

LEGAL NOTICE

SNOHOMISH COUNTY SUPERIOR COURT CASE No. 07-2-07884-1

IF YOU OWN PROPERTY IN OR NEAR THE MT. INDEX RIVERSITES COMMUNITY AND USE THE ROADS WITHIN THE COMMUNITY TO ACCESS YOUR PROPERTY A CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

You may be affected by a class action lawsuit initiated by Mt. Index Riversites Community Club, Inc (MIRCC). The lawsuit is called *Mt. Index Riversites Community Club, Inc. v. Eleanor Anderson, Gary D Graber, and All Others Similarly Situated*, and filed in the Snohomish County Superior Court under cause number 07-2-07884-1.

The Snohomish County Superior Court (the Court) has decided this matter should be a class action against all property owners, excluding any property owners with existing contracts, agreements or covenants with MIRCC, who use the roads within the Mt. Index Riversites community (the community) to access their property, which could include you. This notice summarizes your rights and options before an upcoming trial. More information about the class action lawsuit, including a copy of MIRCC's amended complaint, the order certifying the class, and a copy of this notice may be found on the website detailed below. **If you are a member of the class as defined above, your rights may be affected regardless of whether or not you chose to actively participate in this lawsuit.**

ARE YOU AFFECTED?

The class action lawsuit has been brought against all property owners, now and in the future, who use or will use the roads owned by MIRCC, excluding any property owners with existing contracts, agreements or covenants with MIRCC, who are obligated by the doctrine of equitable contribution to pay a share of the reasonable and necessary costs to repair and maintain the roads within the community. The class action has been certified by the Court

pursuant to Washington State Superior Court Civil Rule 23(a), (b)(1), and (c). As such, all property owners within the class will be affected by the decision of the Court.

WHAT IS THIS CASE ABOUT?

The Mt. Index Riversites Community Club, Inc., has been the record title holder of all roads within the community since 1968.

Under the direction of numerous different iterations of the MIRCC board of directors, the roads within the community have been maintained and MIRCC has tried to collect road assessments from property owners within the community. As the result of litigation by MIRCC, the Hon. Thomas J. Wynne, in April 2004, ruled as follows:

"Each property owner within Mt. Index Riversites has the obligation to maintain roads and bridges over which such owner has an implied easement. Conversely, each property owner within Mt. Index Riversites is free of any obligation to maintain roads and bridges over which such owner has no implied easement."

"Because the Court is unable to determine a formula which may be used to determine the equitable contribution to roadway maintenance that is due of each property owner, in light of the variable nature of the implied easement of one property owner as compared to that of another, the amounts claimed by Plaintiff [a \$200 flat fee] do not bear a reasonable

relationship to the obligation which [MIRCC] seeks to enforce.”

In light of Judge Wynne’s ruling, in 2005 the MIRCC board of directors developed a formula for road assessments they believed followed the court’s ruling. That formula is based on the costs of maintaining separate sections of their roads and assessments are based on the length of each property owner’s implied easement. Since 2005, MIRCC has based its annual road maintenance assessments on this formula. It has collected from approximately 60% of the property owners within the community.

This class action lawsuit has been brought by MIRCC requesting the court rule on the validity of the formula being used by MIRCC, to order that the property owners who have not paid their assessments from 2005 be required to do so, and to grant MIRCC the power to record liens against property owners who have not paid, or who in the future do not pay, their road maintenance assessments. MIRCC believes the current formula follows the law and is enforceable against all property owners, excluding any property owners with existing contracts, agreements or covenants with MIRCC, who use the roads within the community. A complete summary of MIRCC’s arguments can be found in its amended complaint.

Persons opposed to MIRCC’s method of assessing road maintenance costs have made various arguments, including that it does not provide a fair method for electing decision-makers; that there are inadequate procedures for contracting for road work; that property owners lack the ability to obtain accountings and audits; that different sections of roads have received unequal maintenance; that the formula does not account for the type of use of a property, whether it is commercial, seasonal, or occasional, or whether the property is or can be built on or not; and that some property owners have undertaken their own

maintenance and should be credited accordingly.

