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

THE CITY OF SEATTLE, a Washington
municipal corporation,

Plaintiff,

vs.

KOSTAS A. and LINDA C. KYRIMIS, a
marital community; JANE AND JOHN DOES
1-20, 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.

2. Defendants Kostas A. and Linda C. Kyrimis, at all times relevant to the matters herein, resided at and owned property at 3302 35th Ave SW in Seattle, Washington.

3. Defendants Jane and John Does 1-14, at all times relevant herein, resided at and owned property within a two-block radius of the intersection of 35th Ave SW and SW Hinds Street

1 and had views that were previously impaired by trees growing on parcels 132403-9099 and 132403-
2 9074 and in the adjacent right-of-way.

3 4. Defendants Jane and John Does 15-20 were hired by the Kyrimises and/or Jane and
4 John Does 1-14 to cut trees on property owned by the City on parcels 132403-9099 and 132403-
5 9074 and in the adjacent right-of-way.

6 **JURISDICTION AND VENUE**

7 5. The Court has subject matter jurisdiction because the City seeks damages in excess of
8 \$300. RCW 2.08.010.

9 6. The Court has personal jurisdiction over all Defendants because this cause of action
10 arises from their conduct in King County, Washington.

11 7. Venue is proper in King County because at least one of the Defendants resides in King
12 County, Washington. RCW 4.12.025(1).

13 **FACTS ENTITLING THE CITY TO RELIEF**

14 8. The City owns property to the north and east of 3302 35th Ave SW in the West Seattle
15 neighborhood in Seattle, including parcels 132403-9099 and 132403-9074, which is Seattle
16 Department of Parks and Recreation (“Parks”) property, and City right-of-way to the east of
17 parcels 132403-9099 and 132403-9074 under the jurisdiction of Seattle Department of
18 Transportation (the “Parcels”).

19 9. In early 2016 the City learned that trees had been cut down on the Parcels sometime
20 in 2015 or early 2016.

21 10. The City did not give permission for any cutting that occurred on the Parcels.
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1 11. The City's investigation of the matter revealed that the Kyrimises, and Jane and
2 John Does 1-20, were involved in cutting trees on the Parcels within Area "C" on the attached

3 **Exhibit 1.** The Kyrimises and Jane and John Does 1-14 hired Jane and John Does 15-20.

4 12. The Kyrimises own property at 3302 35th Ave SW in Seattle, Washington.

5 13. The tree cutting in Exhibit 1 Area "C" substantially improved the views from the
6 Kyrimis and Jane and John Does 1-14 homes by removing trees that had obstructed or partially
7 obstructed their views.

8 14. Jane and John Does 15-20 were the Kyrimises' and Jane and John Does 1-14's
9 agents for purposes of the cutting.

10 15. Using the Trunk Formula Method, a commonly accepted method for valuing trees that
11 are larger and/or older than those usually purchased at tree farms and nurseries, the value of the trees
12 cut down in Exhibit 1 Area "C" was \$120,920.

13 16. Seventy two trees over 6 inches in caliper were cut down on the Parcels in Area C.

14 17. The Parcels are located in an environmentally critical area that contains steep slopes
15 and landslide-prone areas.

16 18. None of Defendants sought permission from any City department to cut trees on the
17 Parcels.

18 19. The cutting of trees increased the likelihood of landslides on the Parcels, and thereby
19 damaged the land itself.

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

21 20. The City incorporates all of the allegations in paragraphs 1-19.

22 21. Defendants Jane and John Does 15-20 cut down and otherwise damaged trees on the
23 City's property without lawful authority.

1 22. Defendants Kyrimis and Jane and John Does 1-14 are responsible for the acts of their
2 agents, Jane and John Does 15-20.

3 23. Defendants Kyrimis and Jane and John Does 1-14 lacked probable cause to believe
4 that the Parcels were their property.

5 24. Defendants Jane and John Does 15-20 lacked probable cause to believe that the
6 Parcels belonged to Kyrimis and Jane and John Does 1-14.

7 25. The cutting was not casual or involuntary.

8 26. Defendants are liable for treble the City's damages of \$120,920, for a total of
9 \$362,760.

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

11 27. The City incorporates all of the allegations in paragraphs 1-25.

12 28. Defendants damaged the Parcels because in removing the trees they made landslides
13 on the Parcels more likely.

14 29. Defendants knew or should have known they were not authorized to cut the trees.

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

18 **THIRD CAUSE OF ACTION: TRESPASS**

19 31. The City incorporates all of the allegations in paragraphs 1-25.

20 32. Defendants trespassed upon the City's Parcels and caused damage to the City's trees
21 and land.

22 **FOURTH CAUSE OF ACTION: NEGLIGENCE**

23 33. The City incorporates all of the allegations in paragraphs 1-25.

1 34. Defendants knew or should have known they lacked permission to cut down trees in
2 a greenbelt they did not own.

3 **FIFTH CAUSE OF ACTION: VIOLATIONS OF THE ENVIRONMENTALLY**
4 **CRITICAL AREAS CODE**

5 35. The City incorporates all of the allegations in paragraphs 1-25.

