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Kathy Hill, Skagit County Auditor

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After Recording, Return to
Thomas S. Hayward
1000 Second Avenue, Suite 1750
Seattle, WA 98104

**SKAGIT COUNTY RECORDER'S
COVER SHEET**

Document Title: Order Granting Plaintiff's Motion for Summary Judgment; Quieting Title to Real Property; Ejecting Defendant Therefrom; and Denying Defendant's Motion for Summary Judgment

Reference Number of Document: Skagit County Superior Court No. 99-2-01374-6

Grantor: Hughes-Northwest, Inc.

Grantee: Nader Spahi, d/b/a Emperor West Associates

Legal Description: All that portion of Burlington Northern Railroad (formerly the Great Northern Railway Company) right of way lying within Block 71, "City of Anacortes," according to the plat recorded in Volume 2 of Plats, page 4, Records of Skagit County, Washington, except any portion thereof lying northwesterly of a line parallel with and (10) ten feet as measured radially, northwesterly from the center line of said right of way.

Assessor's Property Tax Parcel/Account No.: 3772-071-016-0003

JAN 31 2000

Phyllis Coole-McKeehen, Co. Clerk
By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SKAGIT COUNTY

NADER SPAHI, d/b/a EMPEROR WEST)
ASSOCIATES)

NO. 99-2-01374-6

Plaintiff,)

v.)

HUGHES-NORTHWEST, INC.,)

Defendant.)

ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT; QUIETING TITLE
TO REAL PROPERTY; EJECTING
DEFENDANT THEREFROM; AND
DENYING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

This matter came before the court on competing motions for summary judgment, plaintiff appearing through counsel Thomas S. Hayward, and Defendant appearing through counsel Davies, Roberts & Reid and Jason J. Valtos, and the Court having considered the Declarations of Russell J. Reid and John R. Muenster, the records and files herein and the arguments of counsel, and being otherwise fully advised in the premises,

NOW, THEREFORE, the Court hereby makes the following:

I
FINDINGS OF FACT

1. There are no genuine issues of material fact presented and the issues raised on the competing Motions for Summary Judgment are ripe for determination.

2. The real property that is the subject of this action is particularly described as:



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Order Granting Plaintiff's
Motion for Summary Judgment...

1 All that portion of Burlington Northern Railroad
2 (formerly the Great Northern Railway Company)
3 right of way lying within Block 71, "City of Anacortes,"
4 according to the plat recorded in Volume 2 of Plats,
5 page 4, Records of Skagit County, Washington, except
6 any portion thereof lying northwesterly of a line
7 parallel with and (10) ten feet as measured radially,
8 northwesterly from the center line of said right of way.

9 Hereinafter referred to as the "Property."

10 3. The Property is a portion of real estate generally described as 1208 Fourth
11 Street, Anacortes, Washington (hereinafter referred to as the "Entire Site").

12 4. Title to the Property was contested in the United States District Court for
13 the Western District of Washington. The Federal District Court quieted title to the
14 Property in the United States based on alternate theories of adverse possession and
15 implied easement. The United States then sold the Property to Hughes-Northwest, Inc.,
16 defendant in the present proceeding. Spahi appealed the District Court's decision. The
17 United States Court of Appeals, Ninth Circuit, in United States v. Spahi, 177 F.3d 748
18 (1999), reversed the District Court and held that the United States had no interest in the
19 Property. The United States Court of Appeals, Ninth Circuit, additionally held that
20 Hughes-Northwest, Inc., was not a bona fide purchaser for value and, because it acquired
21 title from the United States by quitclaim deed, Hughes-Northwest, Inc. acquired only the
22 United State's interest in the Property subject to valid title claims.

23 Based on the foregoing Findings of Fact, the Court enters the following:
24



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Order Granting Plaintiff's
Motion for Summary Judgment...

THOMAS S. HAYWARD

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SEATTLE, WA 98104

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Fax (206) 624-5930

II
CONCLUSIONS OF LAW AND ORDER

1. The Court has personal jurisdiction over Hughes-Northwest, Inc., and has subject matter jurisdiction over questions of title to real property located in Skagit County, Washington.

2. Defendant should be and hereby is collaterally estopped from arguing that it is a good faith purchaser or that it did not take title from the United States subject to valid title claims.

3. Title to the Property described in Finding of Fact No. 2, above, should be and hereby is quieted in the name of Nader Spahi, d/b/a Emperor West Associates, a sole proprietorship.

4. Defendant, and its successors, if any, should be forever barred from asserting any right, title, interest, estate, or lien in or to the Property described in Finding of Fact No. 2, above.

5. Defendant, its successors, assigns, grantees or lessees, should be and hereby are ejected from physically occupying the Property described in Finding of Fact No. 2, above.

6. Other issues raised in Plaintiff's Complaint in this action, including but not limited to damages and implied easement, should be and hereby are reserved for trial.

7. Defendant's Motion for Summary Judgment should be and hereby is denied.



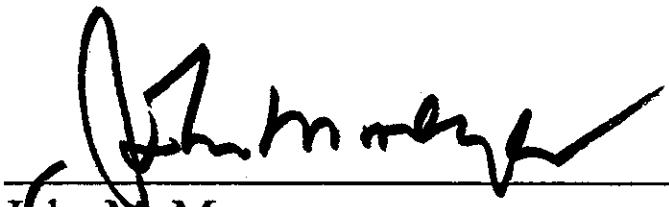
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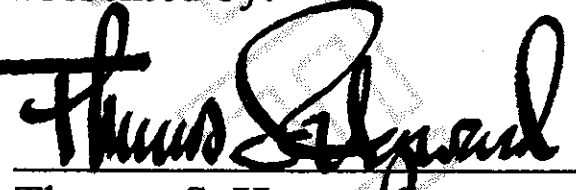
Order Granting Plaintiff's
Motion for Summary Judgment...

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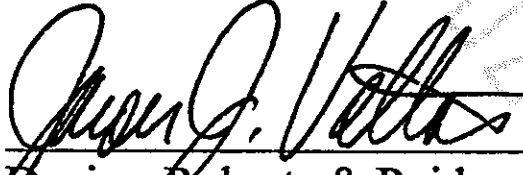
DATED this 31st day of January, 2000.



John M. Meyer
Judge of Kitsap County Superior Court
Skagit

Presented by:


Thomas S. Hayward
Attorney for Plaintiff
WSBA #7359

Copy received by:


Davies, Roberts & Reid and
Russell J. Reid
Jason J. Valtos
Attorneys for Defendant
WSBA #2560


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Order Granting Plaintiff's
Motion for Summary Judgment...

UNOFFICIAL DOCKET

State of Washington, } ss.
County of Skagit

I, Phyllis Coole-McKeehen, County Clerk of Skagit
County and ex-officio Clerk of the Superior Court
of the State of Washington, for the County of Skagit,
do hereby certify that the foregoing instrument is a
true and correct copy of the original, consisting of
4 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the Seal of said Court at my
office at Mount Vernon, this 17 day of Feb.
2000 Phyllis Coole-McKeehen, County Clerk

By Gabriel Murphy
Deputy Clerk

