

Return address:

Alan Souders

913 - 7th St

Anacortes, WA 98221



201202060031

Skagit County Auditor

2/6/2012 Page

1 of

17 8:53AM

Document Title: Order For Partition; Order of  
Clarification of Partition; Order Enforcing Order  
For Partition  
Reference Number:

Grantor(s):

☐ additional grantor names on page \_\_\_\_

1. Tasso Schielke

2. Estate of Ulrike Schielke

Grantee(s):

☐ additional grantee names on page \_\_\_\_

1. Guenther Thomas

2. Ursula Thomas

Abbreviated legal description:

☐ full legal on page(s) \_\_\_\_

10-36-01

Assessor Parcel / Tax ID Number:

☐ additional tax parcel number(s) on page \_\_\_\_

P46396

P46400

P46402

OK  
FILED  
SKAGIT COUNTY CLERK  
SKAGIT COUNTY, WA  
2009 SEP 22 AM 11:00

**SUPERIOR COURT OF WASHINGTON, SKAGIT COUNTY**

Guenther & Ursula Thomas, husband & wife, )

Plaintiffs, )

vs. )

Tasso & Ulrike Schielke, husband & wife, )

Defendants )

No. 07-2-02415-1

**ORDER FOR PARTITION**

An action for partition of certain real property located on Sinclair Island, Skagit County, Washington, having come before the court, seeking partition by sale of the property and division of the sale proceeds, and the motion of Defendant, Tasso Schielke, having come before the Court, such motion seeking partition by division of the property in this action, and the Court having considered the pleadings in this action, and having received and considered the evidence presented by the parties at an evidentiary hearing on the method of partition, and argument having been heard, and having found division of the property to be a proper partition of the property, now, then, it is hereby

**Order for Partition - 1**



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1 ORDERED that the partition of the real property in this action shall be effected by  
 2 dividing the property, as follows:

3  
 4  
 5 Skagit County Parcel P46400 shall be divided along a line running East to  
 6 West that divides the parcel in half. The southerly half of the property shall  
 7 become part of new Parcel A. The northerly half of the property shall become  
 8 part of new Parcel B.

9  
 10 Skagit County Parcel P46402 shall be divided along a line running East to  
 11 West that divides the property in half. The southerly portion of the property  
 12 shall become part of new Parcel A. The northerly portion of the property shall  
 13 become part of new Parcel B.

14  
 15 Skagit County Parcel P46396 shall be divided along a line running East to  
 16 West that lies to the North of the road entrance, water tower, dwelling  
 17 immediately below the water tower, workshop, generator, carport, and gravel-  
 18 pit, with the line located so as to provide approximately 170,000 square feet to  
 19 the south of that dividing line, *with the line beginning at its westernmost*  
 20 *point at the center of the existing beach stairway.* provided, however, that such line shall be  
 21 located not less than 15 feet to the south of the southernmost point of the  
 22 pond, solar panels and hut near the beach which are now located on the  
 23 *if such a 15' margin can be accomplished while allowing*  
 24 property. The southerly portion of the property shall become part of new  
 25 Parcel A. The northerly portion of the property shall become part of new  
 26 Parcel B.

27  
 28  
 Order for Partition - 2

Law Office of Aida R. Souders  
 913 Seventh Street  
 Anacortes, Washington 98221

*170,000 square feet in the southerly parcel. The surveyor shall advise the parties in this matter.*

Defendants, Tasso and Ulrike Schielke, a marital community, shall be the sole legal owners as joint tenants of new Parcel A.

Plaintiffs, Guenther and Ursula Thomas, a marital community, shall be sole legal owners as joint tenants of new Parcel B, together with an easement across the new Parcel A, *The surveyor shall recommend the location of the easement* where such easement follows the existing driveway on existing Parcel P46396, which driveway runs from Jackson Road on the south, thence in a northeasterly direction to the existing cabin now located on new Parcel B.

Plaintiffs, Guenther and Ursula Thomas, shall have sole and exclusive ownership the northern mooring buoy located offshore from Parcel B as placed by Guenther Thomas. Defendants, Tasso and Ulrike Schielke, shall have sole and exclusive ownership of the southern mooring buoy located offshore from Parcel A.

