



200906050134

Skagit County Auditor

6/5/2009 Page

1 of

8 1:19PM

COVER SHEET FOR RECORDING DOCUMENTS

Return to: Chrissy Sprouse
City of Mount Vernon
P.O. Box 809
Mount Vernon, WA 98273

DOCUMENT: STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, ETC.
In re City of Mount Vernon – College Way/Riverside Drive
(P53845 – Naelmaroma)

GRANTEE:

~~GRANTOR:~~ Naelmaroma LLC

GRANTOR: CITY OF MOUNT VERNON

ABBREVIATED LEGAL DESCRIPTION: 17.34.04

See attached EXHIBIT A (“the property”).

Situate in the County of Skagit, State of Washington.

AUDITOR’S FILES NO.

COMPLETE LEGAL DESCRIPTION ON PAGE: See attached EXHIBIT A (“the property”).

ASSESSOR’S PARCEL/TAX ID NUMBER: P53845

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2 **CERTIFIED COPY**
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7 **SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY**

8
9 In the Matter of the Petition of the City of Mount
10 Vernon to acquire by condemnation certain
11 property and property rights for the improvement
of College Way and Riverside Drive, as
contemplated by City of Mount Vernon
Ordinance No. 3401,

12 *[In re City of Mount Vernon - College Way/
13 Riverside Drive (P53845 - Naelmaroma)]*

No. 08-2-00765-3

**STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW,
JUDGMENT AND DECREE OF
APPROPRIATION**

CLERK'S ACTION REQUIRED

14
15 Petitioner, City of Mount Vernon (the "City"), and Respondent Naelmaroma LLC
16 ("Naelmaroma") stipulate as follows:

17 **1. JUDGMENT SUMMARY**

18 **1.1 AMOUNT OF JUDGMENT**

19 1.1.1 Total amount: \$ 101,714
20 1.1.2 Previous Possession and Use Deposit \$ 33,600
1.1.3 Costs \$ -0-
1.1.4 Balance remaining: \$ 68,114

21 **1.2 JUDGMENT CREDITORS.** Naelmaroma by Earl F. Angevine, Law Offices of
22 Earl F. Angevine, 1003 Cleveland Avenue, Suite B, Mount Vernon, WA 98273; Phone 360-
23 336-9797.

24 **1.3 JUDGMENT DEBTOR.** City of Mount Vernon by Kevin Rogerson, City
25 Attorney and P. Stephen DiJulio, Foster Pepper PLLC, 1111 Third Avenue, Suite 3400, Seattle,
26 WA 98101; Phone 206-447-4400.

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - I

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700

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1.4 JUDGMENT AMOUNT

1.4.1	Balance remaining:	\$ 68,114
1.4.2	Interest owed:	\$ - 0 -
1.4.3	Costs	\$ - 0 -
1.4.4	Total amount due from the City:	\$ 68,114

1.5 COSTS. Statutory costs are waived.

1.6 LEGAL DESCRIPTION. See attached Exhibit A ("the Property").

1.7 SKAGIT COUNTY TAX ACCOUNT NUMBER: P53845.

2. INTRODUCTION

THIS MATTER came before the undersigned judge of the above-entitled court on the stipulation of the City and Naelmaroma. The City is represented by Kevin Rogerson, City Attorney and P. Stephen DiJulio of Foster Pepper PLLC. Naelmaroma is represented by Earl F. Angevine of the Law Offices of Earl F. Angevine. The Court, having received this stipulation of the parties for entry of judgment and having been advised in the premises; NOW, THEREFORE makes and enters the following judgment ("Judgment").

3. PUBLIC USE AND NECESSITY

An Order on Public Use and Necessity was entered on May 23, 2008.

4. OTHER PARTIES

4.1 The other parties to this action include tenant El Gitano Restaurant II and Skagit County as a taxing entity.

4.2 On March 12th, 2008 the Court entered an order of dismissal against Respondent El Gitano Restaurant II based upon a stipulated disclaimer of interest. El Gitano Restaurant II has no interest in the just compensation for the Property or in the Judgment Amount.

