

NO. 62167-0

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

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.

OPPOSITION OF CONCERNED CITIZENS OF WELLINGTON TO
MOTION OF BUILDING INDUSTRY ASSOCIATION OF
WASHINGTON TO FILE *AMICUS CURIAE* BRIEF

J. Richard Aramburu, WSBA 466
Aramburu & Eustis LLP
720 Third Avenue, Suite 2112
Seattle WA 98104
206/625-9515
Attorneys for Respondent
Concerned Neighbors of
Wellington

The Building Industry Association of Washington (BIAW) has filed a motion requesting leave to file an *amicus curiae* brief in this appeal. Respondent Concerned Citizens of Wellington opposes the motion for the following reasons.

First, the motion is untimely. Oral argument is scheduled on this appeal for April 17, 2009, less than 30 days from now. The existing parties will accordingly be given very little time before oral argument to prepare and file their responses to the BIAW's brief.

Second, the BIAW must demonstrate that the "filing of the (*amicus curiae*) brief will assist the appellate court." RAP 10.6(a) The person seeking to file an *amicus curiae* brief must include in the motion a statement of "(4) applicant's reason for believing that additional argument is necessary on those specific issues." RAP 10.6(b).

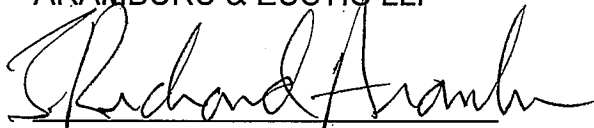
BIAW's motion includes a section on the "Need for *Amicus Curiae* Memorandum" at page 2. BIAW argues therein that its brief "will assist the Court with an industry perspective, by the home building industry, which is most affected by decision in this case." *Id.* BIAW goes on to argue that it "desires to help this Court understand the perspective of homebuilders who rely on clarity and predictability of the decision of local jurisdictions."

But there is no need for additional argument on the matters raised by BIAW. The existing appellant is in fact a home builder so no additional or further perspectives would be provided by BIAW. Nor does the BIAW cite any new caselaw or other authority not already found in the appellants' briefs filed with this Court. In short, BIAW has not shown that more argument is required on the issues already raised by the appellant. The motion and brief are much more concerned with lobbying, rather than providing additional useful argument to this already thoroughly briefed appeal.

For these reasons, CNW opposes BIAW's motion.

DATED: MARCH 24, 2009

ARAMBURU & EUSTIS LLP

A handwritten signature in cursive script, appearing to read "Richard Aramburu", written over a horizontal line.

J. Richard Aramburu
WSBA 466
Attorney for Concerned
Neighbors of Wellington