6 36. Defendants cut trees in an environmentally critical steep slope and landslide-prone
7 area in violation of SMC 25.09.040, 25.09.080, 25.09.320 and other provisions of the Seattle
8 Environmentally Critical Area Ordinance (ECA Code), codified in Seattle Municipal Code (SMC)
9 Chapter 25.09.

10 37. Defendants violated the ECA code by clearing and cutting 72 trees greater than six
11 inches in caliper and vegetation in environmentally critical areas without a permit or authorization
12 to do so.

13 38. Pursuant to SMC 25.09.460, Defendants are subject to a cumulative civil penalty
14 in the amount of \$500 per day for each violation from the date the violation occurs until the date
15 of compliance; and a \$5,000 civil penalty for each tree cut over six inches in caliper. Given the
16 significant damage, Defendants are subject to the additional penalty civil penalty of the economic
17 benefit derived by the violation.

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

19 39. The City incorporates all of the allegations contained in paragraphs 1-25.

20 40. The Seattle Parks Code is codified in SMC Chapter 18.30. Unauthorized use of
21 park property is a violation of the Parks Code.

22 41. Defendants violated the Parks code by making unauthorized use of park
23 property by clearing and cutting trees and vegetation on Parcels 132403-9099 and 132403-9074

1 without a permit or authorization from Parks.

2 42. Parks has determined that the unauthorized use creates substantial risk of injury to
3 persons and to parks property and therefore the Superintendent of Parks is authorized to abate the
4 unauthorized use and restore the affected park property pursuant to SMC 18.30.055.

5 **SEVENTH CAUSE OF ACTION: TREE AND VEGETATION MANAGEMENT IN**
6 **PUBLIC PLACES**

7 43. The City incorporates all the allegations contained in paragraph 1-25 above.

8 44. SMC 15.04.010.A provides that it is unlawful for anyone to make “use” of any
9 public place without first securing a permit under SMC Title 15.

10 45. SMC 15.43.020 provides that no person shall destroy, kill, injure, mutilate, or
11 deface a street tree or vegetation in a public place by any means.

12 46. The Defendants violated SMC 15.04.010.A and 15.43.020 by cutting trees and
13 vegetation in the SDOT right of way located east of the Parcels without a permit from SDOT to
14 do so.

15 47. Defendants are subject to a cumulative penalty of up to \$500 per day for each
16 violation from the date the violation occurs or begins until compliance is achieved. Defendants are
17 also liable to the City for enforcement costs, including but not limited to staff time, administrative
18 expenses and fees, and costs and attorneys’ fees pursuant to SMC 15.90.018.A.

19 48. In addition to the cumulative penalties, Defendants are subject to a civil penalty in
20 an amount equal to the appraised value of each affected tree in accordance with the most current
21 edition of the Council of Tree and Landscape Appraisers “Guide for Plant Appraisal” for their acts
22 which destroyed, killed, injured, or mutilated the street tree pursuant to SMC 15.90.018.B.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief,

1. A principal judgment against Defendants, jointly and severally, including treble damages of \$362,760 on the City’s timber trespass claim or in such other amount as may be proven at trial; penalties in the amount of \$360,000 for cutting down 72 trees over six inches in caliper and an additional \$500 for each tree cut pursuant to SMC 25.09.460.A; land restoration costs, the amount of the economic benefit that the Defendants derived from the violation pursuant to SMC 25.09.460.B; and other legal or equitable relief to abate any condition that constitutes a violation of the ECA Chapter 25.09 as described in SMC 25.09.480;
2. Enforcement costs, including but not limited to administrative expenses and fees; the cost of any land surveys related to enforcement; the costs of any abatement and restoration of park property after abatement; recording fees; and litigation costs and statutory attorneys' fees pursuant to SMC 18.30.050; plus reasonable attorneys’ fees pursuant, investigative costs and other litigation-related costs pursuant to RCW 4.24.630;
3. Civil penalties, enforcements costs and the value of each affected tree, and the cost of restoration in accordance with SMC 15.90.018.B. for trees damages in the right-of-way. The City shall be awarded treble the penalty if the violation of SMC Title 15 is found to be willful or malicious.
4. Enforcement costs, including but not limited to staff time, administrative expenses and fees, and costs and attorneys’ fees pursuant to 15.90.018.

- 1 5. For pre-judgment interest from the date of this complaint pursuant to RCW 4.56.110
2 and otherwise;
- 3 6. For statutory attorney’s fees and legal costs incurred in connection with this matter
4 pursuant to RCW 4.84.010, 4.84.080 and otherwise;
- 5 7. For post-judgment interest on the judgment, at a rate to be determined at the time
6 of entry, until the judgment is satisfied in full pursuant to RCW 4.56.110; and
- 7 8. For such other and additional relief as the Court may deem just and equitable.

8 DATED this 20th day of September, 2016.

9 PETER S. HOLMES
10 Seattle City Attorney

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

EXHIBIT 1

