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MASON COUNTY

**SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR MASON COUNTY**

RESIDENTS FOR PRESERVATION OF
QUALITY OF LIFE ON HOOD CANAL

Plaintiff,

vs.

PORT COMMISSION OF THE PORT OF
TAHUYA,

Defendant

CASE NO. **03 2 0758 .1**
**COMPLAINT FOR ACCESS TO PUBLIC
RECORDS**

Plaintiff, RESIDENTS FOR PRESERVATION OF QUALITY OF LIFE ON HOOD
CANAL, (RESIDENTS) alleges as follows:

I. PLAINTIFF'S STATUS

At and during all times herein mentioned, Plaintiff, RESIDENTS, is a community
organization made up of residents of the Port of Tahuya, all of whom have reside in the Port of
Tahuya.

II. DEFENDANT'S STATUS

At and during all times mentioned in this Complaint, the defendant, PORT
COMMISSION OF THE PORT OF TAHUYA (COMMISSION), is the governing body of a
municipal corporation and a "local agency" under the Public Disclosure act, RCW 42.17 *et seq.*

COPY

III. BACKGROUND FACTS

1. On or about August 8, 2003, counsel for Plaintiff RESIDENTS, made a request to Defendants COMMISSION that copies of documents relating to the Public Access Plan of the Port of Tahuya be made available to her. A true and accurate copy of the request is attached as Exhibit A hereto.

2. On or about August 11, COMMISSION notified Plaintiff's Counsel that it would be unable to provide her with an exact date or cost of copying the requested documents, and that an attempt would be made to locate the documents by the end of September, at which date COMMISSION would give Plaintiff's Counsel a later date at which the documents could be copied. A true and accurate copy of that letter is attached as Exhibit B hereto.

3. On or about August 12, 2003, Plaintiff's Counsel made another request that specific documents relating to the Port of Tahuya Public Access Plan be made available to her. This request identified specific documents, all created in the last few years, which Plaintiff's Counsel needed to review prior to the next meeting of Defendant COMMISSION on August 20, 2003. A true and accurate copy of that request is attached as Exhibit C hereto.

4. As of August 19, 2003, Plaintiff Counsel has yet to receive a response from Defendant COMMISSION to her August 12 request.

IV. VIOLATION OF ACT

The Public Disclosure Act, RCW 42.17 *et seq.*, requires COMMISSION to produce the requested records unless such information is exempted, in which case COMMISSION must produce the information requested with the exempted material deleted together with an explanation of the reasons that information was exempt and was deleted. RCW 42.17.260 and 42.17.310(2)(4). In this case, Defendant COMMISSION's failure to timely respond to Plaintiff RESIDENTS' request and to produce any portion of the files requested constitutes a violation of the Public Records Act.


V. ATTORNEYS FEES AND PENALTIES

In accordance with RCW 42.17.340(4), Plaintiff RESIDENTS is entitled to all costs, including reasonable attorney fees in connection with this action and per diem damages in an amount not less than \$5.00 nor more than \$100 for each day plaintiff was denied the right to inspect or copy said public records.

WHEREFORE, Plaintiff RESIDENTS prays as follows:

1. That an Order be issued requiring the Defendant COMMISSION to provide Plaintiff RESIDENTS access to the documents regarding the Public Access Plan for the Port of Tahuya.
2. An award in favor of the Plaintiff for its costs and reasonable attorney fees incurred in this action.
3. An award in favor of plaintiff in the amount of \$100 per day for the time period the plaintiff has been denied access to these records.
4. For such other and further relief as the Court deems just and equitable in the premises.

DATED this 18th day of August, 2003.



