

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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

THE CITY OF SEATTLE, a Washington
municipal corporation,

Plaintiff,

vs.

STANLEY J. HARRELSON and MARY E.
HARRELSON, a marital community;
STANLEY J. HARRELSON AND MARY. E.
HARRELSON, trustees of the Stanley J.
Harrelson Qualified Personal Residence Trust;
MARTIN E. RIEMER and KARRIE RIEMER,
a marital community; FORREST F. BISHOP,
an individual; JOHN RUSSO, an individual;
JANE AND JOHN DOES 1-10, as individuals
and marital communities.

Defendants.

No.

COMPLAINT FOR DAMAGES
AND ENFORCEMENT PENALTIES

Plaintiff The City of Seattle (“City”) alleges as follows:

PARTIES

1. The City is a Washington municipal corporation of the first class organized and existing under the laws of the State of Washington and doing business in Seattle, King County, Washington.

1 10. In early 2016 the City learned that trees had been cut down on the Parcels sometime
2 in 2015 or early 2016.

3 11. The City did not give permission for any cutting that occurred on the Parcels.

4 12. The City’s investigation of the matter revealed that the Harrelsons, Riemers, Bishop
5 and Russo were involved in cutting trees on the Parcels within Area “A” on the attached **Exhibit**
6 **1**. The Harrelsons and Riemers hired Bishop and Russo to cut those trees.

7 13. The Harrelsons own property at 3242 35th Ave SW. Their property borders the
8 Parcels.

9 14. The Riemers own a house across the street from the Harrelsons at 3241 35th Ave
10 SW.

11 15. The tree cutting in Exhibit 1 Area “A” substantially improved the views from the
12 Harrelson and Riemer homes by removing trees that had obstructed or partially obstructed their
13 views.

14 16. Bishop and Russo were the Harrelsons’ and Riemers’ agents for purposes of the
15 cutting.

16 17. Using the Trunk Formula Method, a commonly accepted method for valuing trees that
17 are larger and/or older than those usually purchased at tree farms and nurseries, the value of the trees
18 cut down in Exhibit 1 Area “A” was \$226,060.

19 18. Fifty-five trees 6 inches in caliper or greater were cut down on the Parcels in Exhibit
20 1 Area A.

21 19. The Parcels are located in an environmentally critical area that contains steep slopes
22 and landslide-prone areas.

1 20. None of Defendants sought permission from any City department to cut trees on the
2 Parcels.

3 21. The cutting of trees increased the likelihood of landslides on the Parcels, and thereby
4 damaged the land itself.

5 **FIRST CAUSE OF ACTION: TIMBER TRESPASS (RCW 64.12.030)**

6 22. The City incorporates all of the allegations in paragraphs 1-21.

7 23. Defendants Bishop and/or Russo cut down and otherwise damaged trees on the City's
8 property without lawful authority.

9 24. Defendants Harrelson and Riemer are responsible for the acts of their agents, Bishop
10 and Russo.

11 25. Defendants Harrelson and Riemer lacked probable cause to believe that Parcels were
12 their property.

13 26. Defendants Bishop and Russo lacked probable cause to believe that the Parcels
14 belonged to the Harrelsons or Riemers.

15 27. The cutting was not casual or involuntary.

16 28. Defendants are liable for treble the City's damages of \$226,060, for a total of
17 \$678,180.

18 **SECOND CAUSE OF ACTION: DAMAGE TO LAND (RCW 4.24.630)**

19 29. The City incorporates all of the allegations in paragraphs 1-27.

20 30. Defendants damaged the Parcels because in removing the trees they made landslides
21 on the Parcels more likely.

22 31. Defendants knew or should have known they were not authorized to cut the trees.
23

1 32. In addition to the value of the trees, the City is also entitled to (1) damages to the land
2 resulting from the cutting, (2) restoration costs for repairing the damage to the land, and (3) reasonable
3 costs including investigation costs, attorney’s fees and other litigation-related costs.

4 **THIRD CAUSE OF ACTION: TRESPASS**

5 33. The City incorporates all of the allegations in paragraphs 1-27.

6 34. Defendants trespassed upon the City’s Parcels and caused damage to the City’s trees
7 and land.

8 **FOURTH CAUSE OF ACTION: NEGLIGENCE**

9 35. The City incorporates all of the allegations in paragraphs 1-27.