4.3 No party other than Naelmaroma has an interest in the just compensation for the Property or in the Judgment Amount.

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION - 2

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1 **5. JUDGMENT AND APPROPRIATION**

2 5.1 The total just compensation to be paid by the City to Naelmaroma for and in
3 connection with the taking and damaging of the real property described in the Petition for
4 Condemnation ("Petition") and in Exhibit A attached hereto (the "Property"), together with all
5 improvements thereon, attorney, expert/evaluation fees and interest, if any, is the amount of One
6 Hundred One Thousand Seven Hundred Fourteen Dollars (\$101,714.00), less any taxes owed to
7 Skagit County at the time of disbursement, if any (collectively, the "Judgment Amount").

8 5.2 The City has previously paid Naelmaroma pursuant to the Possession and Use
9 Agreement the amount of \$33,600. The total balance due from the City is Sixty-eight Thousand
10 One Hundred Fourteen Dollars (\$68,114.00).

11 5.3 Upon entry of this Judgment and payment of Judgment Amount under Section
12 6.1, the City shall have all right, title and interest in the Property, and all of the Respondent's
13 interest in the Property will be extinguished.

14 **6. JUST COMPENSATION**

15 6.1 Within ten (10) days of entry of this Judgment, the City shall pay into the court
16 registry the Judgment Amount as payment in full of just compensation and costs for the
17 Property. Interest at the statutory rate shall accrue on and after the eleventh (11) day following
18 entry of the Judgment, on the Judgment Amount until paid.

19 6.2 The parties agree to the disbursement by the Court's check, less taxes, if any,
20 and the Clerk is hereby directed to make payment of the entire Judgment Amount to
21 Naelmaroma LLC, as follows: payment shall be made payable to and mailed to Respondent
22 Naelmaroma LLC c/o Earl F. Angevine, Law Offices of Earl F. Angevine, 1003 Cleveland
23 Avenue, Suite B, Mount Vernon, WA 98273.

24 **7. NONCONFORMING USES**

25 The City recognizes and acknowledges that parking and other aspects of improvements
26 on the remainder of Skagit County Parcel No. P53845 are nonconforming under the Mount

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 3

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1 Vernon Municipal Code ("MVMC"). The City further recognizes and acknowledges that
2 MVMC section 17.102.110 allows the Property's restaurant building to be reconstructed to 100
3 percent of the replacement value of the building without modification to or requirement for
4 additional parking on the Property if the restaurant building is destroyed by fire, explosion, act
5 of God, or act of the public enemy, consistent with chapter 17.102 MVMC. Section 7 does not
6 limit the City's legislative authority or police powers.

7 **8. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

8 Sections 3 through 7 above shall be and hereby are adopted as and made the Findings of
9 Fact and Conclusions of Law. Now, therefore, in accordance with the foregoing Findings of
10 Fact and Conclusions of Law, it is hereby ordered, adjudged and decreed as follows.

11 **9. JUDGMENT**

12 9.1 Sections 3 through 8 above are incorporated herein by this reference.

13 9.2 Upon entry of this Judgment and payment as set forth in Section 6.1 above, the
14 City shall have all right, title and interest in the Property as described in the Petition and in
15 Exhibit A attached hereto, and all of the Respondent's interest in the Property will be
16 extinguished.

17 9.3 The total Judgment Amount to be paid by the City to Naelmaroma, as payment
18 in full of just compensation, is One Hundred One Thousand Seven Hundred Fourteen Dollars
19 (\$101,714.00). The total balance due from the City is Sixty-eight Thousand One Hundred
20 Fourteen Dollars (\$68,114.00).

21 9.4 The Clerk shall issue no "certified abstract of judgment" contained in the
22 execution docket, otherwise denominated by the Clerk "transcript of judgment docket," the sole
23 and only purpose of which is presentation for payment. The sole method of payment shall be
24 through the court registry.

25 //
26

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 4

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9.5 Costs are waived as to all parties.

SO ORDERED this 12 day of March, 2009.

