

MAY 5 1992

SUPERIOR COURT CLERK
BY CAROLYN RHCADS
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

INNIS ARDEN COMMUNITY CLUB, et al,)	No. 84-2-09622-5
)	
Plaintiffs,)	
)	
v.)	
)	
JOHN/VIRGINIA BINNS, et al,)	FINDINGS, CONCLUSIONS AND ORDER ON OBJECTIONS TO SPECIAL MASTER'S PROPOSED FINDINGS RE: RESPONDENT HARROLD
)	
Defendants.)	

I. PROCEDURE

1.1 On March 27, 1992 Special Master Walter J. Deierlein issued proposed findings as to Respondent Harrold on a petition filed by Nes, which findings were received by the Court on March 31, 1992.

1.2 Timely objections to the findings were filed by Respondent Harrold.

1.3 Thereafter, the Court acquired and reviewed the Special Master's files as to the petition pending against Respondent Harrold and on April 28, 1992 the Court conducted a site visit in the company of bailiff Rose Landberg and viewed the maple tree in question from the property of Nes and the property of Harrold.

1.4 In conjunction with objections to the Special Master's findings, Ms. Harrold filed a "Memorandum" from arborist Robert Topalian. The Court has considered this memorandum.

FINDINGS, CONCLUSIONS, ORDER ON OBJECTIONS
TO SPECIAL MASTER'S FINDINGS - 1

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1 1.5 The Court also received and considered a letter
2 from Magne and Berit Nes dated April 22, 1992.

3 1.6 Based upon the records and files, the Court's site
4 visit, the objections and response, the Court now makes the
5 following findings:

6 II. FINDINGS OF FACT

7 2.1 View Obstruction. The large leaf maple tree on
8 the south side of Respondent's lot is an obstruction to
9 Petitioners' view of Puget Sound. It is not required that the
10 tree in question obstruct a view of both Puget Sound and the
11 Olympic Mountains. The obstruction of the Sound view is
12 undisputable.

13 2.2 "Grandfather" Tree Exception. The Special Master
14 found that the maple qualified as a "grandfathered" tree.
15 Petitioners do not contest this finding. Respondent submitted
16 the Memorandum of the arborist and agreed to comply with the
17 arborist's recommendations for trimming.

18 2.3 Trimming and Topping of Grandfather Tree. The
19 Special Master also found that there was no evidence that the
20 tree in question would be injured by "proper trimming and
21 topping". ~~However,~~ ~~Whether~~ such trimming or thinning would
22 encourage additional growth requiring future similar trimming is
23 not a factor to be considered. The tree should be trimmed,
24 thinned and/or topped to the greatest extent possible consistent
25 with the health of the tree. The cost of initial trimming and of
26 maintenance of the tree shall be borne by Respondent.

27 FINDINGS, CONCLUSIONS, ORDER ON OBJECTIONS
28 TO SPECIAL MASTER'S FINDINGS - 2

