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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

WASHINGTON STATE FOR PUBLIC SAFETY,
a Washington nonprofit organization;

Plaintiff,

vs.

KITSAP TENANT SUPPORT SERVICES, INC.,
a Washington corporation; WESTSOUND
SUPPORT SERVICES, LLC, a Washington
limited liability company, and TIMOTHY
CALNAN and LISA D. CALNAN, husband and
wife,

Defendants.

NO.

COMPLAINT FOR
NUISANCE, PERMANENT
INJUNCTION, ABATEMENT
AND DAMAGES

COMES NOW the Plaintiff, by and through the undersigned attorney, Shane R.
Seaman of Cross Sound Law Group, PLLC, for cause of action against the Defendants, and
alleges that:

I. Parties and Introduction

1.1 Plaintiff Washington State for Public Safety (“WSPS”) is a non-profit
organization, whose members include residents of the surrounding community and
individuals living in close proximity to 17373 Viking Way NW, Poulsbo, Washington,
where currently four Level III Sexually Violent Predators (SVPs), as determined by RCW

1 71.09, are currently residing under a court ordered Less Restrictive Alternative (“LRA”) to
2 total confinement.

3 1.2 Defendant Westsound Support Services, LLC, a Washington limited
4 liability company, UBI #604-189-170, (“WSS”), registered agent Havers Law Offices,
5 Inc., P.S., is the primary entity providing housing and services for the SVPs.
6

7 1.3. Defendant Kitsap Tenant Supports Services, Inc., a Washington corporation
8 (“KTSS”), registered agent Glen Garrison, is an entity that may be providing additional
9 services.
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11 1.4 Defendants Timothy Calnan and Lisa D. Calnan, husband and wife
12 (collectively, the “Calnans”), are the owners of 17373 and 17377 Viking Way NW,
13 Poulsbo, Washington.

14 **II. Jurisdiction and Venue**

15 2.1. Jurisdiction and venue are proper in Kitsap County pursuant to RCW
16 4.12.010(1) because the action involves nuisance damages to real property located within
17 Kitsap County, Washington.
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19 **III. Facts**

20 3.1 WSPS is a non-profit organization that was formed by neighbors in response
21 to some very alarming and potentially dangerous activity that was occurring at 17373
22 Viking Way NW, Poulsbo, Washington, in Kitsap County.
23

24 3.2 In fall of 2018 it came to the attention of the neighbors of 17373 Viking
25 Way NW that several SVPs were either living or intended to live at the location. This
26 occurred because of a Sheriff’s Office notification(s) in 2018 that went to some, but not all
the neighbors alerting them that a Level III SVP would be residing within the 17000 block

1 of Viking Way NW. This caused some of the neighbors to start inquiring, and through
2 access to public records, the neighbors discovered a dangerous condition existed within
3 their neighborhood.

4 3.3. Based upon information and belief, and pursuant to review of Court records,
5 Plaintiff alleges the following information regarding each SVP at 17373 Viking Way NW,
6 Poulsbo, Washington, in Kitsap County
7

8 **A. The SVPs.**

9 3.4 MIKE LOYLE. Mr. Loyle's ("Loyle") past includes recurrent sexually
10 coercive and violent offenses against children. Loyle was committed to Western State
11 Hospital ("WSH") for indecent exposure in 1972 when he was 16/17 years old. In 1974, he
12 was committed for indecent exposure. At 15 years old, Loyle exposed himself to a 9 and 10
13 year old. He reportedly has approximately 50 sexual contacts per WSH records. The
14 victims were two children, a 14 year old and 7 year old boy. In 1984, Loyle was arrested
15 for exposing himself to two 4 year old girls and asked them to masturbate him. When
16 witnesses of that incident tried to stop Loyle he aggressively drove directly into them in his
17 truck forcing them to jump out of the way. Department of Social and Health Services
18 ("DSHS") reported on September 7, 1984 another victim, a 4 to 5 year old girl. A guilty
19 plea was entered by Loyle. In 1989, Loyle was exposing his penis and playing with
20 himself at an apartment complex where children were playing. Between 1990-1992, Loyle
21 engaged in several sexual acts against a 7 year old female including digital penetration of
22 her vagina and taking nude photos of the victim's brother. He said he had touched the
23 girl's vagina 20 times over a year and a half period and masturbating in front of her on
24 several occasions. In 1992, the Olympia Police Department reported Loyle exposed
25
26

