

FILED

14 MAY 08 PM 2:31

KING COUNTY
SUPERIOR COURT CLERK
E-FILED

CASE NUMBER: 14-2-13149-6 SEA

SUPERIOR COURT OF WASHINGTON FOR
KING COUNTY

JESSICA WUBBELS,

Plaintiff,

v.

WINDERMERE REAL ESTATE/
BELLEVUE COMMONS, INC., a
Washington State corporation; KENNY
PLEASANT, individually and his marital
community; SEAN STEWART
MARGARET STEWART, husband and
wife,

Defendants.

CAUSE NO.:

COMPLAINT FOR FRAUD

Plaintiff alleges as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff. Plaintiff Jessica Wubbels ("Wubbels") resides in Seattle, King County, Washington. Wubbels is the insured under a title insurance policy issued by WFG National Title Insurance Company (WFG). On behalf of Wubbels, as insured, WFG paid the amounts necessary to obtain the required permits, make the required corrections, and obtain the required inspections and approvals as set forth in this complaint. WFG is subrogated to Wubbels claims against Defendants and is entitled to bring this suit in the name of its insured.

THE SULLIVAN LAW FIRM
K.SULLIVAN@SULLIVANLAWFIRM.ORG
701 FIFTH AVENUE, SUITE 4600
SEATTLE, WASHINGTON 98104
206.903.0504

- 1 2. Defendant Windermere. Defendant Windermere Real Estate/Bellevue Commons,
2 Inc., (“Windermere”) is a Washington State corporation whose principal residence
3 and place of business is King County, Washington.
- 4 3. Defendant Pleasant. Defendant Kenny Pleasant (“Pleasant”) is, on information and
5 belief, a resident of King County. All acts alleged herein by Pleasant were done for
6 the benefit of Kenny Pleasant individually and for the benefit of his marital com-
7 munity.
- 8 4. Defendant Stewart. Defendant Sean Stewart (“Stewart”) is a resident of King Coun-
9 ty. All acts alleged herein by Stewart were done for the benefit of Sean Stewart in-
10 dividually and the for the benefit of the marital community comprised of Sean and
11 Margaret Stewart, husband and wife.
- 12 5. Jurisdiction and Venue. This court has jurisdiction, and venue is properly in King
13 County.

14 II. BACKGROUND

- 15 6. Wubbels is the owner of a single-family residence commonly known as 5139 South
16 Mead Street, Seattle, Washington (the “House”). Wubbels purchased the House in
17 the spring of 2012 from Defendant Sean Stewart. The purchase price was
18 \$460,000. Stewart, a real estate investor, acquired the House in November 2011
19 for a purchase price of \$225,000, and planned to remodel the house and “flip it” to
20 a new owner. Thereafter, Stewart extensively remodeled the House but did not ob-
21 tain necessary permits and inspections as required by the City of Seattle (“City”).
- 22 7. In early 2012, Stewart listed the House for sale with Defendant Windermere. The
23 listing broker was Defendant Kenny Pleasant who also become the selling broker.
24 At the time of the listing, Windermere and Pleasant knew that the seller was re-
25 quired to obtain necessary permits and inspections for the extensive remodel as re-
26 quired by the City Residential Code.

- 1 8. On or about March 13, 2012, Wubbels and Stewart signed a Residential Real Estate
2 Purchase and Sale Agreement (the "PSA"). The sale price was \$460,000. Pleasant
3 and Windermere represented both the buyer (Wubbels) and the seller (Stewart) in
4 the transaction as dual agent.
- 5 9. Approximately one week after the PSA, the City issued a Residential Code Notice of
6 Violation to Stewart (the "NOV"). A copy of the NOV, dated March 21, 2012, is at-
7 tached hereto as Exhibit A. The NOV states in part:

8
9 **"[THE] RESIDENTIAL CODE WAS VIOLATED BY**
10 **REMODELING A SINGLE FAMILY**
11 **RESIDENCE....WITHOUT PERMITS AND**
12 **INSPECTIONS."**

- 13 10. To correct the violations, the NOV required the Stewart to submit a "complete
14 application" to the City Department of Planning and Development and to:
15 a) "...make all required corrections";
16 b) "...obtain the permit(s)"; and,
17 c) "...request and obtain all required inspections and approvals".
- 18 11. Victoria Simpson ("Simpson") is an Inspection and Support Analyst at the City
19 Department of Planning and Development ("DPD"). On March 21, 2012, Simpson
20 "faxed" a copy of the NOV to the agent/broker (Pleasant) and to the seller (Stewart).
21 Shortly after receiving a copy of the NOV, Pleasant telephoned Simpson and asked
22 what would happen if the pending sale went through without the required permits
23 and inspections. Simpson explained to Pleasant that the new owner would be re-
24 sponsible to obtain the permits and make the required corrections. Defendants
25 persisted in concealing the facts of the illegal remodel and resulting NOV from
26 Wubbels, knowing that when she closed, she would be responsible for the expense
and consequences of the City Residential Code violations.

