Civil Motions
The Honorable Anna G. Alexander
Noted for April 4, 2025 at 9:30 AM

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SNOHOMISH

MASTER BUILDERS ASSOCIATION OF KING AND SNOHOMISH COUNTIES; *et al*. Plaintiffs, vs. THE CITY OF EVERETT, Defendant and STANDING FOR NATURE, Intervenor-Defendant.	NO: 25-2-00902-31 CITY OF EVERETT'S OPPOSITION TO MOTION TO DISMISS

I. INTRODUCTION AND REQUEST FOR RELIEF

The City of Everett asks the Court to deny Intervenor-Defendant Standing for Nature's motion to dismiss. This case involves an actual and present dispute of significant public import regarding the validity of Everett Initiative 24-03 that is ripe for review involving parties with genuine and opposing interests that are direct and substantial, and the public interest would be served by a final and conclusive ruling. Were the Court to grant the motion to dismiss, it would only postpone the inevitable legal challenge to the Initiative, creating great uncertainty during

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the interim period.

Intervenor-Defendant's primary argument is that the City and Plaintiffs have to wait until someone brings an action under the Initiative to challenge its validity. But the Complaint makes it clear that the Plaintiffs are within the zone of interest that will be impacted by Initiative, and the mere uncertainty of how the Initiative will be enforced creates actual harm to their interests. The City also operates a water treatment facility within the Snohomish River Watershed that could be impacted by this Initiative, and therefore the City and its Water Utility customers throughout Snohomish County have a significant interest in the timely resolution of this challenge on the merits.

II. STATEMENT OF ISSUES

1. Plaintiffs have standing under the Uniform Declaratory Judgment Act (UDJA) because Plaintiffs have raised legitimate concerns regarding the constitutionality of Everett Initiative 24-03 and demonstrated that their rights will be impacted by the Initiative.
2. The dispute is ripe for review because Plaintiffs' challenges are legal in nature, do not require further factual development and the challenged Initiative became law when the 2024 election was certified.

3. LEGAL AUTHORITY

Washington Courts apply a 4-part test to determine if a controversy is justiciable under the UDJA. The controversy must:

> (1) presenting an actual, present, and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) involving interests that are direct and substantial, rather than potential, theoretical, abstract, or academic, and (4) of which a judicial determination will be final and conclusive.

Alim v. City of Seattle, 14 Wn. App. 2d 838, 847, 474 P.3d 589 (2020). This test encompasses both the doctrine of "ripeness" (first prong) and "standing" (third prong). *Alim*, 14 Wn. App. 2d

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at 847. A challenge to standing should be analyzed under CR 12(b)(6) because standing under the USJA is not jurisdictional. *Alim*, 14 Wn. App. 2d at 849-50.

Under CR 12(b)(6), all factual allegations in the Complaint are taken as true, and the Court should also consider hypothetical facts consistent with the Complaint. *Alim* 14 Wn. App. 2d at 851. A Complaint should only be dismissed under CR 12(b)(6) if the court concludes beyond a reasonable doubt that the Plaintiffs cannot prove their case for relief. *Alim*, 14 Wn. App. 2d at 851.

A. Plaintiffs Present an Actual Dispute that is Ripe for Review

When determining whether a claim is "ripe" for review, the court should consider whether the claim is primarily legal, whether further factual development is necessary, and whether the challenged action is final. *Alim*, 14 Wn. App. 2d at 856.

Here, Plaintiffs have raised actual and significant questions challenging the constitutionality of Everett Initiative 24-03 that are purely legal in nature and do not require further factual development. Moreover, the challenged action – the enactment of Everett Initiative 24-03 – was final when the 2024 election results were certified. Therefore, this claim is ripe for review.

B. Plaintiffs and Intervenor-Defendants Have Genuine and Opposing Interests

Plaintiffs are businesses and individuals whose interests will be impacted by the "rights" purportedly granted to the Snohomish River Watershed by Everett Initiative 24-03, and they have raised important legal questions regarding the validity of that Initiative. Intervenor-Defendants are the sponsor of Everett Initiative 24-03 and have a strong motive to defend it against the Plaintiffs' challenges. Therefore, the genuine-and-opposing-interest prong is met

C. Plaintiffs Have a Direct and Substantial Interest in the Resolution of This Dispute

A plaintiff challenging the validity of an ordinance under the UDJA must show that the interests they seek to protect are within the zone of interest regulated by ordinance and that they will suffer an "injury in fact" if the dispute is not resolved. *Alim*, 14 Wn. App. 2d at 852. This

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does not require the plaintiff to show any risk of imminent enforcement; nor are they required to claim that their actions violate the ordinance. *Alim*, 14 Wn. App. 2d at 854. Instead, they merely need to show "their rights are adversely affected" by the challenged ordinance. *Alim*, 14 Wn. App. 2d at 854. Courts apply a more liberal analysis when the dispute "is of serious public importance." *City of Longview v. Wallin*, 174 Wn. App. 763, 778, 301 P.3d 45 (2013).

Here, the Complaint shows how the ordinance will affect each of the Plaintiffs' rights to use the Snohomish River Watershed. This is sufficient for standing.

D. A Judicial Ruling that Everett Initiative 24-03 Is Unconstitutional Will Provide a Final and Conclusive Determination of this Dispute

Finally, if Everett Initiative 24-03 is declared unconstitutional, it will provide a final and conclusive resolution to this dispute.

4. CONCLUSION

Plaintiffs have raised significant questions of public import regarding the constitutionality of Everett Initiative 24-03 and have demonstrated that its implementation would have significant impacts on their legal rights. This dispute is ripe for review, and the Court should deny Intervenor-Defendant's motion to dismiss so the Court can resolve these challenges on the merits.

Signed this 2nd day of April, 2025.

CITY OF EVERETT

/s/Ramsey Ramerman

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