1 himself to three victims, two 7 year old girls and a 4 year old girl. He admitted
2 masturbating in front of them. The Twin Rivers Unit Sex Offender Program said Loyle
3 admitted he had difficulty controlling sexual impulses. In a 2016 interview with the senior
4 clinical team, Loyle said that his biggest risk is being around children. When asked about
5 'red flags' Loyle said going past a school or not communicating with his outside provider
6 were red flags. He said he could be successful in the community as long as he stays away
7 from children. Sex offenders like Loyle have been found to sexually reoffend at a rate of
8 21.2% in 5 years and 32.1% in 10 years. Thus there is a high risk of reoffending.

10 3.5 KIM DALY. Mr. Daly's ("Daly") past includes a conviction at the age of
11 20, on May 29, 1975, for indecent liberties. His victim was a 6 year old girl he had been
12 babysitting. At age 25, on July 24, 1980, he was again convicted of indecent liberties, this
13 victim was a 3 year old boy. Daly was sentenced to 5 years; the sentence was suspended in
14 lieu of treatment. WSH Sexual Psychopath Program found him unamenable to treatment
15 and remanded to DOC on March 9, 1985. He was then released to an Adult Family Home
16 in 1986. He then reoffended on May 12, 1999, when he was convicted again of indecent
17 liberties. Court records show from 1986-1998 Daly sodomized an elderly demented male
18 resident. Daly admitted to anal intercourse with two other male patients and vaginal
19 intercourse with an elderly woman on numerous occasions. During a 2002 polygraph,
20 Daly reported watching 3 young boys who lived next door and thinking about sexually
21 assaulting them. He also reported watching another young boy get off the school bus and
22 had fantasies of being his "best buddy" and taking him to an isolated place and having "sex
23 between his legs." Court records show that Daly's probation was revoked 5 times.
24
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26 Eventually his therapist (Comte's and Associates) terminated treatment due to his behavior

1 and his risk for sexual re-offense. In a 2006 Annual Review, it was noted that Daly
2 continues to be unable or unwilling to control his sexual behaviors, even in the most
3 restrictive setting available. In a 2015 Annual Review, it was noted that Daly's diagnosed
4 mental disorders continue to predispose him to the commission of criminal sexual acts with
5 male children. The doctor noted that Daly is more likely than not to molest a boy at some
6 point if unconditionally released to the community. A 2017 Annual Review noted that
7 there may never be a time where he can live independently in the community without
8 supervision. Daly is in a moderate to high risk to reoffend. In his 2017 Community
9 Treatment Plan, it was reported that Daly's previous SOTP provider estimated that Daly
10 had 35-40 victims from non-adjudicated offenses. A 2018 Annual Review, filed 3 months
11 before the Court granted Daly's LRA stated, "as noted in the previous Annual Review
12 report, Mr. Daly appears to have plateaued in treatment; he is at the same level he has been
13 at since early in his commitment and he has not demonstrated sufficient progress in
14 treatment to be promoted to a higher level of treatment than he was at nearly 10 years ago;
15 in fact following a sexual act with a peer he was moved back."
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19 3.6 ELMER TODD GILLIS. Mr. Gillis ("Gillis") has a history of committing
20 sexual offenses, primarily against adult females, however one of his victims was as young
21 as 14. His first conviction, at age 18, was for indecent liberties on July 12, 1984. Gillis
22 attempted to forcibly rape a woman, whose screams awoke her father which allowed her to
23 escape. Gillis was charged with rape in the 2nd degree at age 24 and convicted on March
24 30, 1990. In that incident when the victim attempted escape he chased her down, tackled
25 her and then raped her. At the age of 28 Gillis was again charged with rape in the 2nd
26 degree. The victim woke up with him on top of her, she struggled to get away but he