12. The PSA closed on or about May 8, 2012. On or about June 14, 2012, the City served Wubbels, as the new owner, with an **AMENDED RESIDENTIAL CODE NOTICE OF VIOLATION** (the “Amended NOV”). A copy of the Amended NOV is attached hereto as Exhibit B.
13. In order to cure the Residential Code violations, Wubbels was required to hire a competent, licensed contractor to obtain required permits and inspections, and perform substantial remedial work. This work was performed by Powell Custom Homes and Renovations (“Powell”). To date, the amount paid to Powell for this work is in excess of \$107,182. On or about March 12, 2014, the City issued its “final approval for work originally performed without permits and inspections”.

III. CLAIMS

A. FIRST CLAIM: FRAUD

14. Plaintiff re-alleges and incorporates the above allegations.
15. The acts and omissions of Defendants constitute civil fraud. As a result of Defendants’ acts and omissions, Plaintiff has been damaged in an amount in excess of \$107,182.

B. SECOND CLAIM: FRAUDULENT CONCEALMENT

16. Plaintiff re-alleges and incorporates the above allegations.
17. The acts and omissions of Defendants constitute fraudulent concealment. As a result of Defendant’s acts and omissions, Plaintiff has been damaged in an amount in excess of \$107,182.

C. THIRD CLAIM: NEGLIGENT MISREPRESENTATION

18. Plaintiff re-alleges and incorporates the above allegations.
19. The acts and omissions of Defendants constitute negligent misrepresentation. As a result of Defendants’ acts and omissions, Plaintiff has been damaged in an amount in excess of \$107,182.

1 **D. FOURTH CLAIM: CONSUMER PROTECTION ACT VIOLATION**

2 20. Plaintiff re-alleges and incorporates the above allegations.

3 21. The acts and omissions of Defendants were unfair and deceptive in violation of the
4 Washington State Consumer Protection Act, RCW Ch. 19.86. As a direct result of
5 Defendants' acts and omissions, Plaintiff has been damaged in an amount in excess
6 of \$107,182.

7 22. Defendants' acts and omissions had the capacity to deceive and harm other Wash-
8 ington citizens. The marketing and sale of residential real property affects the pub-
9 lic interest.

10 **E. FIFTH CLAIM: BREACH OF BROKER DUTIES**

11 23. Plaintiff re-alleges and incorporates the above statements and allegations.

12 24. The acts and omissions of Defendants Windermere and Pleasant breached common
13 law and statutory duties of a broker and agent owed to Wubbels under Washington
14 law including, without limitation:

15 a. The duty to be loyal to the buyer by taking no action that is adverse or det-
16 rimental to the buyer's interest in the transaction. RCW 18.86.050(1)(c).

17 b. The duty to timely disclose to the buyer any conflicts of interest. RCW
18 18.86.050(1)(b).

19 c. The duty to deal honestly and in good faith. RCW 18.86.030(b).

20 d. The duty to disclose all existing material facts known to the broker and not
21 apparent or readily ascertainable to the buyer. RCW 18.86.030(d).

22 As a direct result of said Defendants' acts and omissions, Plaintiff has been dam-
23 aged in an amount in excess of \$107,182.


24 **IV. RELIEF REQUESTED**

25 Plaintiff requests relief as follows:
26

1. For judgments against Defendants, and each of them, in the amount not less than \$107,182 or such greater amount as may be proved at trial;
2. For Plaintiff's reasonable attorney's fees and costs of suit;
3. For treble damages in the amount of \$25,000 for each of Defendants' multiple unfair and deceptive acts and practices alleged above, pursuant to RCW 19.86.090; and,
4. For such other relief as is just and equitable.

DATED this 8th day of May, 2014.

