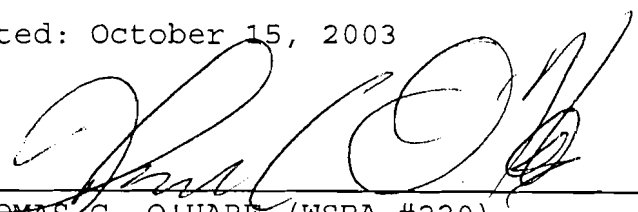
1 the requirements of RCW 53.08.010 for adoption of a port
2 district comprehensive scheme of harbor improvements.

3 7. For a Writ of Review\Certiorari reviewing adoption of
4 the Port of Tahuya Public Access Plan in the event that, for
5 any reason, a declaratory judgment is not available to
6 Plaintiff herein and for an order requiring the Port of
7 Tahuya to prepare an index of the record proposed to be
8 submitted to enable the Court to review the decision at
9 issue, and that the court review and issue an order
10 invalidating the Port of Tahuya Public Access Plan.

11 8. For Plaintiffs costs and statutory attorneys fees
12 herein.

13 9. For such other and further relief as the court may deem
14 just and necessary.

15 Dated: October 15, 2003

16 
THOMAS C. O'HARE (WSBA #220)

17 SMITH & O'HARE P.S. INC.

18 Attorneys for Plaintiff Residents for Preserving
19 Quality of Life on Hood Canal

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