MARY KAY HIGH, WSBA No. 21312
Attorney for Defendant



MARY KAY HIGH
ATTORNEY AT LAW

August 8, 2003

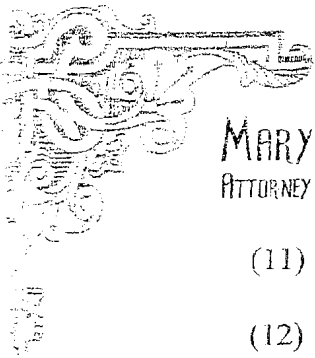
Cindy Olsen, Secretary
Port of Tahuya
P.O. Box 90
Belfair, WA. 98528

RE: Public Disclosure Request
Port of Tahuya Public Access Plan

Dear Ms. Olsen:

Pursuant to the Public Disclosure Act, RCW 43.17.020, I am requesting the following documents be made available to me for copying:

- (1) All authorizing documents for the Port of Tahuya (i.e., articles of incorporation, corporate charter, by-laws, etc...)
- (2) All documents establishing the rules, regulations, and procedures for the Port of Tahuya Commissioners
- (3) A copy of the Port of the Tahuya budget for 2001 through 2003
- (4) Any and all documents relating to the inactive status of the Port of Tahuya from 1953 until 1972
- (5) The Annual Report for the Port of Tahuya
- (6) All public commentary, written or otherwise recorded regarding the Recreational Plan
- (7) All public notices regarding the Recreational Plan, including where and when such notices were published and/or posted
- (8) All correspondence, written or otherwise, including e-mail, between Port Commissioners and any entities, including other Commissioners, regarding the Recreational Plan
- (9) All documents relating to the award of the construction contract
- (10) The surveys of any and all parcels of land where development is proposed



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- (11) The minutes of any and all meetings where the Plan was discussed
- (12) The minutes of any and all meetings where the Determination of Nonsignificance was discussed
- (13) All notices and publications, including when and where published and/or posted, regarding the Determination of Nonsignificance
- (14) A list of the qualifications of the environmental designee (FOR?)
- (15) All correspondence, written or otherwise, including e-mail, between Port Commissioners and any entities, including other Commissioners, regarding the Determination of Nonsignificance
- (16) A list of Commissioner attendance for all Commission meetings from 1999 to the present
- (17) Any and all documents telling when current Commissioners' term is established and when it will end
- (18) Any and all publications, including press releases or newspaper articles, regarding the Recreational Plan
- (19) Any and all disclosures by any Commissioner or Commissioners of potential interest and or benefits to accrue from implementation of the plan, and to whom such interest and or benefits would accrue
- (20) Any and all correspondence, including e-mails and notes of contact, between or by any or all Port Commissioners and any State, Federal, County, or local municipality employees regarding the Recreational Plan or the Determination of Nonsignificance
- (21) All correspondence, notes, and/or e-mail regarding the availability of grant funds
- (22) All contact and or studies regarding the effect of the Plan on the environment, traffic, and economy of the Port of Tahuya
- (23) All correspondence, notes, and/or e-mails, regarding the Commissioners decisions regarding their evaluations of the Plan's impact on the environment, traffic, and economy of the Port of Tahuya



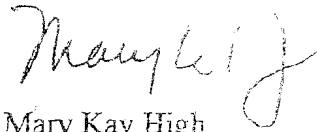
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- (24) Any and all economic projections regarding the impact of implementation of the Plan
- (25) All reviews of the Public Access Plan for the past five years
- (26) The Comprehensive Plan for the Port of Tahuya
- (27) Any and all documents dealing with the Port of Tahuya's policy for recording public meetings
- (28) Any and all requests for proposals and/or bids, and any notices and responses relating to these request for proposals and/or bids

If there are any charges associated with this request please notify my office immediately and I will ensure that you are paid promptly. In addition, please keep us informed of any and all future hearings and notices regarding actions relating to this plan.

Thank you for your cooperation in this matter.

Sincerely,



Mary Kay High

Aug 11, 2003

Port of Tahuya
Cynthia Olsen - Comm. Sec.
P.O. Box 90
Tahuya, Wa. 98588

RECEIVED
8/13/03

by Kay High - Attorney
Tacoma Ave N.
Tacoma, Wa. 98403 Fax # 253-572-6472

I have received your faxed public disclosure request. We will be reviewing the files to provide your office with the disclosable information.

Due to the size of your request + the age of some documents I am unable to provide you with an exact date or cost of copying. We will try to complete all the documents by the end of Sept. and provide you a date + cost then.

Please send any other correspondence to the Ports P.O. Box 90 Tahuya, Wa. 98588. I have not found a message or fax machine to be dependable. + the copy I got from your office was barely legible.

