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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 FOR KING COUNTY

8 THE CITY OF SEATTLE, a Washington
9 municipal corporation,

10 Plaintiff,

11 vs.

12 35th NORTH, INC. a Washington corporation;
13 and JANE AND JOHN DOES 1-20.

14 Defendants.

No.

COMPLAINT FOR DAMAGES
AND ENFORCEMENT PENALTIES

15 Plaintiff the City of Seattle ("City") alleges as follows:

16 **I. PARTIES**

17 1. The City is a Washington municipal corporation of the first class organized and
18 existing under the laws of the State of Washington and doing business in Seattle, King County,
19 Washington.

20 2. Defendant 35th North, Inc. ("35th North") is a Washington corporation existing under
21 the laws of the State of Washington and doing business in Seattle, King County, Washington.
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23

1 3. Defendants Jane and John Does 1-20, designed and/or built a structure intended for
2 skateboarding (“Skatepark”) on property owned by the City without permits or any other kind of
3 permission from the City.

4 **II. JURISDICTION AND VENUE**

5 4. The Court has subject matter jurisdiction because the City seeks damages in excess of
6 \$300. RCW 2.08.010.

7 5. The Court has personal jurisdiction over all Defendants because this cause of action
8 arises from their conduct in King County, Washington.

9 6. Venue is proper in King County because at least one of the Defendants resides in King
10 County, Washington. RCW 4.12.025(1).

11 **III. FACTS ENTITLING THE CITY TO RELIEF**

12 7. On or about May 15, 2017 Transworld Skateboarding Magazine (“Transworld”) announced the “Nike SB Project 58 Do It Yourself” contest (the “Contest”).

13
14 8. The Contest tasked 14 skate shops across the county to document construction of a
15 new and/or addition to an existing “do it yourself” (“DIY”) skatepark. The Contest marketing
16 materials indicate that each skate shop was given a \$500 gift card and “a few needed necessities” to
17 complete the project. Each skate shop had just under a month to build, skate, film and edit a video of
18 their DIY project.

19 9. According to the Contest’s Official Rules videos had to be submitted by June 8, 2017.
20 The voting period began on June 12, 2017 and ended on June 19, 2017. Winners were to be announced
21 on or about June 20, 2017.

1 10. Three winners were to be chosen. The three winners were promised an additional
2 \$1,000 cash to build another spot or keep adding to theirs along with a visit from Nike SB Pros and
3 Transworld staff for an article in the magazine and a video on the Transworld website.

4 11. Upon information and belief, defendant 35th North was the only Seattle skate shop
5 asked to submit a video.

6 12. On or about June 20, 2017, 35th North was named one of the three winners of the
7 Contest.

8 13. The video submitted by 35th North showed Jane and John Does 1-20 constructing a
9 concrete, bowl-shaped structure on “Duck Island,” a small island located in Green Lake. Green Lake
10 is both the name of a waterbody and a public park located in Seattle, Washington, which is owned by
11 the City of Seattle and operated by Seattle Parks and Recreation. **Exhibit A** is an image from the
12 submission video showing the Skatepark illegally built by Defendants on Duck Island.

13 14. During the construction of the Skatepark, Defendants cut down one or more trees
14 and destroyed vegetation.

15 15. In the summer of 2017 the City learned that the Skatepark had been built on Duck
16 Island.

17 16. The City did not give permission for any construction, of the Skatepark or
18 otherwise, on Duck Island.

19 17. The City incurred significant costs to remove the Skatepark. The City will incur
20 additional costs to restore the island for the wildlife.

21 18. Upon information and belief, 35th North was involved in, authorized, funded, ratified,
22 and/or induced the construction of the Skatepark.

1 19. None of Defendants sought permission from any City department to build the
2 Skatepark.

3 20. The construction process damaged the island by damaging trees, vegetation, and the
4 underlying land.

5 **IV. FIRST CAUSE OF ACTION: DAMAGE TO LAND (RCW 4.24.630)**

6 21. The City incorporates all of the allegations in paragraphs 1-20.

7 22. Defendants damaged Duck Island by damaging vegetation and leaving debris on the
8 island.

9 23. Defendants knew or should have known they were not authorized to build the
10 Skatepark on Duck Island.

11 24. In addition to the value of the trees, the City is also entitled to (1) damages to the land
12 resulting from the cutting, (2) restoration costs for repairing the damage to the land, and (3) reasonable
13 costs including investigation costs, attorney's fees and other litigation-related costs. Defendants are
14 liable for treble the City's damages.

15 **V. SECOND CAUSE OF ACTION: TRESPASS**

16 25. The City incorporates all of the allegations in paragraphs 1-20.

