

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF WASHINGTON FOR ISLAND COUNTY

WHIDBEY ENVIRONMENTAL ACTION NETWORK,

Plaintiff,

vs.

CITY OF OAK HARBOR,

Defendant.

NO. 24-2-00479-15

CITY OF OAK HARBOR’S ANSWER TO COMPLAINT FO DECLARATORY JUDGMENT AND CONSTITUTIONAL WRIT OF CERTIORARI, AND AFFIRMATIVE DEFENSES

Defendant City of Oak Harbor (“Defendant” or “City”) answers the Complaint for Declaratory Judgment and Constitutional Writ of Certiorari (“Complaint”) of Plaintiff Whidbey Environmental Action Network (“Plaintiff”) as follows:

I. INTRODUCTION

- 1. In answering ¶ 1 of the Complaint, the City denies the same.
- 2. In answering ¶ 2 of the Complaint, the City admits a copy of Ordinance No. 1999 is attached to Plaintiff’s Complaint. As to the remaining allegations or inferences contained in ¶ 2 of the Complaint, the City denies the same.

II. PARTIES

3. In answering ¶ 3 of the Complaint, the City admits that Whidbey Environmental Action Network is a Washington nonprofit corporation; the City is without sufficient



1 knowledge or information to form a belief as to the truth of the remaining allegations set
2 forth in ¶ 3 of the Complaint, and accordingly denies the same.

3 4. The City is without sufficient knowledge or information to form a belief as to
4 the truth of the allegations set forth in ¶ 4 of the Complaint, and accordingly denies the
5 same.

6 5. In answering ¶ 1 of the Complaint, the City admits the same.

7 **III. FACTS**

8 6. In answering ¶ 6 of the Complaint, the City admits that in 1997 the City of Oak
9 Harbor chose to adopt a law that required citizen approval in an election for disposal of
10 developed park land under certain circumstances. As to the remaining allegations or
11 inferences contained in ¶ 6 of the Complaint, the City denies the same.

12 7. In answering ¶ 7 of the Complaint, the City of Oak Harbor Municipal Code and
13 Ordinance Number 1728 both speak for themselves. As to the remaining allegations or
14 inferences contained in ¶ 7 of the Complaint, the City denies the same.

15 8. In answering ¶ 8 of the Complaint, personal opinions regarding the Oak Harbor
16 City Council require no responsive answer. The City is without sufficient knowledge or
17 information to form a belief as to the truth of the remaining allegations set forth in ¶ 8 of
18 the Complaint, and accordingly denies the same.

19 9. In answering ¶ 9 of the Complaint, the City admits that a non-specific, pre-
20 application project adjacent to Hal Ramaley Memorial Park was proposed by a local
21 developer, and admits said park has benches, picnic site, gardens, and trees. The City
22 further admits that said park is used by various community groups and nonprofits. The
23 City denies that a gazebo is located in Hal Remaley Memorial Park. The City is without
24
25

1 sufficient knowledge or information to form a belief as to the truth of the remaining
2 allegations set forth in ¶ 9 of the Complaint, and accordingly denies the same.

3 10. In answering ¶ 10 of the Complaint, the City denies the same.

4 11. In answering ¶ 11 of the Complaint, the City denies the same.

5 12. In answering ¶ 12 of the Complaint, the referenced staff report speaks for itself.

6 As to the remaining allegations or inferences contained in ¶ 12 of the Complaint, the City
7 denies the same.

8 13. In answering ¶ 13 of the Complaint, the City admits that most of the public
9 comments regarding OHMC 1.30.010 submitted to the Council for consideration in the
10 past year were not in favor of amending OHMC 1.30.010. The City is without sufficient
11 knowledge or information to form a belief as to the truth of the remaining allegations set
12 forth in ¶ 13 of the Complaint, and accordingly denies the same.

13 14. In answering ¶ 14 of the Complaint, the City admits that Ordinance No. 1999
14 was proposed by City staff for Council consideration with several alternatives, and, on
15 August 13, 2024, adopted by the City Council. Ordinance No. 1999 speaks for itself. As
16 to the remaining allegations or inferences contained in ¶ 14 of the Complaint, the City
17 denies the same.

18 15. In answering ¶ 15 of the Complaint, the City denies the same.

19 16. In answering ¶ 16 of the Complaint, the City admits the same.

20 17. In answering ¶ 17 of the Complaint, which contains legal assertions and
21 conclusions, no answer is required; to the extent an answer is required, the City denies the
22 same.
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- 1. Plaintiff has failed to state a claim upon which relief can be granted;
- 2. Plaintiff has failed to exhaust its administrative remedies;
- 3. Plaintiff lacks standing;
- 4. Plaintiff's claims against Defendant are barred by justification, privilege, legality, absolute and qualified immunity, legislative and discretionary immunity, and/or other forms of immunity;
- 5. The Court lacks jurisdiction over the claims; and
- 6. Valid and lawful exercise of discretion.

VI. DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiff's Complaint and having asserted affirmative defenses, Defendant City of Oak Harbor requests:

- A. Dismissal with prejudice of Plaintiff's claims against the City;
- B. That the City be entitled to recovery of all fees and costs incurred in this action to the extent permitted by law; and
- C. Such other and further relief as the court deems just and equitable.

\\\

\\\

\\\

\\\

\\\

\\\



DECLARATION OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Margaret C. Starkey, declare and state:

1. I am over the age of eighteen years, not a party to this action, and competent to be a witness herein.

2. On the 19th day of September, 2024, I served a true copy of the foregoing *CITY OF OAK HARBOR’S ANSWER TO COMPLAINT FO DECLARATORY JUDGMENT AND CONSTITUTIONAL WRIT OF CERTIORARI, AND AFFIRMATIVE DEFENSES* on the following individual of record using the method of service indicated below:

Telegin Law PLLC
Bryan Telegin
175 Parfitt Way SW, Ste. N270
Bainbridge Island, WA 98110

E-mail: bryan@teleginlaw.com [per agreement to eservice]

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 19th day of September, 2024, at Palm Coast, FL.

s/ Margaret C. Starkey
Margaret C. Starkey

