

**IN SUPERIOR COURT OF KING COUNTY
STATE OF WASHINGTON**

JOHN WHITE,

Plaintiff,

v.

CITY OF BURIEN, a Municipal
Corporation,

Defendant.

No. 23 _____ KNT

DECLARATION OF Mr. JOHN WHITE
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER

1. I am over the age of eighteen, am the Plaintiff to this litigation, am competent to testify to the matters herein, and have personal knowledge of the facts herein.
2. I am the owner of the real property located at 14645 25th Avenue SW, Burien, WA 98166 (the “property”), which is next to Eagle Landing Park, a public park situated within the City of Burien.
3. Eagle Landing Park is a valuable natural habitat and shoreline area along Puget Sound, covering approximately 6.27 acres of second-growth forested upland, 247 feet of Puget Sound shoreline, and 2 acres of first-class tidelands.

4. In April 2002, the City of Burien (the “City”) acquired Eagle Landing Park from the Branson family with the commitment to preserve and maintain the park for the public’s benefit.

5. The City of Burien received a grant of \$925,000.00 from the Washington State Recreation and Conservation Office (RCO) to finance the land acquisition for Eagle Landing Park.

6. As a condition of the grant funding agreement, the City assumed an obligation to keep the Eagle Landing Park beach open and accessible to the public. This was a specific condition of receiving the grant money \$925,000.00 from the Washington State Recreation and Conservation Office (RCO).

7. The City installed an engineered staircase to provide public access to the beach. The Eagle Landing Park stairs are built upon pilings that were driven deep into the ground so that the stairs would withstand the natural movement of the ground.

8. After installing the Eagle Landing stairs, the City directed the stormwater runoff from approximately 34 residential stormwater drains to drain onto Eagle Landing Park. The water from these drains was oblivious to property lines. The stormwater runoff flowed across the hillside, where it dislodged, broke, and buried sections of the preexisting bulkhead at the base of the Eagle Landing Park hillside. The bulkhead was there before the City bought the Eagle Landing Park land from the Bransons.

9. A slide has already occurred at my neighbor’s land causing a substantial portion of my neighbor’s land to collapse and slide into the Puget Sound. After directing the stormwater runoff onto the Eagle Landing Park and breaking the bulkhead, the City never

replaced the bulkhead sections that it broke. Since the City's stormwater runoff broke the bulkhead at the bottom of the hillside, the bulkhead was no longer functioning. The broken bulkhead increases the likelihood of another landslide. It is also contributing to the further destabilization of the hillside where Eagle Landing Park and my house are situated. The natural water accumulation and runoff is destabilizing the hillside. Without a bulkhead at the bottom of the Eagle Landing Park, the steep hillside is likely to slide into the Puget Sound. Removing the support pilings under the Eagle Landing Park stairs will further destabilize the hillside.

10. It is important to note that the seawall/bulkhead on my land and Eagle Landing Park extends along the base of the steep hillside, starting from my property, running along our 30 feet of shoreline to the south, and continuing onto the neighboring property, which is now the City of Burien's Eagle Landing Park. This bulkhead extends for approximately 267 feet until it reaches the land owned by the Seahurst Community Club. It is crucial to recognize that before the land comprising Eagle Landing Park was sold to the City, it was part of the land now owned by me. Thus, the bulkhead extending from my land into the City's land was originally a single continuous structure built to maintain the stability of the steep hillside as it slopes down to the Puget Sound.

11. I informed the City of Burien City Manager of my concerns for the Eagle Landing Park hillside. I also told the Outdoor Grants Manager of Washington State RCO, about the damaged bulkhead and my concern for the stairs at Eagle Landing Park.

The City of Burien closed the Eagle Landing Park stairs to the public so now it is impossible for the public to have access to the Eagle Landing Beach.

12. On March 8, 2023, I engaged Waterfront Construction, Inc., a geotechnical engineering company, to conduct a study of the Eagle Landing Park and White Forest Ledge hillside and determine the cause of the erosion. Exhibit A attached a true and correct copy of the Geoff Spain Eagle Landing Park Bulkhead Inspection Report. In the subsequent inspection report, the Vice President and Project Manager of Waterfront Construction, Inc., Mr. Geoff Spain, identified the significant erosion and landslide characteristics present throughout the upland hillside at Eagle Landing Park and my home, and how it is affecting the existing log bulkhead and a wood wall on the north end of my property. *Id.* The Spain inspection report shows the urgent need to retain what remains of the bulkhead and reconstruct the broken sections of the existing bulkhead at the bottom of the steep hillside to prevent further erosion and to protect my property from potential damage to the residential structure. *Id.* The report recommended the implementation of hard armoring as the most effective approach to safeguard the shoreline and hillside. *Id.* The Spain inspection report also supports maintaining the status quo by not recommending that the Eagle Landing staircase pilings be demolished and pulled out of the hillside. The findings of the report indicate that Defendant City of Burien failed to adequately maintain and protect Eagle Landing Park and further failed to make the Park and its beachfront accessible to the public. *Id.*