1 managed digitally penetrate her but she was able to then call 911. In a plea agreement he
2 pled to assault in the 4th degree with sexual motivation on November 11, 1993. While that
3 crime was being investigated, Gillis was also involved in another incident on June 12, 1993
4 where he again attempted to forcibly rape a 14 year old victim. She sustained facial bruises,
5 her left eye had swollen shut, and she suffered hearing loss of one of her ears. Gillis was
6 convicted of assault in the 2nd degree with sexual motivation on July 29, 1993. Gillis has
7 also been convicted of assault for domestic violence in 1988. Gillis had been given a
8 previous LRA, but it had been revoked. Gillis has been found to be aggressive toward staff
9 members, and a May 20, 2018 incident alleged he made physical contact with an SCC staff
10 member. It has been noted he has a history of “grabbing” and frottage against female staff
11 members. Court records indicate that in the review it was noted that community members
12 cannot be entirely safeguarded against this behavior if Gillis is on a community outing.
13 Pursuant to the annual review, he was asked how likely he would be to reoffend, he
14 acknowledged it was always a possibility and estimated a 10% chance of risk. However,
15 his actual risk of reoffending is much higher. Gillis has been assessed at a Risk Level IVb,
16 or Well Above Average Risk, for being charged with or convicted of another sexual
17 offense, having been deemed to be a sexual offender that is too dangerous to be released
18 into the community.
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22 3.7 WILLIAM DEAVILLE. Mr. Deaville’s (“Deaville”) past includes a
23 conviction on April 15, 1983, when at 16, Deaville committed his first adjudicated sexual
24 offense against a 6 year old boy who was returning home from school. When questioned
25 regarding the incident, Deaville admitted to oral contact with the boy, as well as 50 other
26 children. He confessed to asking 2 other children to remove their pants. At age 17,

1 Deaville sexually reoffended while still on probation for the offense against a 6 year old
2 boy. He offended against 3 young boys between the ages of 4 and 6 over an extended
3 period of time. According to police reports, Deaville threatened to hit his victims on the
4 head with a hammer if they told anyone. Deaville sexually reoffended while detained at the
5 Echo Glen Children's Center, occurring against a 13 year old boy. Deaville offended again
6 at age 22, not long after his release from the Echo Glen Children's Center, where he was
7 observed sexually offending a 10 year old boy in the bushes behind an ice cream store in
8 Bremerton, Washington. He has admitted to anally raping this boy in a treehouse. The
9 police investigation revealed another victim at that time, an 11 year old boy Deaville had
10 molested over an extended period. In an Annual Review, Deaville reported that he knew a
11 majority of his victims from his neighborhood paper route. He stated that he typically
12 offended against his victims "around the house, in a field, in a tree fort, or down the block."
13
14 On March 11, 2011, the Court granted Deaville a conditional release to a LRA, but it did
15 not last. Deaville has been placed in the moderate – high risk category for being charged
16 with or convicted of another sexual offenses, estimated to sexually reoffend at a rate of
17 about 21.2% in 5 years and about 32.1% in 10 years. According to the records, Deaville's
18 condition makes him predisposed to act on sexual urges involving children, and has
19 difficulty controlling his behavior and sexual urges, even while in confinement.
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22 3.8. Loyle, Gillis, Daly and Deaville have all been determined by a Court to be a
23 Level III SVP, yet, despite their high level of dangerousness and level of potential
24 reoffending, they have been granted an LRA permitting them to reside within a residential
25 community at 17373 Viking Way NW.
26

1 3.9 The Washington State Department of Social and Health Services (DSHS)
2 does not determine the appropriateness of the LRA locations. See Declaration of Special
3 Commitment Center Chief Executive Officer Sjan Talbot, filed August 1, 2018, Pierce
4 County Superior Court Cause No 18-2-08238-8. DSHS does not have any authority to
5 impose conditions or require a placement at a specific location.
6

7 3.10 DSHS has contracted out responsibility of these SVPs to WSS. Under the
8 contract, WSS is to house persons, in this case SVPs, civilly committed and conditionally
9 released to a LRA. Responsibilities include providing supervision and security for these
10 persons and to ensure the provisions of sex offender treatment are being met. WSS is paid
11 for this service and the state saves money by farming out housing and care of these
12 individuals. WSS selected 17373 Viking Way NW, Poulsbo, Washington, in Kitsap
13 County.
14

15 3.11 WSS has a contract, and through its agent Alan Frey, has promised to the
16 Court to provide 24/7 monitoring to the SVPs, provide escort and chaperone services and
17 ensure residents are transported and meeting with sex offender treatment providers. This
18 description from the contract practically tracks the statutory language describing a Secured
19 Community Transition Facility (“SCTF”). The SVP residents are in confinement. They are
20 not permitted to move about freely.
21

22 **B. The neighborhood.**

23 3.12 The 17373 Viking Way NW property is located within a residential zone,
24 and pursuant to Kitsap County records is noted as a single family residence located within
25 a rural wooded zone.
26

1 3.13 The 17373 Viking Way NW property is visible from the street and the
2 surrounding adjacent neighbors.