Sincerely,
Cynthia Olsen Comm. Sec.

copy faxed + mailed



MARY KAY HIGH
ATTORNEY AT LAW

August 12, 2003

Cindy Olsen, Commissioner-Secretary
Port of Tahuya
P.O. Box 90
Tahuya, WA 98588

RE: Public Disclosure Request
Port of Tahuya Public Access Plan

Ms. Olsen:

Thank you for your quick response. However, receiving the documents I have requested at the end of September is not acceptable. My request relates to my concern that the Port Commission might be taking action on the 20th of August relating to the Draft Public Access Plan, and I must have at least some of the documents prior to this.

RCW 42.17.320 requires that:

Responses to requests for public records shall be made promptly by agencies...Within five business days of receiving a public record request, an agency...must respond by...(2) acknowledging that the agency...has received the request and provid[e] a reasonable estimate of the time agency...will require to respond to a request... Additional time required to respond to a request may be based upon the need to...locate and assemble the information requested...

Because the Commission may act on the Plan on August 20th, I must have at least some of the documents I requested in my first letter prior to the 20th, preferably by the 18th. To assist you in fulfilling your obligations I will gladly appear at the Port Commission Office and review and mark for copying the pertinent documents.

Specifically, prior to the August 20th Commission meeting, I need a copy of the Port's regulations/guidance regarding the conduct of meetings and the appeals process the Port has adopted for review of Port decisions, including environmental decisions.



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Undoubtedly the Port's adopted regulations/policies/guidance materials are readily available and should not pose a problem for my review by August 18, 2003.

Additionally, I still need access before Port action on the draft proposed access plan to all materials relating to the proposed access plan, such documents include, but are not limited to:

- (1) a copy of the Port of Tahuya Budget for 2001 to 2003
- (2) a copy of the latest Annual Report for the Port of Tahuya
- (3) copies of all public commentary, written or otherwise recorded, regarding the Recreational Plan
- (4) copies of all public notices regarding the Recreational Plan, including where and when such notices were published and/or posted
- (5) copies of surveys of any and all parcels of land where development is proposed
- (6) the minutes of any and all meetings where the Plan was discussed
- (7) the minutes of any and all meetings where the Determination of Nonsignificance was discussed
- (8) copies of all notices and publications, including when and where published and/or posted, regarding the Determination of Nonsignificance
- (9) copies of all correspondence, written or otherwise, including e-mail, between Port Commissioners and any entities, including other Commissioners, regarding the Determination of Nonsignificance, including time and method of appeal
- (10) copies of any and all publication, including press releases or newspaper articles, regarding the Recreational Plan



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(11) copies of any and all disclosures by any Commissioner or Commissioners of potential interest and/or benefits to accrue from implementation of the plan, and to whom such interests and/or benefits would accrue

(12) copies of any and all correspondence, including e-mails and notes of contact, between or by any or all Port Commissioners and any State, Federal, County, or local municipality employees regarding the Recreational Plan or the Determination of Nonsignificance

(13) copies of all correspondence, notes, and/or e-mail regarding the availability of grant funds

(14) copies of all contact and/or studies regarding the effect of the Plan on the environment, traffic, and economy of the Port of Tahuya

(15) copies of all correspondence, notes, and/or e-mails, regarding the Commissioners decisions regarding their evaluations of the impact of the Plan on the environment, traffic, and economy of the Port of Tahuya

(16) copies of any and all projections regarding the impact of implementation of the Plan

(17) copies of all reviews of the Public Access Plan for the past five years

(18) a copy of the Comprehensive Plan for the Port of Tahuya

(19) copies of any and all documents dealing with the Port of Tahuya's policy for recording public meetings

Should the Commission defer action regarding the Public Access Plan to a later date, then more time would be allowed for the documents to be gathered, so long as I receive a copy of them prior to the meeting where the Commission will take action regarding the Plan. The documents identified above is a list of the minimum documents I need prior to either the August 20th meeting or the meeting at which the Commission



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acts on the Plan, whichever occurs first. However, I still require a complete response to my request within a timely manner.

Additionally, I still request notice for any pending action regarding the Proposed Access Plan, the cut-off date for public commentary regarding the Plan and the process by which the Port's actions are reviewed.

Thank you for your cooperation in this matter.

Sincerely,

Mary Kay High

cc:Robert W. Johnson, Attorney