

IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON DIVISION II

KITSAP COUNTY, a political
subdivision of the State of Washington,

Respondent,

v.

KITSAP RIFLE AND REVOLVER
CLUB, a not-for-profit corporation
registered in the State of Washington, and
JOHN DOES and JANE DOES I-XX,
inclusive,

Appellant,

and

IN THE MATTER OF NUISANCE AND
UNPERMITTED CONDITIONS
LOCATED AT: One 72-acre parcel
identified by Kitsap County Tax Parcel ID
No. 362501-4-002-1006 with street
address 4900 Seabeck Highway NW,
Bremerton Washington.

Case No.: 43076-2-II

**APPELLANT'S OBJECTION
TO RESPONDENT'S COST
BILL**

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Appellant Kitsap Rifle and Revolver Club (the “Club”) hereby objects to the *Cost Bill* of Respondent Kitsap County (the “County”), dated November 4, 2014. The Club requests that the Court order the parties to pay their own appellate costs.

Rule of Appellate Procedure 14.2 provides: “A commissioner or clerk of the appellate court will award costs to the party that substantially prevails on review, unless the appellate court directs otherwise in its decision terminating review.” RAP 14.2 (emphasis added).

Where an action is affirmed and reversed in part, no party is deemed the substantially prevailing party, and Washington appellate courts order the parties to pay their own appellate costs. *See e.g., State v. Lundquist*, 60Wn.2d 397, 374 P.2d 246 (1962) (ordering parties to bear their own costs where trial court was affirmed and reversed in part); *McClarty v. Totem Elec.*, 157Wn.2d 214, 137 P.3d 844 (2006) (same); *Hopkins v. Smith*, 45 Wn.2d 548, 276 P.2d 732 (1954) (same); *In re Wind's Estate*, 32 Wn.2d 64, 200 P.2d 748 (1948) (same).

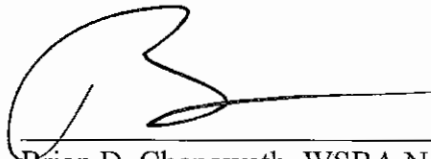
Here, the Court did not identify the substantially prevailing party in its *Published Opinion*, dated October 28, 2014 (the “Opinion”). The Court affirmed and reversed in part the trial court’s decision. Opinion at 1–2, 47. It reversed the trial court’s termination of the Club’s nonconforming use right and ordered a remand. *Id.* at 2. Because the

Court affirmed and reversed the trial court in part, the parties should bear their own appellate costs.

For the reasons above, the Club respectfully requests that the Court deny the County's cost bill and order the parties to pay their own costs.

DATED: November 5, 2014.

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Of Attorneys for Appellant

CERTIFICATE OF FILING AND SERVICE

I, Shandra Rissmann, declare under penalty of perjury under the laws of the State of Washington, that I am now and at all times herein mentioned have been a resident of the State of Oregon, over the age of eighteen years, not a party to or interested in this cause of action, and competent to be a witness herein.

On the date stated below *Appellant's Objection to Respondent's Cost Bill* was electronically filed with Division II of the Washington Court of Appeals and served upon the following individuals by e-mail and U.S. Mail, postage prepaid, at Portland, Oregon:

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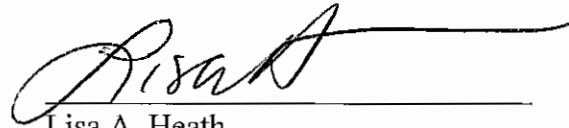
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DATED: November 5, 2014

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DECLARATION OF SERVICE

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