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LAW OFFICES  
J. RICHARD ARAMBURU

No. 62167-0

COURT OF APPEALS,  
DIVISION I,  
OF THE STATE OF WASHINGTON

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PHOENIX DEVELOPMENT, INC., a Washington  
Corporation, and G&S SUNDQUIST THIRD FAMILY  
LIMITED PARTNERSHIP, a Washington Limited  
Partnership,

Appellants,

v.

CITY OF WOODINVILLE, a Washington Municipal  
Corporation, and CONCERNED NEIGHBORS OF  
WELLINGTON, a Washington Nonprofit Corporation,

Respondents.

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RESPONDENT'S MOTION FOR RESCISSION OF ORDERS  
CALLING FOR ANSWER TO MOTION TO PUBLISH  
OPINION

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**A. IDENTITY OF MOVING PARTIES**

Respondents City of Woodinville, Washington, and Concerned Neighbors of Wellington, are the moving parties.

**B. STATEMENT OF THE RELIEF SOUGHT**

The City and CNW jointly request that the Court of Appeals rescind its Orders dated December 9, 2009, calling for answer to the motions to publish opinion filed by Robert D. Johns and by Lanzce G. Douglass, Inc., Lanzce G. Douglass Investments, LLC, and Lanzce G. Douglass.

**C. FACTS RELEVANT TO THE MOTION**

On November 2, 2009, this Court filed its Unpublished Opinion in this case. Motions requesting publication of the opinion were filed on November 12 and 23, 2009. Motions for Reconsideration were filed by Respondents on November 23, 2009. On December 9, 2009 the court filed four orders. Orders were filed calling for responses to the Motions for Reconsideration filed by Respondents within fifteen days. Orders were filed calling for responses to the Motions to Publish Opinion within fifteen days.

**D. GROUND FOR RELIEF/ARGUMENT**

The Respondents request, that in the interest of justice and judicial economy, that the Court rescind the two orders dated December 9, 2009 calling for responses to the Motions to Publish Opinion.

Since the Court has also entered orders calling for responses to the two Motions for Reconsideration filed by the Respondents, it is appropriate that responses to the two Motions to Publish be requested only if the court denies the Motions for Reconsideration and takes no action to alter its previously filed unpublished opinion. At this point in time, it is unknown as to whether or not the court will grant the Motions for Reconsideration. It is also unknown as to whether or not the current unpublished opinion will remain the opinion of the court.

It is therefore premature to call for response to the Motions to Publish. If the Motions for Reconsideration are granted by the court and the court's current unpublished opinion is altered, responses to the currently filed Motions to Publish will not be considered and the time and expense in their preparation, for not.

Therefore, Respondents' request the court rescind the Orders of December 9, 2009 calling for responses to the Motions To Publish and reconsider re-entry of such orders only if the Motions for Reconsideration

are denied after consideration of the Responses to the two pending Motions for Reconsideration is completed by the Court.

**E. CONCLUSION**

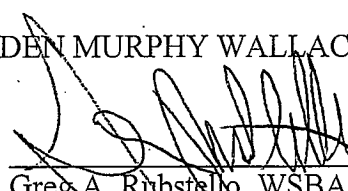
In the interest of justice and judicial economy, the Court should rescind the Orders of December 9, 2009 calling for responses to the Motions To Publish and reconsider re-entry of such orders only if the Motions for Reconsideration are denied after consideration of the Responses to the two pending Motions for Reconsideration is completed by the Court.

RESPECTFULLY SUBMITTED this 15th day of December,  
2009.

Respectfully submitted,

OGDEN MURPHY WALLACE, P.L.L.C.

By

  
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Wellington, by Permission