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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SKAGIT**

ANNIE JANICKI,

Petitioner,

v.

CITY OF SEDRO WOOLLEY, a municipal  
corporation, and DELUXE RECYCLING AND  
DISPOSAL LLC, a Washington Limited  
Liability Company,

Respondents,

vs.

SKAGIT COUNTY, a political subdivision in  
the State of Washington,

Intervenor.

**NO. 08-2-01130-8**

**DECLARATION OF  
PHILIP A. SERKA**

I, Philip A. Serka, declare as follows:

1. That I am the attorney for Deluxe Recycling and Disposal, LLC ("Deluxe").
2. That Deluxe and the City of Sedro Woolley have filed a Motion to Dismiss Petitioner's Complaint for failure to list the property owner as an indispensable party defendant within the 21-day appeal period. However, Skagit County's response in opposition includes numerous

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documents that are either inadmissible or not relevant to the narrow legal issue to be considered by this Court.

3. Steve Fallquist Declaration - Steve Fallquist lists Exhibits A – P attached to his declaration in Skagit County's opposition to the Motion to Dismiss. Deluxe requests that Exhibits A, D, F, G, J, K, L, M, N, O, P be stricken.

a. Exhibit A - Janicki's response to staff report submitted at the Hearing Examiner level. Exhibit A is not relevant at all as to whether or not Petitioner has properly perfected the appeal before Superior Court.

b. Exhibit D - Email chain.

c. Exhibit F - City of Sedro Woolley's Staff Report.

d. Exhibit G - Comment letters from citizens to the Hearing Examiner.

e. Exhibit J - Comparison analysis of City of Sedro Woolley Codes related to SEPA appeal are not documents that are relevant whatsoever to the issue whether or not Petitioner properly perfected the Land Use Petition appeal with the Superior Court.

f. Exhibit K - City of Sedro Woolley Resolution No. 76508 - has nothing whatsoever to do with the legal issues related to this motion.

g. Exhibit L - Email chain

h. Exhibit M - Invoices related to Annie Janicki for appeal fees or payment of legal services to the Hearing Examiner.

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i. Exhibit N - City of Sedro Woolley Notice of a Public Hearing – does not provide any evidence that is relevant to Deluxe’s motion to dismiss.

j. Exhibit O - Paraphrased reference to a newspaper article published in the Sedro Woolley Skagit County Herald on July 3, 2008 which should be excluded as it is hearsay not admissible under any grounds.

k. Exhibit P - Screen print of Sedro Woolley’s web site which has no relevance to the issues at hand.

The above listed exhibits are not relevant and should be excluded and stricken from the record.

4. Skagit County’s Memorandum in Opposition – The following pages and lines of Skagit County’s Memorandum in Opposition should be stricken from the record as it has no relevance to the procedural issues at hand. Nor do these facts have any relevance or evidence for the Court to consider in reaching a decision on the pending motion:

a. Evidence Predates Filing of Application:

- Page 4, Lines 12 through 22
- Page 5, Lines 1 through 16
- Page 6, Line 1 –

The facts cited in Skagit County’s Opposition to Motion to Dismiss supported by the page and line items listed allege facts that pre-date even the filing of an application for building permit by Deluxe.

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The facts provide no assistance whatsoever and should not be considered in deciding whether or not to grant Deluxe's Motion to Dismiss.

b. Appeal Fees:

- Page 7, Lines 2 through 11 – These are facts related to an ordinance that increased appeal fees to be paid in order to appeal an administrative decision to Hearing Examiner. It has no relevance to the pending motion.

c. Credibility of the Sedro Woolley Hearing Examiner:

- Page 7, Lines 18 through 20
- Page 8, Lines 1 through 4

The facts are not relevant to the issue of whether or not Petitioner complied with the Land Use Petition Act rules for perfecting appeals.

d. Hearsay:

- Page 8, Lines 7 through 14
- Page 9, Lines 16 through 20


The newspaper article is clearly hearsay and not admissible.

Based on the foregoing, Deluxe would respectfully requests that the Court strike the listed exhibits in support of Skagit County's Declaration in Opposition and excerpts from the Statement of Facts of the Skagit County's Memorandum in Opposition as set forth herein.

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 23 day July, 2008.

  
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**PHILIP A. SERKA**