Parcel B, in accordance with the partition plan proposed by the Defendants, shall include the existing cabin, pond, solar panels, propane shed, hut near beach stairway, and beach stairway to be shared by the parties; provided, however, that either party may maintain or repair the beach stairway as that party deems appropriate and further provided that both parties agree to release, indemnify, and hold harmless the other party for any damages or injuries that result from use of the shared stairway by either party, their invitees, licensees, assigns or heirs. At any time, either party may relinquish their interest in the shared stairway by notifying the

*no between the existing driveway & adjacent water  
w/2 north and south of being for mooring, again and  
with a single public mooring.*

*45  
55*

Order for Partition - 3



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1 other party in writing of their intent to do so. Such written notice terminates the  
2 notifying party's right to use the stairway. Should either party build a separate beach  
3 stairway for that party's own use, the use of the shared stairway by that party shall be  
4 terminated.  
5

6  
7 The owners of Parcel B shall have the right to use the well, water tower and  
8 generator, including the ground cable and water pipe to the cabin, ~~for a period of~~  
9 *through September 25, 2009.*  
10 ~~three years, with such three year period beginning on July 17, 2009.~~

11  
12 Plaintiffs and Defendants shall be equally responsible for all past-due and presently  
13 owing real property taxes on the property, up until the date of this Order, including  
14 any penalties and interest. Upon entry of this Order, Tasso and Ulrike Schielke shall  
15 be solely liable for their half of all past-due and presently owing real property taxes on  
16 the property and Guenther and Ursula Thomas shall be solely liable for their half of  
17 all past-due and presently owing real property taxes on the property. In accordance  
18 with the 2009 Real Estate Tax Statement, the following delinquent taxes, interest and  
19 penalties are presently owing:  
20

21  
22 a. For tax years 2007 through 2009, the following amounts are delinquent:

23 i. Parcel P46400:	\$3,768.10
24 ii. Parcel P46402:	\$2,203.26
25 iii. Parcel P46496:	\$6,854.90
26 iv. Total:	\$12,826.26

27  
28

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To pay the past-due taxes, the parties shall each deposit into the trust account of Alan Souders \$6,413.13 within 10 days of this order.

b. The second half taxes for 2009 are due by October 31, 2009 in the following amounts:

i. Parcel P46400:	\$866.48
ii. Parcel P46402:	\$506.40
iii. Parcel P46396:	\$1,401.16
iv. Total:	\$2,774.04

To pay the second half taxes for 2009, the parties shall each deposit into the trust account of Alan Souders \$1,387.02 by October 15, 2009.

Payment of taxes shall be made by Mr. Souders and prorated as of the date of this order, and any excess amount provided by either party shall be returned to that party.

Plaintiffs and Defendants shall be equally responsible for all costs to obtain a survey to determine the exact location of the new property lines in accordance with this Order. Plaintiffs and Defendants shall also be equally responsible for all costs to obtain a title report to ensure clear title prior to partition. The parties shall each deposit into the trust account of Alan Souders \$ 5,000.00 as and boundary line adjustment deposit, which shall apply to fees and costs of a survey and title search of the property. Each party shall make payment to Alan Souders trust account within 5



1 days of this order.

2  
3 Plaintiffs and Defendants shall be equally responsible for all costs now owing from  
4 John Prosser's work as referee for this case, for which Mr. Prosser has sent a  
5 statement to each party's attorney.  
6

7 Sunday

8 The Schielkes shall vacate the residence and the parties shall exchange personal  
9 property ~~by ~~Friday~~, Sep 27, 2009.~~ Any disputed

10 property shall remain in its present location and shall be  
11 awarded by further Order of this Court. AS  
SES  
12 Other Provisions:

13  
14 Both Parties shall go to the residence and  
15 photograph, list & tag items to be removed  
16 by Schielkes by 9/21/09.  
17

18  
19 Done this 22 of Sept, 2009.  
20

21 Susan K Cook  
22 Susan K. Cook, Judge  
23

24 Respectfully submitted:

25 Alan R. Souders  
26 Alan R. Souders, WSBA #26192  
27 Attorney for the Plaintiffs  
28

Shut 5  
1410

Law Office of Alan R. Souders

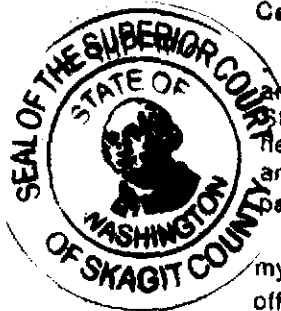
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State of Washington, } ss.  
County of Skagit



Nancy K. Scott, 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 6 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 6 day of Feb, 20 12. Nancy K. Scott, County Clerk.