3 3.14 Surrounding the 17373 Viking Way NW property is a residential
4 neighborhood, with an estimated 40 plus children living in the vicinity.

5 3.15 There are approximately 25 children's bus stops within 1 mile of the 17373
6 Viking Way NW property. There are 4 within approximately 1,000 feet, and one bus stop
7 directly across the street.
8

9 3.16 Hilder Pearson Elementary is one (1) mile and one and three tenths (1.3)
10 mile by road of the 17373 Viking Way NW property. There are home schools .2 and .4
11 miles from the residence, as well as a children's tutoring service across the street.

12 3.17 A private in-home daycare exists approximately 1.2 miles of the 17373
13 Viking Way NW property.
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15 3.18 The Scandia Bible Church is located .6 miles from the 17373 Viking Way
16 NW property and Olympic Evangelical Free Church is located 1.6 miles from the 17373
17 Viking Way NW property.
18

19 3.19 Nelson Park and Fish Park are located within two miles of the residence.
20 Regal Cinema is located within 1.9 miles.

21 3.20 There are children within the line of sight of the 17373 Viking Way NW
22 property at the immediately adjacent residence. See RCW 71.09.285. There are children
23 living across the street and down the road in both directions. Due to the nature and
24 character of the neighborhood, there are children frequently around the 17373 Viking Way
25 NW property.
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1 **C. Lack of Adequate Public Notice**

2 3.21 WSS, KTSS and DSHS did not provide notification to the public, Kitsap
3 County or the City of Poulsbo of the intent to locate a home at the 17373 Viking Way NW
4 property.

5 3.22 The Kitsap County Prosecutor’s Office was not provided notice of out of
6 county SVPs being located at 17373 Viking Way NW property, which is required by law.

7 3.23 The only notification regarding the relocation of these SVPs to the residence
8 was a Sheriff’s Office bulletin sent to some of the neighbors. This notification was
9 insufficient as it did not include notice that four sex offenders would be housed there.
10 Because the Sheriff’s Office does not identify the residence by house number, only by
11 block number and due to the fact that numerous residences did not receive actual notice,
12 Plaintiff alleges the notice was inadequate.

13 **D. 17373 Viking Way NW is a Secure Community Transition Facility or**
14 **some other undefined enhanced service facility.**

15 3.24 The nature and use of the home is a SCTF.

16 3.25 SCTF as a residential facility for persons civilly committed and
17 conditionally released to a less restrictive alternative under RCW 71.09. An SCTF has
18 supervision and security, and either provides or ensures the provision of sex offender
19 treatment services. SCTFs include, but are not limited to, the facility established pursuant
20 to RCW 71.09.250(1)(a)(i) and any community-based facilities established under RCW
21 71.09 and operated by the secretary or under contract with the secretary.
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1 3.26 The residence at 17373 Viking Way NW's purpose is to confine the SVPs,
2 they are not permitted to freely come and go. It has an alarm system and cameras
3 monitoring the SVPs entry and exit of the residence.

4 3.27 WSS provides 24/7 monitoring. The SVPs are in confinement, and are not
5 permitted to move freely, as they have been determined to be extremely dangerous.
6

7 3.28 WSS ensures that the SVP residents at 17373 Viking Way NW attend to
8 their off site, out patient sex offender treatment. According to court records, members of
9 WSS are either on the SVPs transition team or ordered to have notice and the ability to
10 attend and offer input at all transition team meetings because of their unique position of
11 providing daily supervision and treatment services to the SVPs. The transition team's
12 purpose is to set goals, rules and to monitor community safety and sexual deviance
13 treatment for all of the SVPs.
14

15 3.29 Although measures are taken to secure the SVPs, Plaintiff alleges the
16 measures are inadequate to properly protect the safety of the community. Plaintiff further
17 alleges that no party adequately represented the neighborhood's interest to the Court when
18 placing these SVPs at 17373 Viking Way NW.
19

20 3.30 The Court ordered conditions of the LRA restrict the SVPs' civil rights
21 substantially.

22 3.31 An adult family home's purpose is not to confine its residence for the
23 purpose of protecting the neighborhood. An adult family home cannot restrain its residents
24 and they are guaranteed basic civil and legal rights. See WAC 388-76.
25

26 3.32 WSS does not have a license to operate an adult family home at this
location. This is not an adult family home.