THE SULLIVAN LAW FIRM

By: 
Kevin P. Sullivan, WSBA #: 11987
Mina Shahin, WSBA #: 46661
Attorneys for Plaintiff

LAW OFFICES OF LANCE C. DAHL, PLLC

By: 
Lance C. Dahl, WSBA #7608
Attorney for Plaintiff

Exhibit A



City of Seattle

Department of Planning and Development
Code Compliance Division
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019
206-615-0808 / 206-233-7156 (TTY)
www.seattle.gov/dpd

DOCUMENT TITLE: **RESIDENTIAL CODE NOTICE OF VIOLATION**
CITY OF SEATTLE: **DPD CODE COMPLIANCE DIVISION**
PROPERTY OWNER: **SEAN STEWART**

MARCH 21, 2012
FILE NO. 1027120

SEAN STEWART
1700 7TH AVE, SUITE 2100
SEATTLE, WA 98101

SUBJECT: Premises known as **5139 SOUTH MEAD STREET**
APN: 8850000575
LOTS 15 AND 16, LAKE WASHINGTON HEIGHTS, AN ADDITION TO THE
CITY OF SEATTLE, ACCORDING TO THE PLAT RECORDED IN VOLUME 16
OF PLATS, PAGE 16, RECORDS OF KING COUNTY, WASHINGTON.

As a result of an inspection on MARCH 20, 2012, by the undersigned Building Inspector, City of Seattle Department of Planning and Development (DPD), notice is hereby given that the following violations were found of the Seattle Residential Code Section(s) **R105 AND R106**.

THE RESIDENTIAL CODE WAS VIOLATED BY REMODELING A SINGLE FAMILY RESIDENCE INCLUDING (BUT NOT LIMITED TO) ADDING TWO BATHROOMS, FINISHING AN UNFINISHED BASEMENT, ADDING AT LEAST ONE BEDROOM AND CREATING AN ADDITIONAL DWELLING UNIT WITHOUT PERMITS AND INSPECTIONS

To correct the violation(s), the following measures must be taken:

SUBMIT A COMPLETE APPLICATION TO THE DEPARTMENT OF PLANNING AND DEVELOPMENT APPLICANT SERVICES CENTER, MAKE ALL REQUIRED CORRECTIONS, OBTAIN THE PERMIT(S) AND REQUEST AND OBTAIN ALL REQUIRED INSPECTIONS AND APPROVALS

OR

REMOVE ANY AND ALL WORK PERFORMED WITHOUT A PERMIT AND CALL BUILDING INSPECTOR JEFF KRIEG (206-684-5873) FOR AN INSPECTION

THE COMPLIANCE DATE IS APRIL 20, 2012.

- **WITHIN SIXTY (60) DAYS FROM THE DATE OF PERMIT ISSUANCE, REMOVE ANY PORTION OF THE EXISTING CONSTRUCTION THAT VIOLATES THE SEATTLE LAND USE CODE. ANY CONSTRUCTION PERFORMED PRIOR TO PERMIT ISSUANCE MUST CONFORM TO THE APPROVED PLANS WITHIN SIXTY (60) DAYS OF PERMIT ISSUANCE.**

You must notify the undersigned Building Inspector when corrections have been completed so that a re-inspection may be conducted.

Failure to make corrections within the specified time period may result in legal action on the part of the City pursuant to the Seattle Residential Code. A cumulative civil penalty in an amount not to exceed \$500.00 per day may be imposed from the date the violation occurs until compliance is achieved.

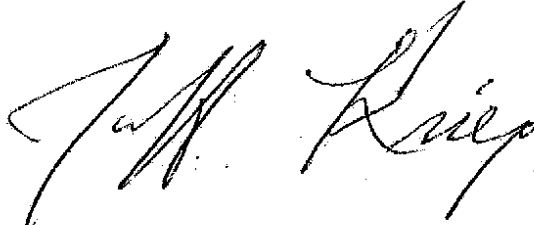
The following paragraphs provide information on complying with this notice and on obtaining an informal review of DPD's determination:

1. If you have questions, do not understand the violation(s) or what is necessary to correct them, call the Building Inspector whose name is at the bottom of this notice.
2. You may obtain a review of DPD's determination by filing a written request addressed to the Director of Code Compliance, in care of Victoria Simpson, Inspection Support Analyst, Department of Planning and Development, no later than ten (10) days following service of this notice.
3. **In any court proceeding to collect a penalty, the City has the burden of proving, by a preponderance of the evidence, that the code violation exists/existed.**
4. Requests for extension of time for correcting the violations should be made in writing to Victoria Simpson, Inspection Support Analyst, at 700 5th Avenue, Suite 2000, PO Box 34019, Seattle, WA, 98124-4019, phone number 206-733-9266.
5. **THE COMPLIANCE DATE FOR THIS NOTICE OF VIOLATION TAKES PRECEDENCE OVER THE EXPIRATION DATE OF ANY PERMIT OBTAINED TO CORRECT THE VIOLATION.**
6. If the corrections have not been completed by the dates specified above, the case may be referred to the City Attorney for prosecution.
7. Inquiries concerning the permit application process should be addressed to the **Applicant Services Center at 700 5th Avenue, Suite 2000, 20th Floor, Seattle Municipal Tower**, phone number 206-684-8850. Please bring this document with you.