Dee Neeley
JUDGE / COURT COMMISSIONER

<p>Stipulated to and Presented by: CITY OF MOUNT VERNON</p> <p><u>[Signature]</u></p> <p>Kevin Rogerson, WSBA No. 31664 Prosecuting Attorney, and</p> <p>FOSTER PEPPER PLLC P. Stephen DiJulio, WSBA No. 7139 Michael S. Schechter, WSBA No. 35602 Special Assistant City Attorneys</p>	<p>Stipulated to and Approved for Entry by: LAW OFFICE OF EARL F. ANGEVINE</p> <p><u>[Signature]</u></p> <p>Earl F. Angevine, WSBA No. 840 Attorney for Respondent Naelmaroma LLC</p>
<p>Stipulated to and Approved for Entry by: SKAGIT COUNTY PROSECUTING ATTORNEY RICHARD A. WEYRICH</p> <p><u>[Signature]</u></p> <p>Steve Falkquist, WSBA No. 31678 Civil Deputy Attorney for Respondent Skagit County</p>	

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION - 5

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Skagit County Auditor

Parcel Number P53845

EXHIBIT A

LISSER & ASSOCIATES, PLLC

320 Milwaukee St, PO Box 1109, Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Description for New Road Right-of-way

June 16, 2007

That portion of the following described Tract "X", lying Westerly of the following described line:

Commencing at the Southwest corner of the Northwest 1/4 (West 1/4 corner) of Section 17, Township 34 North, Range 4 East, W.M.;

thence South 87°37'00" East along the South line of said Northwest 1/4 for a distance of 275.04 feet;

thence North 0°40'15" West for a distance of 30.00 feet, more or less, to the Southeast corner of Tract B Short Plat No. MV-26-76, approved September 10, 1976 and recorded September 23, 1976 in Volume 1 of Short Plats, page 175 under Auditor's File No. 843161;

thence continue North 0°40'15" West along the East line of said Short Plat No. MV-26-76 for a distance of 10.00 feet, more or less, to the North line of the South 40.00 feet of said Northwest 1/4 and being the TRUE POINT OF BEGINNING of said line description;

thence North 74°32'14" West for a distance of 29.71 feet;

thence North 88°30'23" West for a distance of 158.19 feet;

thence North 44°36'10" West for a distance of 47.07 feet;

thence North 2°57'41" West for a distance of 73.83 feet;

thence North 2°57'41" West for a distance of 92.27 feet;

thence North 0°40'15" West for a distance of 37.19 feet;

thence North 89°19'45" East for a distance of 2.00 feet;

thence North 0°40'15" West for a distance of 17.65 feet;

thence North 2°51'58" West for a distance of 241.29 feet;

thence North 89°19'45" East for a distance of 2.00 feet;

thence North 2°51'58" West for a distance of 129.48 feet, more or less, to the North line of Tract 6, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.", as per plat recorded in Volume 3 of Plats, page 102 records of Skagit County, Washington, at a point bearing North 89°19'45" East a distance of 8.80 feet from the Northwest corner of said Tract 6 and being the terminus of said line description.

Tract "X"

(Shown as description on Land Title Company Limited Liability Report Order No. 123871)

The West 179 feet of Lot 7, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.," as per plat recorded in Volume 3 of Plats, page 102, records of Skagit County, Washington. (Also known as Tract "A", Short Plat No. MV-24-76, approved September 10, 1976, recorded September 14, 1976, under Auditor's File No. 842359 in Volume 1 of Short Plats, page 168, records of Skagit County Washington.)

EXCEPT the West 10 feet as conveyed to the City of Mount Vernon, recorded August 15, 1985, under Auditor's File No. 8508150006

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record

Situate in the City of Mount Vernon, County of Skagit, State of Washington

Area of new right-of-way = 548 sq ft

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Skagit County Auditor

UNOFFICIAL DOCUMENT

State of Washington, } ss.
County of Skagit

I, Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of Superior Court of the State of Washington, County of Skagit, do hereby certify that the foregoing is a true and correct copy of the original, consisting of 12 pages, filed for record on this day.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at my office at Mount Vernon, WA, on the 20th day of June, 2009. Nancy K. Scott, County Clerk

By [Signature]
Deputy Clerk



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Skagit County Auditor