17 26. Defendants trespassed upon the City's land and caused damage to the City's trees and
18 land.

19 **VI. THIRD CAUSE OF ACTION: NEGLIGENCE**

20 27. The City incorporates all of the allegations in paragraphs 1-20

21 28. Defendants knew or should have known they lacked permission to build a Skatepark
22 on land they did not own.
23

1 **VII. FOURTH CAUSE OF ACTION: UNAUTHORIZED USE OF PARK PROPERTY**

2 29. The City incorporates all of the allegations contained in paragraphs 1-20.

3 30. The Seattle Parks Code is codified in SMC Chapter 18.30. Unauthorized use of
4 park property is a violation of the Parks Code.

5 31. Defendants violated the Parks code by making unauthorized use of park property
6 by clearing and cutting trees and vegetation on Duck Island without a permit or authorization from
7 Parks.

8 32. Defendants violated the Parks code by constructing, erecting, and placing the
9 Skatepark on park property without authorization from Parks.

10 33. Parks has determined that the unauthorized use creates substantial risk of injury to
11 persons and to parks property and therefore the Superintendent of Parks is authorized to abate the
12 unauthorized use and restore the affected park property pursuant to SMC 18.30.055.

13 **VIII. FIFTH CAUSE OF ACTION: TIMBER TRESPASS (RCW 64.12.030)**

14 34. The City incorporates all of the allegations in paragraphs 1-20.

15 35. Defendants cut down and otherwise damaged trees on the City's property without
16 lawful authority.

17 36. The cutting was not casual or involuntary.

18 37. Defendants are liable for treble the City's damages.

19 **IX. SIXTH CAUSE OF ACTION: VIOLATION OF THE ENVIRONMENTALLY**
20 **CRITICAL AREAS CODE AND SHORELINE CODE**

21 38. The City incorporates all of the allegations in paragraphs 1-20 above.

22 39. Duck Island is designated as an Environmentally Critical Area (ECA) - wildlife
23 habitat conservation area under Seattle Municipal Code Chapter 25.09. Duck Island is an ECA as

1 it is designated by Washington Department of Fish and Wildlife as a priority habitat and species
2 area.

3 40. Duck Island is also located within the City of Seattle's Shoreline District and
4 therefore is subject to the Seattle Shoreline Master Program Regulations under SMC Chapter
5 23.60A.

6 41. Defendants undertook development on Duck Island by building the Skatepark
7 without permits or authorization from the City.

8 42. Defendants disturbed and removed vegetation, cut and/or damaged trees, including
9 one or more trees over six inches in caliper, and building a Skatepark in a priority habitat without
10 a permit or authorization from the City.

11 43. Defendants encouraged, commanded, induced or otherwise procured others to
12 disturb or remove vegetation; cut and/or damage trees, including one or more trees over six inches
13 in caliper; and build a skatepark on Duck Island.

14 44. Violations of the ECA Code Chapter 25.09 as incorporated in the Shoreline Code
15 Chapter 23.60A subject Defendants to a cumulative civil penalty of \$500 per day for each violation
16 from the time the violation occurs or begins until compliance is achieved.

17 45. Defendants are subject to an additional civil penalty of \$5,000 for removing,
18 clearing or taking any action detrimental to a tree over six inches in caliper.

19 **X. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for the following relief,

21 1. A principal judgment against Defendants, jointly and severally, including treble
22 damages on the City's timber trespass claim or in such other amount as may be proven at trial; treble
23 damages on the City's damage to land claim under 4324.630; damages resulting from Defendant's

1 negligence and trespass; penalties pursuant to SMC 25.09.460; and land restoration costs and an
2 additional civil penalty of \$5,000 per tree for any tree over six inches in caliper.

3 2. Enforcement costs, including but not limited to administrative expenses and fees;
4 the cost of any land surveys related to enforcement; the costs of any abatement and restoration of
5 park property after abatement; recording fees; and litigation costs and statutory attorneys' fees
6 pursuant to SMC 18.30.050; plus reasonable attorneys' fees, investigative costs and other
7 litigation-related costs pursuant to RCW 4.24.630;

8 3. For pre-judgment interest from the date of this complaint pursuant to RCW 4.56.110
9 and otherwise;

10 4. For statutory attorney's fees and legal costs incurred in connection with this matter
11 pursuant to RCW 4.84.010, 4.84.080 and otherwise;

12 5. For post-judgment interest on the judgment, at a rate to be determined at the time
13 of entry, until the judgment is satisfied in full pursuant to RCW 4.56.110; and

14 6. For such other and additional relief as the Court may deem just and equitable.

15 DATED this 1st day of November, 2017.

16 PETER S. HOLMES
17 Seattle City Attorney

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EXHIBIT A