10 36. Defendants knew or should have known they lacked permission to cut down trees in
11 a greenbelt they did not own.

12 **FIFTH CAUSE OF ACTION: VIOLATIONS OF THE ENVIRONMENTALLY**
13 **CRITICAL AREAS CODE**

14 37. The City incorporates all of the allegations in paragraphs 1-27.

15 38. Defendants cut trees in an environmentally critical steep slope and landslide-prone area in
16 violation of SMC 25.09.040, 25.09.080, 25.09.320 and other provisions of the Seattle
17 Environmentally Critical Area Ordinance (ECA Code), codified in Seattle Municipal Code (SMC)
18 Chapter 25.09.

19 39. Defendants violated the ECA code by clearing and cutting 55 trees greater than six
20 inches in caliper and vegetation in environmentally critical areas without a permit or authorization
21 to do so.

22 40. Pursuant to SMC 25.09.460, Defendants are subject to a cumulative civil penalty
23 in the amount of \$500 per day for each violation from the date the violation occurs until the date

1 of compliance; and a \$5,000 civil penalty for each tree cut over six inches in caliper. Given the
2 significant damage, Defendants are subject to the additional penalty civil penalty of the economic
3 benefit derived by the violation.

4 **SIXTH CAUSE OF ACTION: UNAUTHORIZED USE OF PARK PROPERTY**

5 41. The City incorporates all of the allegations contained in paragraphs 1-27.

6 42. The Seattle Parks Code is codified in SMC Chapter 18.30. Unauthorized use of
7 park property is a violation of the Parks Code.

8 43. Defendants violated the Parks code by making unauthorized use of park property
9 by clearing and cutting trees and vegetation on Parcel 132403-9099 without a permit or
10 authorization from Parks.

11 44. Parks has determined that the unauthorized use creates substantial risk of injury to
12 persons and to parks property and therefore the Superintendent of Parks is authorized to abate the
13 unauthorized use and restore the affected park property pursuant to SMC 18.30.055.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for the following relief,

- 16 1. For a principal judgment against Defendants, jointly and severally, including treble
17 damages of \$678,180 on the City's timber trespass claim or in such other amount as
18 may be proven at trial; penalties in the amount of \$275,000 for cutting down 55 trees
19 of six inches or more in diameter and an additional \$500 for each tree cut pursuant to
20 SMC 25.09.460.A; land restoration costs, the amount of the economic benefit that
21 the Defendants derived from the violation pursuant to SMC 25.09.460.B; and other
22 legal or equitable relief to abate any condition that constitutes a violation of the
23 ECA Chapter 25.09 as described in SMC 25.09.480;

- 1 2. Enforcement costs, including but not limited to administrative expenses and fees;
2 the cost of any land surveys related to enforcement; the costs of any abatement and
3 restoration of park property after abatement; recording fees; and litigation costs and
4 statutory attorneys' fees pursuant to SMC 18.30.050; plus reasonable attorneys' fees
5 pursuant, investigative costs and other litigation-related costs pursuant to RCW
6 4.24.630;
- 7 3. For pre-judgment interest from the date of this complaint pursuant to RCW 4.56.110
8 and otherwise;
- 9 4. For statutory attorney's fees and legal costs incurred in connection with this matter
10 pursuant to RCW 4.84.010, 4.84.080 and otherwise;
- 11 5. For post-judgment interest on the judgment, at a rate to be determined at the time
12 of entry, until the judgment is satisfied in full pursuant to RCW 4.56.110; and
- 13 6. For such other and additional relief as the Court may deem just and equitable.

14 DATED this 20th day of September, 2016.

15 PETER S. HOLMES
16 Seattle City Attorney

17 By: *s/ Joseph G. Groshong*
18 Joseph G. Groshong, WSBA #41593
19 Scott Kennedy, WSBA #46747
20 Tamera Van Ness, WSBA #18648
21 Stephanie Dikeakos, WSBA #27463
22 Assistant City Attorneys
23 joseph.groshong@seattle.gov
 scott.kennedy@seattle.gov
 tamera.vanness@seattle.gov
 Stephanie.Dikeakos@Seattle.gov
 Attorneys for Plaintiff City of Seattle

EXHIBIT 1

