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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF KING  
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9 CITY OF BELLEVUE, a municipal  
10 corporation organized under the laws of  
11 the State of Washington,

12 Plaintiff,

13 v.

14 JOHN SURDI and BARBARA SURDI,  
15 Husband and Wife; and FAIRWAY  
16 INDEPENDENT MORTGAGE  
17 CORPORATION, a Texas corporation,

18 Defendants.

No.

COMPLAINT FOR  
DECLARATORY JUDGMENT &  
INJUNCTIVE RELIEF

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**I. INTRODUCTION**

1. This dispute arises out of a landslide that occurred in the Somerset Neighborhood of Bellevue, Washington on January 17, 2022. The landslide resulted in substantial damage to public and private property, and threatened public safety necessitating evacuations of the area. The residence owned by John and Barbara Surdi (“Residence”) was irreparably damaged during the landslide, which pushed the Residence off its foundation and onto mud, earth, and rockery. The Residence now sits precariously above a public roadway and pedestrian thoroughfare, listing out of vertical alignment, as shown below:



2. Despite multiple requests to abate the dangers caused by the Residence, the Surdis did not take any action to demolish the Residence or consent to the City of Bellevue's ("City's") demolition of the Residence. The City therefore brings this action to have the Residence declared a public nuisance; to obtain a temporary restraining order and preliminary and permanent injunctions prohibiting the Surdis from perpetuating the public nuisance and from interfering with the City's demolition of the Residence; to obtain any warrant necessary to support such demolition; and any other relief the Court deems just and proper.

## II. PARTIES

3. Plaintiff City of Bellevue is a municipal corporation organized under the laws of the State of Washington.

1           4.     Upon information and belief, Defendants John and Barbara Surdi are a married  
2 couple and residents of Bellevue, Washington.

3           5.     Upon information and belief, Defendant Fairway Independent Mortgage  
4 Corporation (“FIMC”) holds a deed of trust on the Residence and maintains offices in Bellevue,  
5 Washington through which it transacted business related to that deed of trust. The City names  
6 FIMC a party to this suit solely because the relief the City requests may impact FIMC’s interests  
7 (if any) in the Residence.  
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### 9                               III.     JURISDICTION & VENUE

10          6.     This Court has jurisdiction over the subject matter of this action because the relief  
11 sought relates to abating a public nuisance, RCW 2.08.010, and because the City seeks a  
12 declaratory judgment, RCW 7.24.010.  
13

14          7.     This Court has personal jurisdiction over the Surdis because they reside in  
15 Washington, and because this suit relates to the ownership, use, or possession of property situated  
16 in Washington. RCW 4.28.185(1).

17          8.     This Court has personal jurisdiction over FIMC because its relationship to this suit  
18 relates to its interests in the ownership, use, or possession of property situated in Washington. *Id.*

19          9.     Venue is proper in King County Superior Court because John Surdi and Barbara  
20 Surdi reside in King County, Washington. RCW 4.12.025(1).  
21

### 22                               IV.     FACTS

23          10.    On January 17, 2022, the Somerset Neighborhood of Bellevue, Washington  
24 experienced a downward movement of rock, debris, and earth commonly called a “landslide,”  
25 which resulted in significant damage to public and private property.  
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1           11.     The Surdi Residence located at 5008 139th Place Southeast, in Bellevue,  
2 Washington, 98006, sustained substantial damage during the landslide. The soil and rock mass of  
3 the landslide displaced the Residence a significant distance off its foundation, rotated the  
4 Residence in plan view, and tilted it out of vertical alignment toward the street. The Residence  
5 now sits precariously above 139th Place Southeast, which is a city street.  
6

7           12.     On January 17, 2022, the City Building Official determined that the Residence is  
8 an unstable structure and a dangerous building as defined under chapter 23.20 Bellevue City Code.  
9 The Building Official subsequently told the Surdis that due to the dangerous condition of the  
10 Residence no one was permitted to enter the Residence.  
11

12           13.     Also on January 17, 2022, the City posted Red Tags on six residential properties  
13 near the Residence, prohibiting anyone from entering the properties. Each Red Tag was posted  
14 either because the Residence threatens the structure and safety of the property to which the Red  
15 Tag was assigned, or because the Residence threatens the safety of the vehicle, pedestrian, and  
16 emergency ingress and egress route via 139th Place Southeast to the affected properties.  
17

18           14.     The City has since replaced the Red Tag on one property with a Yellow Tag,  
19 thereby allowing for that home's partial and restricted use. Five Red Tags and one Yellow Tag  
20 currently remain in effect for properties near the Residence more than a week and a half after the  
21 landslide occurred.  
22

23           15.     The City Building Official has determined that there is no way to safely brace or  
24 stabilize the site so as to permit safe entrance to the Residence. Likewise, the Building Official has  
25 determined there is no way to repair the Residence such that it could be occupied in the future.  
26 Accordingly, the Building Official has determined that the Residence must be demolished. Further,  
27 the Building Official has determined that a state of emergency exists with respect to the Residence