1 3.33 The security of the residence is inadequate. Real time cameras and alarm
2 chimes are believed to exist on the doors, although each DOC report to the Court for
3 release of the SVPs has differing information. However, per the Court order and
4 documents, no party has verified the adequacy of the security or demonstrated its ability to
5 protect the public.

6 **E. Use of Residence to confine SVPs is per se violation of zoning code.**

7 3.34 KCC 17.410.042 does not allow SCTFs to exist within a residential zone.

8 3.35 Kitsap County codes do not permit a building or structure to exist within a
9 residential zone which sole purpose is a privately owned and operated for profit business
10 that confines SVPs.

11 3.36 Kitsap County Board of Commissioners intends to pass an emergency
12 ordinance on March 25, 2019 to restrict this type of home and preclude it from the current
13 zone.

14 3.37 On March 5, 2019, Jim Bolger, Kitsap County Department of Community
15 Development, sent Defendants notice that 17373 Viking Way NW operating as a residence
16 housing SVPs on a Court ordered LRA under RCW 71.09 is a violation of the County
17 Zoning Code, and they must cease operation. The County did not immediately shut the
18 residence down, and thus, during the appeal process, the SVPs may continue to reside in
19 the neighborhood.

20 3.38 This residence is a per se violation of the zoning code and is therefore
21 deemed a public nuisance. KCC 17.110.515.

1 **F. Use of Residence to confine SVPs is a nuisance.**

2 3.39 The residence is a danger to the community, is a public nuisance and is a
3 private nuisance.

4 3.40 A public nuisance is one that affects equally the rights of an entire
5 community or neighborhood, although the extent of the damage may be unequal.

6 3.41 Plaintiff alleges the residence is a danger to the community. The ongoing
7 operation of the residence at the 17373 Viking Way NW property without adequate
8 physical facilities to confine SVPs to the property and entirely prevent their escape creates
9 an ongoing risk of the SVPs escaping the property and injuring persons, raping, molesting
10 or sexually assaulting children. The 17373 Viking Way NW property constitutes a public
11 nuisance under RCW 7.48.120.

12 3.42 A finding of actual harm is NOT necessary to support a determination that
13 an activity constitutes a safety nuisance. Nuisance can be based on a reasonable fear of
14 harm. This fear need not be scientifically founded, so long as it is not unreasonable.
15 Plaintiff and the surrounding neighbors have a reasonable fear that the SVPs can and will
16 cause harm given their recognized and documented risk of reoffending, the location of the
17 residence in a neighborhood full of children and the inadequate security at the 17373
18 Viking Way NW property.

19 3.43 Plaintiff alleges the existence of the residence is interfering with their
20 private use and enjoyment of the property.

21 3.44 Lawful action may still be a nuisance based on the unreasonableness of the
22 locality, manner of use and circumstances of the case.
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2. For an order declaring the housing of Level III SVPs at 17373 Viking Way NW is a private nuisance and awarding damages in an amount to be proven at trial.

3. For a permanent injunction and order abating Defendants from using 17373 Viking Way NW to house any kind or level of SVP.

4. For an permanent injunction and order abating Defendants from housing any kind or level of SVP anywhere within Kitsap County without proper zoning and public notification.

5. For an order declaring Plaintiff's rights, an order requiring the government to give the public notice before housing SVPs, finding that 17373 Viking Way NW is a Secured Community Transition Facility in its current use.

6. For an award of attorney fees as authorized by statute per any applicable legal theory or equitable reason.

7. For other relief the Court finds equitable and just.

DATED this _____ day of March 2019.

CROSS SOUND LAW GROUP, PLLC

CROSS SOUND LAW GROUP, PLLC

Shane Seaman, WSBA #35350
Attorney for Plaintiff

Bert D. Boughton, WSBA #22026
Attorney for Plaintiff

VERIFICATION

1
2 The Plaintiff declares on this _____ day of March 2019, at Poulsbo, Washington,
3 under penalty of perjury under the laws of the State of Washington that she is the Plaintiff
4 named in this Complaint, has read the Complaint, and knows its contents and that the
5 statements made in this Complaint are true and correct to the best of her knowledge.
6

7 WASHINGTON STATE FOR PUBLIC SAFETY
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9 _____
10 By: Pamela Benson
11 Its: Executive Director
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