

**FILED**  
JUN 20 2011  
DEBRA VAN PELT  
ISLAND COUNTY CLERK

Judge Alan R. Hancock  
Date of Hearing: June 3, 2011  
Time of Hearing: 2:30 p.m.

SCANNED

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**SUPERIOR COURT OF WASHINGTON  
FOR ISLAND COUNTY**

**ROGER L. CLOSE,**  
Plaintiff,

No. 10-2-00479-8

v.  
**ADMIRAL'S COVE BEACH CLUB,  
INC., a Washington non-profit  
corporation, now known as  
ADMIRAL'S COVE HOMEOWNERS  
ASSOCIATION, INC.,**

**ORDER DENYING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT AND GRANTING  
PLAINTIFF ROGER CLOSE'S  
CROSS-MOTION FOR SUMMARY  
JUDGMENT**

Defendant.

[Proposed]

This matter came before the undersigned judge of the Island County Superior Court on June 3, 2011 on the summary judgment motion of defendant Admiral's Cove Beach Club, Inc. now known as Admiral's Cove Homeowners Association, Inc. (hereinafter "Admiral's Cove") and on plaintiff Roger L. Close's cross-motion for summary judgment.

The Court having considered the pleadings filed in this action, Defendant's motion for summary judgment, Plaintiff's response to Defendant's motion for summary judgment and cross-motion for summary judgment, the strict reply of

**ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT AND GRANTING PLAINTIFF'S CROSS-MOTION FOR  
SUMMARY JUDGMENT - 1**

W:\@work\close\order granting close.denying admirals motion for  
summary judgment.11jun14.wpd

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1 defendant Admiral's Cove to Plaintiff's response to Defendant's motion for summary  
2 judgment, and the following evidence:

3 1. The Declaration of Dustin Frederick in Support of Motion for Summary  
4 Judgment, dated April 29, 2011;

5 2. The Declaration of Michael D. Brandt in Support of Plaintiff's  
6 Response to Defendant's Motion for Summary Judgment and Cross-Motion for  
7 Summary Judgment;

8 3. The Declaration of Roger Close in Support of Plaintiff's Response to  
9 Defendant's Motion for Summary Judgment and Cross-Motion for Summary  
10 Judgment; and  
11

12 4. The Declaration of Dustin Frederick in Support of Motion for Summary  
13 Judgment, dated May 27, 2011,  
14

15 The Court hereby makes the following findings and conclusions:

16 **FINDINGS OF FACT**

17 1. According to RCW 64.38.010, "homeowners' association" is defined  
18 as follows: "a corporation, unincorporated association, or other legal entity, each  
19 member of which is an owner of residential real property located within the  
20 association's jurisdiction, as described in the governing documents, and by virtue  
21 of membership or ownership of property is obligated to pay real property taxes,  
22 insurance premiums, maintenance costs, or for improvement of real property other  
23 than that which is owned by the member."  
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2. RCW 64.38.015 states: "The membership of an association at all times shall consist exclusively of the owners of all real property over which the association has jurisdiction, both developed and undeveloped.

3. The Admiral's Cove Bylaws allow for Associate Members, which, according to the Bylaws shall be persons who are, on an annual basis, elected upon such terms, both as to dues and assessments, as the Board of Directors shall determine. Associate Members cannot exceed 250 in number. Associate Members do not own property in Admiral's Cove development, however, Associate Members are allowed privileges upon payment of an assessment.

4. Associate Members are members of Admiral's Cove Beach Club.

5. Given that Admiral's Cove allows for members that are not real property owners, it is not a homeowners' association pursuant to RCW 64.38 et seq.

Now therefore, it is hereby ORDERED:

1. Defendant's motion for summary judgment is hereby DENIED and Plaintiff's cross-motion for summary judgment is hereby GRANTED; and

2. There are no remaining issues to be resolved in this action; this matter is hereby concluded.

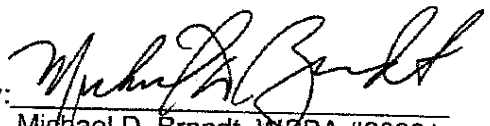
DATED: June 17, 2011

  
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Judge Alan R. Hancock

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Presented by:

**BRANDT LAW GROUP**

By:   
Michael D. Brandt, WSBA #20901  
Attorney for Plaintiff  
Roger Close

Agreed as to form:

**LEE SMART, P.S., INC.**

By:   
William L. Cameron, WSBA #5108  
Attorney for Defendant  
Admiral's Cove Beach Club, Inc.

STATE OF WASHINGTON



SECRETARY OF STATE

ADMIRAL'S COVE BEACH CLUB

JAMES R FAIRFIELD  
1166 HALSEY DR  
COUPEVILLE WA 98239

AMENDMENT

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that documents meeting Washington statutory requirements have been filed and processed with the Secretary of State on behalf of:

ADMIRAL'S COVE BEACH CLUB

A Washington Nonprofit Corporation  
UBI: 601 810 647  
Filing Date: July 13, 2011  
Effective Date: July 13, 2011

Previous Name:

ADMIRALS COVE HOMEOWNERS ASSOCIATION



Given under my hand and the seal of the State of Washington at Olympia, the State Capital.

Sam Reed, Secretary of State