1 such that it must be demolished at the soonest possible opportunity. The Building Official based  
2 these determinations on his own assessments and available engineering information regarding the  
3 stability of the severely damaged structure of the Residence and the possibility that even natural  
4 events such as wind, rainfall, or seismic activity could trigger the Residence structure, rockeries,  
5 or soil masses under the Residence to collapse into the street and adjacent properties.  
6

7 16. The City Building Official and others at the City have contacted the Surdis,  
8 including through their legal counsel, on several occasions since the landslide occurred to inform  
9 them that the Residence is an unstable structure and/or a dangerous building and that it must be  
10 demolished. On January 20, 2022, the Building Official left a voicemail message on John Surdi's  
11 cell phone, requesting that he provide an update on the schedule for demolition and removal of the  
12 hazard created by the Residence to the street and nearby houses. On January 24, the Building  
13 Official left Mr. Surdi another similar voicemail message. Mr. Surdi responded later that day to  
14 provide contact information for his attorney.  
15

16 17. On January 25, 2022, an Assistant City Attorney for the City sent a letter to the  
17 Surdis' legal counsel explaining the imminent threat posed by the Residence and requesting that  
18 the Surdis provide written consent no later than Noon on January 27, 2022, to allow the City to  
19 access the Surdis' property to complete demolition of the Residence and other remediation  
20 activities.  
21

22 18. On January 26, the Building Official sent a letter to the Surdis' legal counsel  
23 regarding the imminent threat posed by the Residence and informing him that the Residence must  
24 be demolished as soon as possible.  
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1           19.    The Surdis have not completed the demolition of the Residence repeatedly  
2 requested by the City and have not provided the requested consent for the City to demolish the  
3 Residence.

4           20.    Public safety requires immediate emergency demolition of the Residence to abate  
5 the imminent threat it presents to people and to neighboring properties, including public right of  
6 way, and to restore access to the Red Tagged and Yellow Tagged properties in the vicinity of the  
7 Residence.  
8

9                               **V.     COUNT ONE: DECLARATORY JUDGMENT**

10          21.    The City repeats and re-alleges each of the foregoing allegations as though fully set  
11 forth herein.

12          22.    For reasons including but not limited to those stated herein, an actual dispute exists  
13 between the City and Defendants, which parties have genuine and opposing interests, which  
14 interests are direct and substantial, and of which a judicial determination would be final and  
15 conclusive.  
16

17          23.    A declaration of rights is therefore necessary and appropriate to establish:

- 18               a.   The Residence is a public nuisance within the meaning of RCW 7.48.130 and RCW  
19               7.48.140; and,  
20               b.   Pursuant to its police powers and statutory authority, the City may abate and  
21               remediate that public nuisance, including but not limited to by demolishing the  
22               Residence and removing the debris and all personal property from the site.  
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24                               **VI.    COUNT TWO: INJUNCTIVE RELIEF**

25          24.    The City repeats and re-alleges each of the foregoing allegations as though fully set  
26 forth herein.  
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1           25. For reasons including but not limited to those stated herein, the City is entitled to  
2       enjoin the Surdis from perpetuating the existence of the public nuisance and from interfering with  
3       the City's actions to abate and remediate the public nuisance, including but not limited to by  
4       demolishing the Residence and removing the debris from the site.

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6           26. Pursuant to its police powers and statutory authority, the City has clear legal rights  
7       to prevent such public nuisance and such interference, which rights are and continue to be invaded  
8       by the Surdis, resulting in actual and continuing injury. No adequate remedy at law exists to  
9       remedy this invasion of the City's rights. Further, the balance of the equities favors the issuance  
10      of an injunction.

11           27. The City is, therefore, entitled to an injunction restraining and prohibiting the  
12      Surdis from perpetuating the public nuisance and from interfering with the abatement of the public  
13      nuisance.  
14

## 15                               **VII. RESERVATION OF RIGHTS**

16           28. The City reserves the right to add claims for other relief as may be appropriate in  
17      this matter as it progresses, including but not limited to a claim for recovery of the costs of  
18      abating the nuisance.

## 19                               **VIII. PRAYER FOR RELIEF**

20           The City requests the following relief:

21           A. A declaratory judgment that the Residence is a public nuisance under RCW  
22       7.48.130 and .140;  
23

24           B. A declaratory judgment that, pursuant to its police powers and statutory authority,  
25      the City has the power to abate the public nuisance, including by demolishing the Residence;  
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1 C. A temporary restraining order, and preliminary and permanent injunctions,  
2 prohibiting the Surdis from perpetuating the public nuisance and from interfering with the City's  
3 abatement activities;

4 D. Issuance of any warrant necessary to permit the sheriff to abate the public nuisance  
5 as provided by RCW 7.48.020 and .030;

6 E. A speedy and expedited trial on the merits as provided by CR 57; and

7 F. Any further relief this Court may deem necessary and proper.  
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9 DATED this 28<sup>th</sup> day of January, 2022.  
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