The Court, at the conclusion of this litigation, will rule on the validity of the formula being used by MIRCC, and may adopt such other formula, if any, that the Court determines is more equitable. The Court may also establish the procedures governing future decisions regarding road maintenance and assessments.

ARE YOU BEING REPRESENTED?

The court has appointed Drew Nielsen, of Nielsen & Nielsen, Inc., P.S., to represent the defendant class members in this lawsuit. However, because various members of the class may have different views as to what is the appropriate formula to ensure that each property owner’s contribution to the road system is equitable, Mr. Nielsen’s representation will be limited to advocating for a process that ensures 1) that each property owner has an opportunity to present his or her views to the Court regarding the appropriate formula for contribution; 2) that the process for governing road maintenance decisions in the future allows each lot owner a vote as to who will be the decision-makers; and 3) that there will be an appropriate opportunity for accounting and audit of future road-maintenance expenditures.

MIRCC will seek to have its attorneys fees assessed against all property owners, excluding any property owners with existing contracts, agreements or covenants with MIRCC, who use the roads within the community.

Mr. Nielsen’s attorneys fees will be paid initially by MIRCC, and will eventually be assessed against members of the defendant class as determined by the Court. MIRCC is arguing the defense attorney’s fees should be assessed against only those members of the class who have failed or refused to pay their annual assessments, and any other property

owners who wish to directly use Mr. Nielsen's services. On the other hand, Mr. Nielsen is arguing, on behalf of the class, that his attorney's fees relate to establishing a court-approved system by which road assessments are assessed and administered, and that his attorney's fees should be assessed against all property members within the defendant class regardless of whether they directly use his services, actively participate in the lawsuit, or agree with MIRCC's current formula for assessing contributions.

The court will rule at the end of the lawsuit regarding the reasonableness and method of assessment of attorneys fees for both the Plaintiff and the defendant class.

If you wish to directly utilize Mr. Nielsen's services in this matter, you should contact him at Drew T. Nielsen, P.O. Box C, Everett, WA 98206-0075 or by calling his office at (425) 259-6184.

WHAT ARE YOUR OPTIONS?

You may choose not to actively participate in this lawsuit. If you do nothing, the court will issue its ruling on the appropriate formula and how MIRCC may determine and collect assessments in the future, including how decision-makers are to be selected, which will then be applied to you as a property owner within the community. The Court's ruling will likely be applied to the 2009 road maintenance assessments. MIRCC is seeking to establish a process to file liens on your property for any amounts past due.

You may actively participate and make your voice heard by submitting comments in writing, either by letter or by email, or by attending the hearing, the manner described below.

HOW CAN YOU ACTIVELY PARTICIPATE?

The Court has appointed John E. Galt as an expert in this lawsuit. Mr. Galt has extensive experience as a Hearing Examiner deciding property related issues for local government agencies. Mr. Galt's role will be to collect the input and opinions of the defendant class, and make a report to the Court with a recommendation as to the formula and process MIRCC should be using for annual road maintenance assessments.

Written commentary in the form of letters may be sent to the address listed below. The deadline for written commentary is January 10, 2009, at 5:00 p.m. All written commentary received before that deadline will be made part of the public court record and will be considered by Mr. Galt. Mr. Galt will also hold a hearing on January 10, 2009, for members of the defendant class to express their views in person. (See enclosed hearing notice.)

HOW CAN YOU GET MORE INFORMATION?

If you want more information about this lawsuit you may visit MIRCC's website at:

<http://mtindexriversites.com/>

On the website you will find a link to Class Action Lawsuit where you will find various court documents including copies of this notice, MIRCC's complaint and request for relief, and any subsequent orders of the court.

PLEASE SEND WRITTEN COMMENTARY TO:

MIRCC Class Action Lawsuit
C/O Adams, Duncan & Howard, Inc., P.S.
3128 Colby Avenue
Everett, WA 98201