

News Release

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CONTACTS:

Patrick Palace (253) 627-3883
Palace Law Offices
Patrick@palacelaw.com
www.PalaceLaw.com

Mark Firmani (206) 443-9357
Firmani + Associates Inc.
Mark@firmani.com

Gig Harbor City Council Hit with \$15 million Claim for Stalling Moderate-Priced Housing

Action claims city conspired to interfere with developers' constitutional rights and intentionally delayed projects causing economic harm.

Tacoma WA – Today a Gig Harbor developer and property owner took the first step to bring a lawsuit against the Gig Harbor City Council for damages caused by the council's two and one half-year campaign to prevent the construction of much-needed moderate-income housing by challenging its own code-prescribed land use review and approval process and ignoring its own Housing Needs Study and Comprehensive Plan policies.

Gordon Rush, a long time Gig Harbor resident and business owner filed the claim after enduring more than two years of delays to his project due to the City Council's appeals to various courts. Both the Superior Court and Court of Appeals sided with Rush's belief that the proposed development does conform to city codes and that the city staff and hearing examiner did reach the correct conclusion in approving the 174-lot development.

At the direction of the City Council, Gig Harbor also appealed the case before the State Supreme Court, but after consideration, the court refused to review the Court of Appeals decision.

"This case is fundamentally about abuse of power," said Patrick Palace, attorney for Rush. "Gordon's company wanted to build moderate-income housing that the City Council didn't want, and then tried to bully him into abandoning the project through a well-orchestrated campaign of delays and roadblocks."

According to Palace, the City Council refused to heed the review and findings of its own staff that had recommended approval to the project after working closely with Rush's company to work out some of the design concerns.

"The City Council, in my opinion, acted contrary to established law when they alone decided to be the sole voice denying projects that are mandated by law and have won approval of those in the city planning department responsible for managing development," Palace said. "That's not just our opinion, but that of the Superior Court, the state Court of Appeals, and tacitly, the State Supreme Court."

Palace notes that the City Council's actions also cost the community nearly \$4 million in various utility hookup, impact and permit fees, and tens of millions of dollars in increased tax base and construction revenues among other benefits, not to mention that tax payers also paid the bill for the City's attorneys fees for three sets of appeals up to and including the Supreme Court, all of which were unsuccessful and were rejected by the courts.

“This civil rights case is about the City Council members’ discriminatory actions that denied housing to moderate income families, single parents and downsizing families that cannot afford homes in Gig Harbor, and who rely on the city to foster and create safe and affordable neighborhoods,” continued Palace.

North Pacific Design, one of Rush’s companies, began meeting with the city in October 2004 to discuss what was to become an 18-acre, 174-lot development to appeal to a new economic segment of the city’s population. During this time, Rush’s development team worked with the city to address the growing need within the city for a more affordable housing market that also met the state’s commitment to coordinated and planned growth incorporating diversified housing types for all levels of income.

According to the notice sent to the City, plaintiffs claim the City Council conspired to derail a development of moderate-priced housing already approved more than two and one-half years ago in a decision made by the city’s own hearing examiner.

“We felt we had a conciliatory relationship with city staff working out issues concerning this project,” said Rush. “In fact, at the time of the hearing there remained only one issue of disagreement in the interpretation of the city code, which amounted to a difference in 14 lots and to which both parties agreed to concede to the interpretation of the hearing examiner.”

The hearing was held on Dec. 13, 2006, but six days later the city attorney – pressured by the council – attempted to convince the hearing examiner to reverse his decision which negated prior agreements with Rush, effectively denying the development. The hearing examiner denied the city attorney’s request and approved the development on January 24, 2007. “The City Council members have a duty to act in the best interest of the community, but they were derelict in their judgment when they denied homes to moderate income families based on a legal theory that was rejected by their own hearing examiner, a trial judge, the Court of Appeals and finally, the Supreme Court itself” said Palace.

“We believe that as a direct result of the City Council’s actions, affordable housing that was promised to Gig Harbor’s moderate income families was lost, in addition to the loss of an estimated 250 jobs within the Harbor along with more than 30 million new dollars that would have been infused into the local economy – all during this recession when Gig Harbor needs it most,” said Palace.

The claim, a necessary step under state law before a lawsuit can commence, asks for \$15 million in damages. The claim includes charges of violating the United States Constitution, tortious interference and negligence against the City Council members.

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