By Charles Dussail  
Deputy Clerk



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OK  
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SKAGIT COUNTY CLERK  
SKAGIT COUNTY, WA

2010 JUL -2 AM 10:11

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7 **SUPERIOR COURT OF WASHINGTON, SKAGIT COUNTY**

8 Guenther & Ursula Thomas, husband & wife, )

9 Plaintiffs, )

No. 07-2-02415-1

10 vs. )

ORDER OF CLARIFICATION  
FOR PARTITION

11 Tasso & Ulrike Schielke, husband & wife, )

12 Defendants )

2  
13  
14  
15 The motion of Defendant Tasso Schielke having come before the Court, such motion  
16 seeking a clarification of the Court's Order for Partition of September 22, 2009, and  
17 the Court having considered the pleadings of the parties and the file in this action,  
18 and having considered the motion at hearings on April 13, 2010 and again on June  
19 17, 2010, and the Court having in particular heard the evidence and testimony of  
20 Paul Monohon, who surveyed the property concerned, and the Court having  
21 questioned Mr. Monohon and having heard the parties, now, then, the Court's Order  
22 of Partition of September 22, 2009 is hereby CLARIFIED as follows, and

23 it is hereby ORDERED that surveyor Paul Monohon shall prepare and submit a  
24 survey which divides Skagit County Parcel P46396 as follows:

25 By a dividing line which uses as its reference point the top center of a certain  
26 stairway to the beach on the property concerned, and

27 from which point of reference as to the east of such point proceeds easterly to  
28 and terminates at the high water line by a line which is parallel to the southern  
boundary of said parcel, and

Order of Clarification - 1

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1 from which point of reference as to the west of such point proceeds southerly  
2 and westerly to fall south of the hut near the beach by 15 feet, then proceeds  
3 westerly in such a manner so as to pass north of and not pass through the 100  
4 foot protective circle around the well on the property, and which passes at  
5 least 50 feet south of the pond on the property, and which then proceeds  
6 further westerly to the west boundary of the parcel, where the line terminates,  
7 and

8 which line provides an area of approximately 170,000 square feet in the  
9 portion of parcel P46396 which lies south of the line and which is bounded on  
10 the east by the top of a certain high bluff.

11 and it is FURTHER CLARIFIED and ORDERED that the parties shall pay equally for  
12 all costs and services for and by surveyor Paul Monohon in this action.

13 Other Provisions: *N/A.*

14  
15  
16  
17  
18 Done this 2 of July, 2010.

19  
20 *Susan K Cook*

21 Susan K. Cook, Judge

22  
23 Respectfully submitted:

24 Approved as to form *only*

25 *Alan R. Souders*

26 Alan R. Souders, WSBA #26192  
27 Attorney for the Plaintiffs

28 *K. Garl Long*  
K. Garl Long, WSBA #13569  
Attorney for Defendant Tasso Schielke

Order of Clarification - 2



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State of Washington, } ss.  
County of Skagit

Nancy K. Scott, 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 2 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 6 day of Feb, 20 12. Nancy K. Scott, County Clerk.

By

*Charles Dussell*

Deputy Clerk



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FILED  
SKAGIT COUNTY CLERK  
SKAGIT COUNTY, WA

2011 OCT 25 AM 9:23

SUPERIOR COURT OF WASHINGTON, SKAGIT COUNTY

Guenther and Ursula Thomas,  
Husband and wife,

Plaintiffs,

Vs

Tasso Schielke and the Estate  
Of Ulrike Schielke,

Defendants.

