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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KEBEDE ADMASU, et al.,

Plaintiffs,

v.

THE PORT OF SEATTLE, a Washington
municipal corporation,

Defendant.

The Honorable Bruce Heller

No. 09-2-22569-9 KNT

[PROPOSED] ORDER GRANTING THE
PORT OF SEATTLE'S MOTION FOR
SUMMARY JUDGMENT BASED ON
EXPRESS AVIGATION EASEMENTS

THIS MATTER came before the Court on Defendant The Port of Seattle's ("Port") Motion For Summary Judgment Based On Express Avigation Easements. The Court has considered all of the records and files herein, including the following:

1. The Port's Motion For Summary Judgment Based On Express Avigation Easements (Docket No. 185);
2. Declaration Of Patrick J. Mullaney In Support Of The Port's Motion For Summary Judgment Based On Express Avigation Easements (Docket No. 190);
3. Declaration Of Steven R. Alverson In Support Of The Port's Motion For Summary Judgment Based On Express Avigation Easements (Docket No. 188);
4. Declaration Of Stan Shepherd In Support Of The Port's Motion For Summary Judgment Based On Express Avigation Easements (Docket No. 186);

1 5. Declaration Of John Schlosser In Support Of The Port's Motion For Summary
2 Judgment Based On Express Avigation Easements (Docket No. 187);

3 6. Appendix Of Authorities Cited In Support Of The Port's Motion For Summary
4 Judgment Based On Express Avigation Easements;

5 7. First [Proposed] Order Granting The Port's Motion For Summary Judgment
6 Based On Express Avigation Easements;

7 8. Plaintiffs' Revised Response To Defendant's Motion For Summary Judgment
8 Regarding Avigation Easements (Docket No. 199);

9 9. Declaration Of Darrell L. Cochran In Support Of Plaintiffs' Response To
10 Defendant's Motion For Summary Judgment Regarding Avigation Easements (Docket No. 196),
11 which includes the following declarations from certain plaintiffs:

12 a. Declaration Of Ken Olson;

13 b. Declaration Of Maria Keister;

14 c. Declaration Of David Keister;

15 d. Declaration Of Jeff Guite;

16 e. Declaration Of Virginia Raymond;

17 f. Declaration Of Susan Schlaitzer;

18 g. Declaration Of Joye Armon;

19 h. Declaration Of TC Armon;

20 i. Declaration Of Patricia Howitz;

21 j. Declaration Of Steven Schukar;

22 k. Declaration Of Juan Galindo;

23 l. Declaration Of Tarik Galindo;

24 m. Declaration Of Al Filipowicz;

25 n. Declaration Of Georgia Filipowicz;

26 o. Declaration Of Dolores Johnson;

- 1 p. Declaration Of James Bartlemay;
- 2 q. Declaration Of Ben Vaomu;
- 3 r. Declaration Of John Murray;
- 4 s. Declaration Of Bill Vogel;
- 5 t. Declaration Of Jeffrey DeBoer;
- 6 u. Declaration Of Lauren DeBoer;
- 7 v. Declaration Of Janet West;
- 8 w. Declaration Of Daniel West;
- 9 x. Declaration Of Saverio Desimone;
- 10 y. Declaration Of Bill Hallet;
- 11 z. Declaration Of Tom Timlick; and
- 12 aa. Declaration Of Mabers Timlick.

13 10. The Port's Reply In Support Of Motion For Summary Judgment Based On
14 Express Avigation Easements (Docket No. 200);

15 11. Supplemental Declaration Of Stan Shepherd In Support Of The Port's Reply In
16 Support Of Motion For Summary Judgment Based On Express Avigation Easements (Docket
17 No. 201);

18 12. Supplemental Declaration Of Patrick J. Mullaney In Support Of The Port's Reply
19 In Support Of Motion For Summary Judgment Based On Express Avigation Easements (Docket
20 No. 202);

21 13. Notebook Of Authorities Cited In Support Of The Port's Motion For Summary
22 Judgment Based On Express Avigation Easements; and

23 14. The Port's revised [Proposed] Order Granting The Port Of Seattle's Motion For
24 Summary Judgment Based On Express Avigation Easements And Final Judgment Under Civil
25 Rule 54(b) Against Avigation Easement Plaintiffs.
26

