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Our File No.:
6153.001

March 22, 2016

VIA E-MAIL and U.S. MAIL

Mr. David Bruce
Savitt Bruce & Wiley LLP
1425 4th Ave., Ste. 800
Seattle, WA 98101
dbruce@sbwillp.com

Re: Christine McGraw vs. Sound Development LLC (Sitka, Alaska Case No. ISI-15-269CI)

Dear Mr. Bruce:

We represent Sound Development LLC ("Sound") in the defense of the above-referenced case ("McGraw Action"). Copies of the complaint and Sound's answer in the McGraw Action are attached to this letter. As outlined in the complaint, Ms. Christine McGraw is suing Sound for damages relating to the destruction of her partially constructed home located at 410 Kramer Avenue in Sitka, which was leveled by an unexpected and unprecedented landslide that tore through parts of Sitka on August 18, 2015.

The purpose of this letter is to demand that the City and Borough of Sitka ("City") defend, indemnify, and hold Sound (and its members) fully and completely harmless from any claims, suits, demands, and claims for relief relating to the August 18, 2015 landslides, including the McGraw Action. We make this tender after careful thought and consideration of the facts and the unique nature of the underlying events, which we discuss in more detail below.

The City Required Sound to Develop the Land as Residential Property.

Ms. McGraw was building her house on land that the City sold to Sound, which Sound later sold to Ms. McGraw. Sound purchased the land after the City selected Sound's response to a "Request for Proposals Issued by the City and Borough of Sitka, Alaska for Purchase and Development of Tracts Within the South Benchlands—Whitcomb Heights Subdivision" ("RFP"). The RFP explained that the City "owns 193 acres of *prime development land* located 2.5 miles northwest of downtown Sitka. . . . generally known as the Benchlands" (emphasis added, internal quotations omitted) and that the City wanted to sell "four separate contiguous parcels at the southern end of the [Benchlands]" ("RFP Land").

RFP 1 of 7. The RFP Land totaled more than 11 acres, and the RFP clearly anticipated and expected that the private developer that purchased the RFP Land would develop it for residential housing within the next decade.

It is the goal of the [City] for private developers to purchase these parcels and develop them for a mixture of housing types and income levels. Development must occur in a timely manner with total build out of the project expected within 10 years from the date of purchase.

Id. at 5 of 7. The City envisioned that development scenarios for some of the parcels “include multifamily units, townhouses, and condominiums.” *Id.* at 3 of 7. The RFP went on to state that in 2009, the City had constructed a water tank to provide gravity water service to the entire Benchlands property, including the RFP Land. *Id.* at 2 of 7. Undoubtedly, the City anticipated and expected that Sound would develop the RFP Land for residential housing, and, in some cases multi-family residential housing.

Sound knew nothing more about the risks of landslides on the RFP Land other than what the City told it. In order to induce Sound to purchase the RFP Land, the City led Sound to believe that the RFP Land was suitable for development. Sound relied on these inducements in purchasing the RFP Land from the City and acted in reliance on the inducements in re-selling part of the RFP Land to Ms. McGraw. Her damages and Sound’s damages flow directly from the City’s actions.

The Landslide that Destroyed Ms. McGraw’s Partially Completed Residence Occurred After a Highly Unusual Storm.

The landslide that destroyed Ms. McGraw’s residence occurred about 9:30 a.m. on August 18, 2015. It started on U.S. Forest Service land at an elevation of 1,350 feet, traveled over land owned by the City, uprooting 100+-year-old trees and depositing them like pick-up-sticks as it went, eventually terminating on Kramer Avenue about 3,000 feet away from its origin. Letter Report on South Kramer Avenue Landslide: Jacobs Circle to Emmons Street, Sitka, Alaska, Shannon & Wilson, Inc., February 2, 2016 (“Letter Report”) at 3 of 11. The landslide was not caused by anything Sound did or didn’t do. It could not have been prevented by anything Sound did or didn’t do.

The August landslide followed an early summer of above normal precipitation in Sitka, and on the day of the landslide “an anomalous area of upper level high pressure was positioned over the northeastern Pacific . . . steer[ing] a heavy rain system toward the central Alaska panhandle.” *Id.* at 4 of 11. That system dumped from 2.5 to 3.25 inches of heavy rain on Sitka in a six-hour period (between 4:00 a.m. and 10:00 a.m.), which the National Weather Service described as a “very exceptional and extreme weather hydrologic event.” *Id.* Sound had no way of anticipating this unprecedented series of events and the catastrophic devastation that would result in the very area the City had mandated that Sound develop for residential occupation.

Mr. David Bruce
March 22, 2016
Page 3

Neither the City to our knowledge nor Sound anticipated the landslide, but if Sound has any liability for the landslide, the City is the genesis of that liability.

The City Has an Ethical and Moral Responsibility to Protect its Residents When Calamity Strikes.

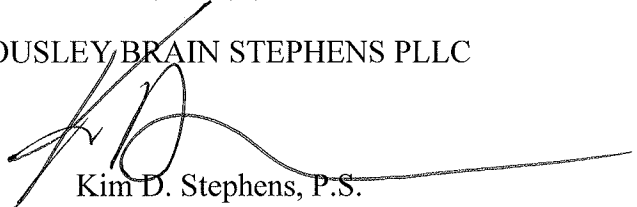
The purpose of government is to promote the welfare of its populous. The people of Sitka are hardy and independent, but when a catastrophic act of nature occurs, government must come to their aid. Through no fault of their own, Sound, Ms. McGraw, and others in the Benchlands have been damaged, and three Sitka citizens tragically lost their lives.

The consequences of the August 18 landslide extend beyond Sound, Ms. McGraw, and the RFP Land. They also affect other areas of the Benchlands and other Sitka residents, all of which are at risk of harm from future landslides, as the City's consultants explained in their Letter Report.

The City has an ethical and moral obligation to rescue its citizens; any delay in fulfilling its obligation is equivalent to an abandonment of its duties. My clients and I call on the City to do its job, to come to the aid of its citizens, and to take the lead in implementing a global approach and all-encompassing solution to the devastation caused by the August 18 landslide.

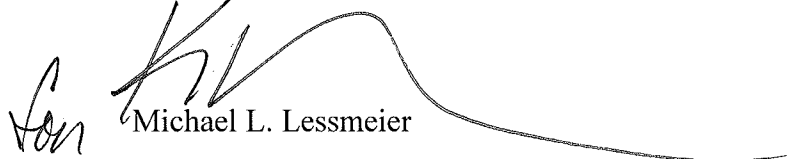
Very truly yours,

TOUSLEY BRAIN STEPHENS PLLC



Kim D. Stephens, P.S.

LESSMEIER & WINTERS LLC



Michael L. Lessmeier

Enclosures