13. I am very familiar with the design and construction of support pilings. I am the owner and chief executive officer of Antaeus Foundation Equipment. Anateus is a

Seattle based company that builds pile driving equipment. Under my guidance Antaeus has developed advanced technology pile driving equipment. We are leading the pile driving industry with our mastery of deep foundation technology pile driving equipment. Currently I am working on a project for the U.S. Navy at Pearl Harbor, Hawaii to construct a state-of-the-art submarine dry dock in the harbor using our pile driving equipment. The cutting-edge pile drivers will use giant hydraulic impact hammers to drive ram weights of up to 40 metric tons into the seabed floor in Pearl Harbor without destabilizing the shoreline and existing docks and structures. I have reviewed and specified the engineering requirements to ensure the pile driving will not destabilize the shoreline. I currently hold several pile driving equipment patents with more than seven new revolutionary technologies in the pile driving foundation industry. I am also in charge of Seattle-based PACO Ventures, which oversees commercial pile driving operations. I have 43 years of experience in geotechnical analysis and work. I am one of the world's leaders in foundation construction equipment and its applications. I am an expert in constructing seawalls, bulkheads, docks, and waterfront foundations. I am one of the world's most knowledgeable people in this type of construction. Ironically, I live next-door to Eagle Landing Park, a hillside park that has an engineered staircase sitting on and concrete piers and steel pilings driven deep into the steep hillside. The pilings at Eagle Landing Park are supporting the staircase and serving to stabilize the ground under the staircase. Demolishing the pilings at Eagle Landing Park could further destabilize the hillside.

14. Since the City of Burien closed the Eagle Landing Park stairs and beach access, Eagle

Landing Park has become a site for illegal activities, endangering my real property and further disrupting my use and enjoyment.

15. Recently the City announced that it is hiring a contractor to demolish the pilings that are holding up the Eagle Landing Park stairs and permanently remove the Eagle Landing Park concrete piers and staircase. I suspect this will further destabilize the hillside where Eagle Landing Park and my house are located.

16. As a direct result of the Defendant City of Burien's acts and failures to act, I have suffered damages, including loss of beach access, destabilization of my land, costs to mitigate the harms, and emotional distress.

17. Efforts were made to address the problems, but the City's attempts to fix the issues proved inadequate, resulting in the continued closure of the park and restricted public access. The City's failures to properly manage the water flow from the storm drains, and its failures to adequately address the erosion problems at Eagle Landing Park have exacerbated the situation on the ground. Eagle Landing Park has remained closed to the public, and the City of Burien has not returned the grant funding to the Washington State RCO.

18. Additionally, Burien citizens and others have suffered damages due to loss of beach access, and destabilization of Eagle Landing Park.

19. I am seeking a Temporary Restraining Order (TRO) because the removal of stairs and the ongoing instability at Eagle Landing Park pose an imminent threat of irreparable harm to my property. They also are causing the Eagle Landing Park beachfront to be permanently inaccessible. This could potentially violate the RCO grant funding

agreement the City entered into with the Washington State RCO. However, recently the City decided to change the scope of the grant funding agreement so that they could close the public beach access and still can keep the grant money. This will frustrate the entire purpose of the park – which is to give me, Burien citizens, and the general public access to the Eagle Landing Park beach.

20. The urgency is increased by the Defendant City's impending demolition of the stairs. The demolition is scheduled to start before the end of December 2023. According to the Burien City Council the demolition will cost a significant amount of money, \$1,000,000.00 or more. There are other solutions that will not cost as much money, will not further destabilize the hillside and that will not violate the Washington State RCO grant funding agreement.

21. I submitted a claim for Damages to the City of Burien on November 17, 2013. Once the statutory 60-day waiting period is satisfied I will file my lawsuit and cause it to be served on the Defendant City of Burien. The City of Burien is aware of my claims however they are proceeding to demolish the Eagle Landing Park support pilings, concrete piers, and staircase.

22. If the City does not repair the broken bulkhead at the base of the Eagle Landing Park hillside the slope upon which Eagle Landing Park and my house are built will continue to fail. This will jeopardize not only the Park property by my property as well. Pulling up and/or demolishing the pilings on the Eagle Landing hillside will further destabilize the hillside. Breaking out the concrete piers and removing the pilings will take construction personnel and equipment entering onto the hillside, trampling, and

destroying the vegetation during the winter months when heavy rains occur just when this ground stabilizing vegetation is needed the most. It is complete folly to conduct this demolition on a water saturated steep hillside during the winter months in the Pacific Northwest. It's dangerous and could cause a catastrophic slide. The broken bulkhead with large sections missing at the bottom of the hillside increases the likelihood of a catastrophic landslide. The restraining order/TRO I am seeking is necessary to prevent irreversible damage to the hillside that is under my house and the Eagle Landing Park stairs. The restraining order/TRO is necessary to maintain the *status quo* until the issues in my complaint are litigated and/or further addressed by the Defendant City of Burien and this Court.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 13th day of December 2023 and signed at _____, the Peoples Republic of China (PRC) via DocuSign.

John White