1 The Court has reviewed the pleadings, heard the argument of counsel at the hearing on
2 December 14, 2012, and is otherwise fully advised. NOW, THEREFORE,
3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the avigation easements
4 recorded against the properties owned by the plaintiffs in this action identified on Attachment A
5 to this Order (“the Avigation Easement Plaintiffs”) are valid and properly recorded of title. Mr.
6 Alverson’s noise analysis, which the parties agreed would be binding, shows that the noise level
7 at each property is below the level allowed by the applicable avigation easement and that the Port
8 is acting within its easement rights. Accordingly, for the reasons stated in the Court’s
9 Memorandum Opinion dated December 21, 2012, a copy of which is attached as Attachment B,
10 the Port’s Motion For Summary Judgment Based On Express Avigation Easements is
11 **GRANTED**. All of the claims of the Avigation Easement Plaintiffs are hereby **DISMISSED**
12 **WITH PREJUDICE**. The Avigation Easement Plaintiffs’ participation in this matter is
13 terminated for all purposes except (1) their right to appeal upon entry of a final judgment and (2)
14 their ongoing obligation under Washington law to preserve relevant evidence.

15 It is so ORDERED.

16 DATED this 19 day of Feb, 2013.

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19 
The Honorable Bruce E. Heller

20 **Presented by:**

21 FOSTER PEPPER PLLC

PORT OF SEATTLE

22 s/ Tim J. Filer

23 Tim J. Filer, WSBA No. 16285
24 Patrick J. Mullaney, WSBA No. 21982
25 Samuel T. Bull, WSBA No. 34387
26 Attorneys for Defendant Port of Seattle

s/ Traci M. Goodwin

Traci M. Goodwin, WSBA No. 14974
Senior Port Counsel
Attorneys for Defendant Port of Seattle

ORDER GRANTING THE PORT OF SEATTLE’S MOTION FOR
SUMMARY JUDGMENT BASED ON EXPRESS AVIGATION
EASEMENTS - 4

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ATTACHMENT A
List of Avigation Easement Plaintiffs

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No.	Plaintiff	Street Address
1.	Alva, Margaret	1205 S. 204th St., Seatac, WA 98198
2.	Amber, Sara	1201 S. 124th St., Seattle, WA 98168
3.	Cobb, Pamela	1201 S. 124th St., Seattle, WA 98168
4.	Anderson, Kathleen	13062 10th Ave. S., Burien, WA 98168
5.	Andrade, Jose	20421 12th Pl. S., Seatac, WA 98198
6.	Antiporda, Walter	20615 13th Ave. S., Seatac, WA 98198
7.	Armon, Tom	835 S. 143rd Pl., Seattle, WA 98168
8.	Armon, Joye	835 S. 143rd Pl., Seattle, WA 98168
9.	Barnes, Fletcher	12438 12th Ave. S., Burien, WA 98168
10.	Bartlemay, James	23510 10th Ave. S., Des Moines, WA 98198
11.	Bearse, Miriam	12819 12th Ave. S., Burien, WA 98168
12.	Fieland, Karen	12819 12th Ave. S., Burien, WA 98168
13.	Blake, Misty	22320 16th Ave. S., Des Moines, WA 98198
14.	Blakley, Laura	13058 10th Ave. S., Burien, WA 98168
15.	Worden, Jennifer	13058 10th Ave. S., Burien, WA 98168
16.	Burns, Robert	12811 10th Ave. S., Burien, WA 98168
17.	Carvo, Linda	1110 S. 202 St., Seatac, WA 98198
18.	Cerenzia, Brad	1220 S. Henderson St., Seattle, WA 98108
19.	Chinn, Allen	1236 S. 211th St., Des Moines, WA 98198
20.	Collins, Kyle	20307 10th Ave. S., Des Moines, WA 98198
21.	Cook, Thomas	1139 S. 204th St., Seatac, WA 98198
22.	Cook, Linda	1139 S. 204th St., Seatac, WA 98198
23.	DeBoer, Jeffrey	12822 10th Ave. S., Seattle, WA 98168
24.	DeBoer, Lauren	12822 10th Ave. S., Seattle, WA 98168
25.	DeFils IV, Bennie	20119 12th Pl. S., Seatac, WA 98198
26.	DeFils, Kadra	20119 12th Pl. S., Seatac, WA 98198
27.	Desilets, Stephen	1204 S. 204th St., Seatac, WA 98198
28.	Desimone, Saverio	536 S. 158th St., Burien, WA 98148
29.	Desmarais, Edmund	13708 8th Ave. S., Burien, WA 98168
30.	Desmarais, Joanne	13708 8th Ave. S., Burien, WA 98168
31.	Donnel, Will	13004 14th Ave. S., Seattle, WA 98168
32.	Douglass, William	22814 12th Ave. S., Des Moines, WA 98198
33.	Easterling, Shane	1214 S. 234th Pl., Des Moines, WA 98198
34.	Engel, Richard	11043 14th Ave. S., Seattle, WA 98168
35.	Engel, Marlene	11043 14th Ave. S., Seattle, WA 98168
36.	Erickson, David	19027 8th Ave. S., Burien, WA 98148
37.	Ethridge, Dave	21815 12th Ave. S., Des Moines, WA 98198
38.	Ethridge, Jolene	21815 12th Ave. S., Des Moines, WA 98198
39.	Filipowicz, Al	20717 13th Ave. S., Seatac, WA 98198
40.	Filipowicz, Georgia	20717 13th Ave. S., Seatac, WA 98198
41.	Finn, Charles	1201 S. 100th St., Seattle, WA 98168
42.	Fischer, Joann	24430 13th Ave. S., Des Moines, WA 98198
43.	Ford, Steven	22803 12th Ave. S., Des Moines, WA 98198
44.	Ford, Margaret	22803 12th Ave. S., Des Moines, WA 98198

