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July 7, 2008

Mr. Robert Carmichael  
Zender Thurston P.S.  
1700 D Street  
Bellingham, WA 98227

**RE: *Janicki v. Sedro-Woolley et al*, Skagit County Sup. Ct. No. 08-2-01130-8  
City of Sedro-Woolley's Motion for Change of Venue**

Dear Mr. Carmichael:

As you know, all Skagit County judges today recused themselves from this matter, and we understand that the Court Administrator will transfer the matter to a Snohomish County judge, to be heard in Snohomish County, with Skagit County Superior Court retaining jurisdiction, and all procedures governed by Skagit County local rules. As the City's motion to change venue correctly points out, this recently occurred in the *Deluxe v. Skagit County* matter after all Skagit County judges recused themselves. This arrangement seemed to work well.

The Skagit County judges' recusal would seem to eliminate the need for the motion to change venue recently filed by the City, which we presume the City will now strike.

The principal basis for the City's motion to change venue is the claim that the City's underlying decision has inflamed the community, and, thus, the City could be prejudiced if a Skagit County judge hears the matter. Generally speaking, we disagree that community opposition to a municipal permit decision is an adequate basis for transferring a LUPA case to another jurisdiction. Given that this is a closed-record, non-jury matter, the effort to change venue seems more connected with avoiding public scrutiny than ensuring a fair and impartial trial. But all else aside, it is obvious that the City's concerns have been fully addressed now that a Snohomish County judge will hear this matter rather than a Skagit County judge.

While we understand that you would like this matter heard in Whatcom County because it is closer to your office, this would not seem to be a cognizable basis for a motion to change venue under RCW 4.12.030.

And far from remedying the problems of local prejudice alleged in the City's motion, Skagit County believes that venue in Whatcom County would be prejudicial to the interests of justice.

Among other things, Deluxe's principal owner Larry McCarter and his family have significant business interests and real estate holdings in Whatcom County, and are very politically active. For example, according to PDC filings, Mr. McCarter and his family members have made campaign donations to various political races in Whatcom County, and, most recently, lobbied members of the Whatcom County Council to intercede on Deluxe's behalf with the Skagit County Board of Commissioners during the *Deluxe v. Skagit County* litigation.

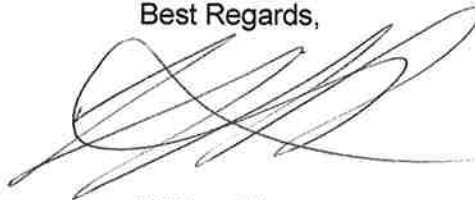
Moreover, both Mr. Serka and you are active members of the Whatcom County Bar and are heavily involved in the community, your firms and its members have made significant campaign contributions to local political races, and it seems very likely that one or both of you have at least social relationships with sitting Whatcom County judges.

In other words, transferring the case to Whatcom County seems very likely to create the exact same problems of local prejudice that form the basis for the City's motion to change venue.

Skagit County believes that allowing this matter to be heard by an impartial Snohomish County judge with few connections to any of the parties addresses all parties' concerns about local prejudice in a fair, sensible and cost-effective manner. Moreover, striking the motion to change venue would have the advantage of reducing costs to the City, since it would obviate further pleadings and hearings in the motion to change venue, cost savings that would more than offset your travel time to the handful of hearings in Everett that this matter is likely to involve.

Please advise no later than close of business Wednesday July 9, 2008 whether you intend to strike the City's motion to change venue.

Best Regards,

A handwritten signature in black ink, appearing to read 'William Honea', with a stylized, cursive script.

William Honea

cc: Tom Moser  
Phil Serka