No. 07-2-02415-lno.no

ORDER ENFORCING ORDER  
FOR PARTITION

THIS MATTER having come on before the Court on the  
Plaintiffs' Motion for Enforcement of Order for Partition,  
and the parties having appeared through their counsel, and  
the Court having considered the motion and having heard the  
arguments of counsel, at a hearing on August 19, 2011, and  
the Court having taken the matter under advisement after that  
hearing and having reviewed the records and the files herein,  
and the Court

FINDING that there is an enforceable order for partition of  
the property involved in this action; and

FURTHER FINDING that the language used in the Court's Order  
for Partition of September 22, 2009, as clarified by Court's

ORDER ENFORCING  
ORDER FOR PARTITION - 1



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1 subsequent Order of July 2, 2010 is clear and reflects an  
2 enforceable agreement; and

3  
4 FURTHER FINDING that such clarified order provides for  
5 approximately 170,000 square feet of property for the  
6 southern part of the waterfront parcel of the property after  
partition; and

7  
8 FURTHER FINDING that there is a discrepancy between the  
9 language used in the Order as clarified and the survey  
10 submitted to the Court [on July 7, 2010] to implement that  
Order; and

11  
12 FURTHER FINDING that the line drawn on such survey does not  
13 coincide with the enforceable agreement language, in that at  
14 a point south of the pond shown on the survey, the line on  
15 the survey then jogs to the southwest for some distance, and  
16 then proceeds westerly to the boundary of the parcel, whereas  
the enforceable language calls for the line to proceed  
"westerly" and not southwesterly; and

17  
18 FURTHER FINDING that the first drawing as apparently used in  
19 this case anticipated a straight line of division, after  
20 accounting for certain specifically noted physical features;  
and

21  
22 FURTHER FINDING that at the point it lies south of the pond,  
23 if the line then proceeded directly westerly to the boundary  
24 of the parcel rather than jogging southwesterly, that in such  
25 case there would be no discrepancy as between the language of  
the enforceable agreement and order and the straight line  
26 shown on the first drawing apparently used in this case; and

27  
28 NOTING that while this will provide more than 170,000 square  
feet in the southerly portion of the partition, that this is

ORDER ENFORCING  
ORDER FOR PARTITION - 2



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nonetheless in agreement with the language of the enforceable order and agreement, in that the language of such order provides for "approximately" 170,000 square feet, and thus allows flexibility as to the actual size; and the Court

~~FURTHER FINDING that the time allowed by law has expired for reconsideration of the Court's Order for Partition, as clarified; and~~

~~FURTHER FINDING that the time allowed by law has expired for seeking a new trial in this cause; and~~

FURTHER FINDING that under such circumstances, the Court's Order for Partition of September 22, 2009, as clarified by Court's subsequent Order of July 2, 2010 should be enforced; provided that the provisions of this Order are incorporated into the survey to implement that partition order; now, then,

IT IS HEREBY ORDERED:

1. That this Court's Order for Partition of September 22, 2009, as clarified by this Court's subsequent Order of July 2, 2010 is hereby affirmed and enforced; and
2. That a survey conducted pursuant to those Orders shall be prepared, which survey shall be in accordance with the survey submitted to this Court on July 7, 2010, EXCEPT THAT a portion of the dividing line between the waterfront property parcel as partitioned shall be adjusted to be approximately as shown on the attached sketch, with the adjustment specifically described as follows:

That from the point where the line of division touches the northernmost point of the well protective circle, the line to the west of such point to the boundary of the parcel shall be a

ORDER ENFORCING  
ORDER FOR PARTITION - 3



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straight line, being a straight line extension of the line of division immediately to the east of such point, that being a line South 89 degrees, 34 minutes, 17 seconds West; and

3. That the survey in accordance with this Order, including the adjustment laid out above, shall be recorded.

4. That the parties shall be equally responsible for the costs of any survey to comply with this order.

Additional Provisions:

DATED this 25 day of October, 2011.

*Dave Needy*  
Dave Needy, Judge

*Use to Form Only*

*Alan R. Souders*  
Alan R. Souders, WSBA #26192  
Darcy J. Swetnam, WSBA #40530  
Attorneys for Plaintiff

*Carl Long* 13589  
K. Carl Long, WSBA #26195  
Attorney for Tasso Schielke

Mervyn C. Thompson, WSBA #26991  
Attorney for the Estate of  
Ulrike Schielke



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State of Washington, } ss.  
County of Skagit

Nancy K. Scott, 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 5 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 6 day of Feb, 20 12. Nancy K. Scott, County Clerk.

By Carla Driscoll  
Deputy Clerk



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