ORDER GRANTING THE PORT OF SEATTLE'S MOTION FOR
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	No.	Plaintiff	Street Address
1	45.	Galindo, Juan	12246 12th Ave. S., Burien, WA 98168
2	46.	Galindo, Tari	12246 12th Ave. S., Burien, WA 98168
	47.	Gleaves, Stephen	836 S. 146th St., Burien, WA 98168
3	48.	Greenberg, Susan	821 S. 148th St., Seattle, WA 98168
	49.	Grier, Allen	711 S. 140th St., Burien, WA 98168
4	50.	Guite, Jeff	20203 12th Pl. S., Seatac, WA 98198
	51.	Hallett, William (Bill)	22620 10th Ave. S., Des Moines, WA 98198
5	52.	Hartley, Vicky	12428 12th Ave. S., Seattle, WA 98168
	53.	Higley, Eva-fern	1224 S. 211th St., Des Moines, WA 98198
6	54.	Hill, James	22026 12th Ave. S., Des Moines, WA 98198
	55.	Hill, Alicia	22026 12th Ave. S., Des Moines, WA 98198
7	56.	Holmes, Dustin	1023 S. 130th Pl., Burien, WA 98168
	57.	Holmes, Presca	1023 S. 130th Pl., Burien, WA 98168
8	58.	Hori, Andrew	1209 S. 223rd St., Des Moines, WA 98198
	59.	Hoskinson, Marta	24432 15th Ave. S., Des Moines, WA 98198
9	60.	Howitz, Patricia	1234 S. 117th St., Seattle, WA 98168
	61.	Iwatani, Elvira	13256 10th Ave. S., Burien, WA 98168
10	62.	Johnson, Dolores	1030 S. 204th St., Des Moines, WA 98198
	63.	Keister, David	1215 S. 234th Pl., Des Moines, WA 98198
11	64.	Keister, Maria	1215 S. 234th Pl., Des Moines, WA 98198
	65.	Kelly, Carol	12234 10th Ave. S., Burien, WA 98168
12	66.	Klewin, Matthew	23120 Marine View Dr. S., Des Moines, WA 98198
	67.	Klewin, Margit	23120 Marine View Dr. S., Des Moines, WA 98198
13	68.	Lalor, Lyle	25942 13th Pl. S., Des Moines, WA 98198
	69.	Lauthner, Jack	1226 S. 120th St., Burien, WA 98168
14	70.	Leonard, Steve	1215 S. 130th Pl., Burien, WA 98168
	71.	Leonard, Marni	1215 S. 130th Pl., Burien, WA 98168
15	72.	Linares, Kevin	13052 8th Ave. S., Burien, WA 98168
	73.	Love, Nancy	1025 S. 220th St., Des Moines, WA 98198
16	74.	Mastandrea, Karen	1222 S. 130th St., Burien, WA 98168
	75.	McCullough, Julianne	1152 S. 220th St., Des Moines, WA 98198
17	76.	Mock, Sandra	1205 S. 228th St., Des Moines, WA 98198
	77.	Smith, Kevin	1205 S. 228th St., Des Moines, WA 98198
18	78.	Moore, Michael	22443 16th Ave. S., Des Moines, WA 98198
	79.	Moore, Julie	22443 16th Ave. S., Des Moines, WA 98198
19	80.	Morgensterna, Eva	20110 12th Pl. S., Seatac, WA 98198
	81.	Murray, John	12457 12th Ave. S., Burien, WA 98168
20	82.	Murray, Francine	12457 12th Ave. S., Burien, WA 98168
	83.	Nelson, Dan	1504 S. 248th St., Des Moines, WA 98198
21	84.	Olson, Ken	1212 S. 136th Ave., Burien, WA 98168
	85.	Perry, Denise	20315 10th Ave. S., Des Moines, WA 98198
22	86.	Quintinskie, Barbara	1054 S. 136th St., Burien, WA 98168
	87.	Raymond, Virginia	20742 15th Ave. S., Seatac, WA 98198
23	88.	Reece, Jerry	23104 Marine View Dr. S., Des Moines, WA 98198
	89.	Reeff, Eric	1257 S. 116th St., Burien, WA 98168
24	90.	Reeff, Cassandra	1257 S. 116th St., Burien, WA 98168
	91.	Reinisch, Tyson	228 S. 186th St., Burien, WA 98148