FILE NO. 1027120
Page 3 of 3

Any questions regarding this violation should be directed to Victoria Simpson, Inspection Support Analyst, at 206-733-9266.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff Krieg".

JEFF KRIEG
Building Inspector
206-684-5873

JK/fmh

Exhibit B

ea ento nnn ev lo t
e lin vi o
05 e ue ue 2 0

ea e 01
0 1 0808 0 233 15
a

DO E T : AME DED RESIDENTIAL OD NO I E OF VIO TION
S E : DPD Co o N EDI I ON
PRO R O E : JESSICA BETH U ELS

UNE 1 1
LEN 10 120

ESSI A ETHWU BELS
1 SM DS
E WA 82

S CT Pr n SOUTH EA T EET
A N 8 00005
OTS AND 6 KE ASHIN TON HEI HTS AN ADDITION TO T E
I O S E ACCORDIN TO THE P T RECORDE IN O UME 16
O TS O N O N S O

As re ult o an ins lo on RCH 2 2 1 he un ersi ned Buil ng nspe or C o
Sea le Depa ment f Planni g and De el en DPD noti s he e gi en that th
f llo in of tio s e e fo nd of h Se e Resi e tial ode e l R 05 AND R106

THE RESIDENTIAL CODE A I TE B R M LI A INGLE FAMIL
RESIDENCE IN LUDIN UT NOT TED O N O T O N IN
AN UN INISH D BASE ENT ADDING AT EAS ONE BEDROOM ND CREATING AN
ADDITI NAL D ELLING UNIT THOUT PERMITS A D INSPECTIONS

To o e h lol tion t e follo in e e m st e ta en

SU MIT A OMP ETE AP LICATION TO H DEPART ENT OF P NNIN ND
DE ELOPMENT APPLICANT ER ICES CENTER MAKE AL E UIRE
CORRECTIONS OBTAIN THE PERMIT S AND RE UEST AND O TAIN A L
REQ IRED INS ECTIONS AND APPROVALS

R
OBT IN ALL F THE REQUIRED INSPE I NS A APPR S R PE ITS
1 6 1521 6315 3 AND AN OT ER R U ED E IT AS NOTED
THE B I DIN INSPECTOR

OR

E E A N A D A L L W O K E R O R M E D I T H O T A P E R M I T A N D C A L L
I L I I N S P E C T O R E F F E R E 6 6 F R I N T O N

T E C O M P L I A N C E D A T E I S U L 4 2 0 2

WITHIN SIXTY (60) DAYS FROM THE DATE OF PERMIT ISSUANCE
OR ION OF THE ERECTION CONSTRUCTION THAT TO TEST ERECTION
N SE CODE AN CONSTRUCTION PERFORM DP IORT PERMIT
IS UANCE MUST COMPLY TO THE APPROPRIATE N I HIN SIX (0) DAYS
O E M T I S UANCE

you must not the undersigned Building Inspector when corrections have been completed
at a re-inspection may be conducted

ure to a e c o r r e c t i o n e s p e c i f i c m e a s u r e s a n d o n
e a f e i p u n t o e e a e e a l o d e u m u l a e i e n a l i n
a a m o u n t n o t e c d p e r d a m e i m p o s e f r o m e d a t e e o
o c u n c o a n c e e e

The following paragraphs provide information in complying with this notice and on obtaining an
in a matter of Department's determination

If you have questions do not understand the violations or what is necessary to correct
them call the Building Inspector whose name is at the bottom of this notice

You may obtain a review of DPD's determination by filing a written request addressed to the
Director of Code Compliance in room 100 at 1000 S. Alameda. Any
Department's planning and development no later than ten days following issuance of
this notice.

3. In any court proceeding to collect a penalty, the City has the burden of proving a
preponderance of the evidence, that the code violation exists

4. Requests for extension of time or correcting the violations should be made in writing to
the Director in Room 100 at 1000 S. Alameda at 700 1st Avenue Suite 2000 PO Box
01 Seattle WA 98101 phone number 206 733 2

THE COMPLIANCE DATE OF THIS NOTICE OF VIOLATION TAKES PRECEDENCE
OVER THE PRESCRIPTION OF ANY PERMIT OR AINED OCCURRENCE

6. If the violations have not been completed by the dates specified above, the case may be
referred to the City Attorney for prosecution.

In utilities concerning the permit application process, hold all addressed to the Applicant
Services Center at 700 1st Avenue Suite 2000, 20th Floor Seattle Municipal Center,
phone number 206 880 Please bring this document with you

2 2

sio sr r in s to lon
ppo a a