

MAR 23 1992

SUPERIOR COURT CLERK  
BY CAROLYN RHOADS  
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16732 16<sup>th</sup> Ave NW*

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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,	)	SPECIAL MASTER'S FINDING CONCLUSIONS AND ORDER RE: PETITIONS AGAINST RESPONDENT LUNDE
	)	
	)	
Defendants.	)	

This matter came on for hearing of petitions for enforcement of the Innis Arden view covenants filed by James Shea and Berit and Marjorie Nes against Kris and Sue Lunde. Hearing was conducted on March 3, 1992 before Special Master Walter Deierlein. All parties were sworn and adopted their written submissions as their own, as modified by oral testimony.

A view of the premises on March 2, 1992 revealed that the present complaint relates to a giant fir in the back (east) of the lot, and three bushes/trees (on each corner of the back side of the home and one along the south line of the lot).

The giant fir is claimed to be exempt from the view covenants as a "grandfather" tree. This is supported by Lunde's arborist, who also details what trimming is possible without endangering the health of the tree.

The Respondents agree to top the three other bushes to rooftop level as defined in the covenants. All parties agree th

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1 giant fir should be windowed/trimmed as prescribed by the  
2 arborist.

3 Based on the site visit, the testimony and the exhibits  
4 (pictures by Petitioners and report of arborist to Respondent),  
5 the Special Master makes the following:

6 FINDINGS OF FACT

7 1. All of the trees mentioned above are obstructing  
8 the view of Petitioners of the Sound and mountains.

9 2. The giant fir is exempt from the Innis Arden view  
10 covenants under the "grandfather tree" provision but, by  
11 agreement of the parties, the giant fir should be  
12 windowed/trimmed at Respondents' cost, under the supervision of  
13 their arborist, to avoid endangering the health of the tree.

14 3. The three remaining bushes/trees should be trimmed  
15 to rooftop level, and all parties so agree. This should be at  
16 the expense of the Respondents and should be done within 30 days  
17 of any Court order approving these findings.

18 4. The Special Master has expended one hour in viewing  
19 the site, conducting the hearing and preparing this opinion. At  
20 \$100 per hour, the cost of the Special Master is \$100, which cost  
21 should be borne equally by the three parties.

22 Based on the foregoing, the following is ordered:

23 1. The fir tree is exempt from application of the  
24 Innis Arden view covenants as regards height of the tree. The  
25 tree should be windowed/trimmed under the direction of  
26 Respondents' arborist within 30 days of any Court order approving  
27 this order.

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2. That the three remaining trees (referred to in Paragraph 3 of the Findings) shall be trimmed to rooftop level within the same time limit as above.

3. Each of the three parties should pay to the Special Master the sum of \$33.33 as costs herein to:

Walter J. Deierlein  
806 East Kincaid  
Mount Vernon, WA 98273

DATED this 23 day of March, 1992.

  
\_\_\_\_\_  
Walter J. Deierlein  
Special Master