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	No.	Plaintiff	Street Address
1	92.	Reinisch, Anne	228 S. 186th St., Burien, WA 98148
2	93.	Richter, Karen	1010 S. 206th St., Des Moines, WA 98168
	94.	Rippen, Elaine	14214 8th Ave. S., Burien, WA 98168
3	95.	Roper, Dee	1230 S. 211th St., Des Moines, WA 98198
	96.	Royal, Ken	14016 6th Ave. S., Burien, WA 98168
4	97.	Russell, Curtis	20624 12th Pl. S., Seatac, WA 98198
	98.	Russell, Debbi	20624 12th Pl. S., Seatac, WA 98198
5	99.	Saisslin, David	21850 12th Ave. S., Seattle, WA 98101
	100.	Schlaitzer, Susan	1120 S. Rainbow Ln., Des Moines, WA 98198
6	101.	Schukar, Steven	1208 S. 124th St., Burien, WA 98168
	102.	Schukar, Cecilia	1208 S. 124th St., Burien, WA 98168
7	103.	Stcherbinine, Scott	20705 11th Ave. S., Des Moines, WA 98198
	104.	Stith, Gary	16034 7th Ct. S., Burien, WA 98148
8	105.	Szmit, Ryszard	21112 12th Pl. S., Des Moines, WA 98198
	106.	Szmit, Jolanta	21112 12th Pl. S., Des Moines, WA 98198
9	107.	Terukina, Kekoa	20710 13th Ave. S., Seatac, WA 98198
10	108.	Timlick, Tom	1322 S. 130th St., Burien, WA 98168
	109.	Timlick, Mabers	1322 S. 130th St., Burien, WA 98168
11	110.	Treise, Cathy	12442 12th Ave. S., Seattle, WA 98168
	111.	Turajski, Elizabeth	902 S. 202nd St., Seattle, WA 98198
12	112.	Uhrich, Kari	26036 14th Ave. S., Des Moines, WA 98198
	113.	Vaomu, Ben	12245 12th Ave. S., Seattle, WA 98168
13	114.	Vogel, Bill	1252 S. 115th St., Seattle, WA 98168
	115.	Walker, Maria	12458 12th Ave. S., Seattle, WA 98168
14	116.	West, Daniel	21215 15th Ave. S., Des Moines, WA 98198
	117.	West, Janet	21215 15th Ave. S., Des Moines, WA 98198
15	118.	West, Paul	904 S. 211th Pl., Des Moines, WA 98198
	119.	Wick, Don	1002 S. 202nd St., Des Moines, WA 98198
16	120.	Wilcox, Chris	22214 10th Ave. S., Des Moines, WA 98198
	121.	Wiley, David	13515 14th Ave. S., Burien, WA 98168
17	122.	Wiley, Sharon	13515 14th Ave. S., Burien, WA 98168
	123.	Yohann, Phil	1300 S. 250th St., Des Moines, WA 98198
18	124.	Young, Mike	1206 S. 257th Pl., Des Moines, WA 98198
	125.	Zera, Francis	13419 10th Ave. S., Burien, WA 98168
19	126.	Zera, Laura	13419 10th Ave. S., Burien, WA 98168
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