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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

CITY OF MUKILTEO and SAVE
OUR COMMUNITIES,

Petitioners,

v.

SNOHOMISH COUNTY and
PROPELLER AIRPORTS PAINE
FIELD LLC,

Respondents.

No. 15-2-06802-4 SEA

**ORDER GRANTING RESPONDENTS
SNOHOMISH COUNTY'S AND
PROPELLER AIRPORTS PAINE
FIELD LLC'S MOTIONS FOR
SUMMARY JUDGMENT**

This matter came before the Court on the parties' cross-motions for Summary Judgment. The Court considered the pleadings and evidence, including oral arguments on Friday, October 9, 2015. The Court hereby grants Respondents Snohomish County's and Propeller Airports Paine Field LLC's Motions for Summary Judgment, based on the following:¹

The March 11, 2015 Option to Lease Land at the Snohomish County Airport ("Option Agreement") specifically provided that exercising the option to the lease was contingent upon

¹ Court denies Petitioner City of Mukilteo's Motion for Summary Judgment.

1 and subject to compliance with RCW 43.21C, the State Environmental Policy Act (“SEPA”).
2 Paragraph 2 stated “This Option may be exercised following completion of environmental
3 review as provided in paragraph 7,” which in turn stated “Propeller and County agree that a
4 SEPA process must be completed prior to exercise of the Option and execution of the Lease.”
5 As such, compliance with SEPA constituted a condition precedent for exercising the option by
6 Respondent Propeller.

7 The Petitioner, City of Mukilteo, argues that by entering into the Option Agreement,
8 the parties triggered the Lease -- especially because the option is only terminable by Propeller
9 and not the County. The Court disagrees because the exercise of the option is specifically
10 contingent upon compliance with SEPA.² Mukilteo further asserts that the proprietary arm of
11 the County, in entering into the Option Agreement, will not have the benefit of County’s
12 regulatory SEPA review. While this argument may be true, it exceeds the scope of this Court’s
13 legal review on the issue of whether or not the County violated SEPA when it executed the
14 Option Agreement.

15 This Court does not find that the execution of the Option Agreement constituted a
16 “project action” as defined under RCW 43.21C.031(1) and WAC 197-11-704(2)(a). *Magnolia*
17 *Neighborhood Planning Council v. City of Seattle*, 155 Wn. App. 305 (2010) is distinguishable
18 in that here the exercise of the option is strictly contingent upon completion of SEPA.

19 Finally, this Court does not find that Respondent Snohomish County violated SCC
20 2.10.010(2) and, therefore, grants summary judgment in favor of the County.

22 ² Paragraph 6 also stated that “No construction may begin on the Property until the Lease has been
23 executed and delivered by Propeller and Propeller has taken possession of the Property.”

1 Judgment shall be entered in favor of Respondents Snohomish County and Propeller
2 Airports Paine Field LLC.

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6 DATED this 15th day of October, 2015.

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9 JUDGE SAMUEL S. CHUNG
10 King County Superior Court