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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

MOUNT BAKER HOUSING
ASSOCIATION,

Defendant.

NO. 16-2-29584-3 SEA

COMPLAINT

Plaintiff, State of Washington, Department of Ecology (Ecology), alleges as follows:

I. DESCRIPTION OF ACTION

1. This action is brought on behalf of the State of Washington, Department of Ecology (Ecology) to enter a settlement agreement known as a Prospective Purchaser Consent Decree (Decree), which requires remedial action at a facility where there has been a release and/or threatened release of hazardous substances.

2. The Complaint and settlement are limited to the scope of the Decree. The facility, or Site, is referred to as the Mount Baker Properties Site. The Site is located in Seattle, Washington.

1 **II. JURISDICTION**

2 3. This Court has jurisdiction over the parties and over the subject matter pursuant
3 to the Model Toxics Control Act (MTCA), RCW 70.105D. Venue is proper in King County,
4 the location of the Site.

5 **III. PARTIES**

6 4. Plaintiff Ecology is an agency of the State of Washington responsible for
7 overseeing remedial action at sites contaminated with hazardous substances under RCW
8 70.105D, the Model Toxics Control Act.

9 5. Defendant is Mount Baker Housing Association (MBHA). MBHA is a non-
10 profit organization with a mission to create quality affordable housing in southeast Seattle.
11 MBHA has agreed to enter into the Decree with Ecology under MTCA to remedy the release
12 of hazardous substances at the Site.

13 **IV. FACTUAL ALLEGATIONS**

14 6. The Site is generally located along and to the north and south of South
15 McClellan Street between Martin Luther King Jr. Way S. and 29th Avenue S., Seattle, King
16 County, Washington. The Site is defined by the areal extent of contamination caused by
17 releases of hazardous substances within this area.

18 7. Owners and operators at the Site have operated a dry cleaner business (since the
19 early 1950s) and a gasoline station/auto repair and auto service station (from approximately the
20 mid-1950s to mid-2000s). Both of these operations have released hazardous substances to the
21 environment at the Site.

22 8. Environmental investigations thus far performed at the Site have indicated the
23 presence of total gasoline-range petroleum hydrocarbons (TPHg), total diesel-range petroleum
24 hydrocarbons (TPHd), total oil-range petroleum hydrocarbons (TPHo) and associated benzene,
25 toluene, ethylbenzene, and xylenes (BTEX) in soil and groundwater, carcinogenic polynuclear
26 aromatic hydrocarbons (cPAHs) in soil, and chlorinated and non-chlorinated volatile organic

1 compounds (VOCs) in groundwater above applicable standards as set forth in the MTCA
2 Cleanup Regulation, WAC 173-340.

3 9. MBHA is the prospective purchaser of real property located within the Site.
4 Ecology has not identified MBHA as a potentially liable person (PLP) for the site under
5 MTCA. MBHA has certified it is not currently liable for the Site under MTCA.

6 10. Ecology has determined that contamination at the Site presents a threat to
7 human health and the environment, and that a final cleanup is necessary to remedy
8 contamination.

9 11. Ecology has determined that entering into this Decree will yield substantial new
10 resources to facilitate cleanup of the Site; will lead to a more expeditious cleanup of hazardous
11 substances at the Site in compliance with the cleanup standards established under RCW
12 70.105D.030(2)(e) and WAC 173-340; will promote the public interest by facilitating the
13 redevelopment or reuse of the Site; and will not be likely to contribute to the existing release or
14 threatened release at the Site, interfere with remedial actions that may be needed at the Site, or
15 increase health risks to persons at or in the vicinity of the Site. In addition, Ecology has
16 determined that this Decree will provide a substantial public benefit by: (1) significantly
17 advancing the cleanup process at the Site through completion of an RI/FS; and (2) putting the
18 structure in place for future cleanup and redevelopment of a vacant former gas/service station,
19 a dry cleaning operation, and other currently contaminated properties within the Site. MBHA
20 will construct affordable, transit-oriented housing on the Site properties, which is a critical
21 need in the City of Seattle. The affordable housing at the properties, in the southeast portion of
22 Seattle in the North Rainier neighborhood, is intended to serve a diverse population of
23 residents. MBHA will continue to own and operate the redeveloped properties for the benefit
24 of its tenants. This Decree will facilitate redevelopment of the properties at the Site, which is
25 contingent on additional remedial actions first occurring. Once completed, the redevelopment
26 will add additional affordable, transit-oriented housing at the Site.

1 12. The proposed Decree was subject to public notice and comment between
2 October 28 and November 28, 2016. Ecology and MBHA have now entered into the final
3 Decree.

4 **V. CAUSES OF ACTION**

5 17. Ecology realleges all preceding paragraphs.

6 18. Ecology alleges that upon MBHA's purchase of one or more properties at the
7 Site, and pursuant to the settlement embedded in the Decree, MBHA will be liable for remedial
8 action at the Site pursuant to MTCA, RCW 70.105D.040.

9 **VI. PRAYER FOR RELIEF**

10 19. Ecology requests that the Court sign and enter the Decree in this matter.

11 20. Ecology further requests that the Court retain jurisdiction to enforce the terms of
12 the Decree.

13 DATED this 8th day of December 2016.

14 ROBERT W. FERGUSON
15 Attorney General

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17 _____
18 ANDREW A. FITZ, WSBA #22169
19 Senior Counsel
20 Attorneys for Plaintiff
21 State of Washington, Department of Ecology
22 (360) 586-6752