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Via First Class Mail
January 9, 2012

R.L. Smith
1525 N.W. 186th Street
Shoreline, WA 98177

Regarding: Your January 9, 2012 E-Mail Concerning the Right-of-Way Lawsuit
against the City

Dear R.L.:

Thank you for your January 9, 2012 e-mail because it tells me that there are misperceptions in the community concerning the right-of-way lawsuit that the Club filed in late 2010.

By way of background, there has never been a Club request or plan for a takeover of the ROW trees in Innis Arden. What actually happened (you can refer to the September 2010 Bulletin at page 4) was that resident Jeff Ledbetter applied to the City for a permit to height-reduce a right-of-way tree that was blocking many uphill residents' views. The City, contrary to its practice in years past, flatly told him he could not cut this tree which was in the dedicated right-of-way despite the fact that this tree was not on the City Engineer's list of approved right-of-way trees. Letters were exchanged between Peter Eglick and the City attorney, Ian Sievers, who stated that the City owned the trees in the rights-of-way and that the City had no obligation to allow pruning despite the longstanding Innis Arden Covenants, and that moreover, the City had the right to plant view obstructing trees in the rights-of-way if it chose to do so. Only after Mr. Sievers told us that he would not compromise or agree to mediation did the Club then file a lawsuit.

The lawsuit requests that the Court decide whether the City is obligated to abide by the Covenants which we believe govern the rights-of-way as intended by the grantors, the Boeings, in the 1940's when the rights-of-way were dedicated to the public.

I am responding to your questions as follows:

1. Is the IA Board in discussions on this issue with the City of Shoreline?

Yes. The Board met in December with Julie Underwood, the City Manager, and Mr. Sievers, and Harley and I met a second time with Ms. Underwood and Mr. Sievers. Ms. Underwood has expressed a sincere interest in resolving the longstanding

disputes with the Club and has proposed Ordinance #617 for adoption by the City Council which would allow some limited tree removal in the ROW's.

2. **Is the IA Board contemplating suing the City of Shoreline if they will not go along with the IA Board request ?**

The Board filed suit in 2010 but the suit has been recently continued (delayed) pending negotiations with the City.

3. **Has the IA Board run a cost evaluation of what this would cost the IA home owners i.e. the IA Club per year if approved by the City of Shoreline?**

The Club is not planning to "takeover" the ROW's so the cost to the Club is zero.

4. **Has the IA Board put in place a plan for evaluating which trees they wish to remove for view preservation and who will be responsible for the tree decisions and who will pay for the work?**

There are trees other than the Ledbetter tree that residents would like to remove and replant with trees that have a lower canopy. The cost to remove and replant these trees would be borne by the adjacent property owners or those who are requesting removal and replanting.

5. **Does the IA Board [have] the legal right to sue the City of Shoreline if they refuse our request since the IA home owners association does not own the right of way?**

Yes. The adjacent lot owners (which in some cases include the Club as Reserve Tract owner) own the underlying property in the ROW's because the dedications are a type of easement for road and utility purposes rather than a transfer of fee ownership. The Courts have time and again reaffirmed the Club's right and duty to represent the interests of the Innis Arden community as a whole in particular with regard to enforcement of the Covenants.

6. **Is the IA Board planning to bring this plan/issue before the IA homeowners for a vote?**

There is no new plan or issue. The issue was and is whether view blocking trees in the ROW's are to be treated differently from other view blocking trees on other private property, i.e, are the view blocking trees in the ROW's exempt from the Covenants? This would be contrary to the Boeings' original intent. The Court of Appeals stated in the Binns decision that protection of the area's marine and mountain views is eminently reasonable, and such views very obviously are and always have been one of the principal attractions of the Innis Arden development. The grantor's intent, as evidenced by the easements, was to protect homeowners' views, and these [view preservation] amendments are clearly within that intent.

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7. Does the IA Board [have] the legal right to do this without the approval of the IA homeowners?

Yes. The Board has been elected to manage Innis Arden affairs including Covenant Compliance issues. The Board has the legal right and fiduciary duty to protect the Covenants which the Court of Appeals has confirmed.

R.L., I hope the foregoing clarifies these issues for you and other concerned shareholders. As you know from having served on the Board in years past, the primary duty of the Board is to protect the Covenants.

Please let me know if you have any other questions or concerns.

Thank you.

Sincerely,



Michael L. Jacobs
Innis Arden Club President

MLJ:rg

cc: The Board