

65226-5

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No. 65226-5-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

CITY OF SEATTLE, a municipal corporation,

Appellant,

vs.

HUGH K. SISLEY AND MARTHA E. SISLEY, individually and on
behalf of their marital community,

Respondent.

BRIEF OF APPELLANT

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ORIGINAL

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RCW 3.66.020	<i>passim</i>
RCW 35.20.030	<i>passim</i>
RCW 35.20.250	<i>passim</i>

Seattle Municipal Code

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I. INTRODUCTION

The Seattle Municipal Court (municipal court), acting under the authority of RCW 35.20.030, heard two separate civil code enforcement actions against the Sisleys for violating the Seattle Housing and Building Maintenance Code (housing code). Following the trials, municipal court issued judgments for \$247,000 and \$368,000 respectively. Under RCW 35.20.030, there is no limitation on the amount of civil penalties municipal court may impose.

On appeal, the King County Superior Court (RALJ Court) ruled that RCW 35.20.250, the statute granting municipal court concurrent jurisdiction with district courts to hear violations of state law, subjected municipal court to the same \$75,000 jurisdictional claim limitation that district courts are subject to under RCW 3.66.020. The RALJ Court remanded the cases for entry of \$75,000 judgments.

The RALJ Court erred when it ruled that municipal court was subject to RCW 3.66.020 when assessing penalties for violations of municipal ordinances. This claim limitation applies only when municipal court is acting as a district court under RCW 35.20.250 and hearing violations of state law. RCW 3.66.020 does not apply when municipal court is hearing violations of city ordinances.

II. ASSIGNMENT OF ERROR

The RALJ Court erred when it remanded Seattle Municipal Court Case Nos. 08-100 and 09-024 for entry of judgments in an amount no greater than permitted by district courts under RCW 3.66.020.

III. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

RCW 35.20.030 grants the Seattle Municipal Court independent authority to try violations of all City ordinances and does not limit the amount of civil penalties the court may impose. RCW 35.20.250 grants municipal court concurrent jurisdiction with district courts to try violations of state law, and RCW 3.66.020 limits district court claims to \$75,000. Is municipal court subject to district court's \$75,000 claim limitation when it hears violations of city ordinances?

IV. STATEMENT OF THE CASE

The City filed civil code enforcement actions against the Sisleys in municipal court for violating the housing code in two of their rental properties. After separate trials, both courts ruled the Sisleys committed the violations and entered penalty judgments.¹ The Sisleys appealed the

¹ Clerk's Papers at 4-12 (Judgment 09-024); Clerk's Paper's at 89-97 (Judgment 08-100).

judgments to King County Superior Court (RALJ Court) and the cases were consolidated for review.

The RALJ Court affirmed both trial courts' decisions except for the penalty amounts.² The RALJ court ruled that RCW 35.20.250, the concurrent jurisdiction statute, subjected municipal court to the same \$75,000 jurisdictional claim limit applicable to district courts under RCW 3.66.020.³ The RALJ Court remanded the cases for issuance of \$75,000 judgments consistent with its ruling.⁴

The Court of Appeals then granted the City's Motion for Partial Discretionary Review to determine whether RCW 35.20.250 and RCW 3.66.020 apply to municipal courts when they are hearing violations of city ordinances.⁵

V. ARGUMENT

A. The plain language of RCW 35.20.030 does not limit civil penalties when municipal court is hearing violations of municipal ordinances.

The Seattle Municipal Court did not exceed its civil jurisdiction under RCW 35.20.030 when it found the Sisleys had violated the housing code and assessed civil penalties for \$247,000 and \$368,000. The

² Clerk's Papers at 157 – 159 (RALJ Order).

³ *Id.*

⁴ *Id.*

⁵ Court of Appeals' Order on Petitions for Discretionary Review.

legislature authorized municipal court to try all violations of municipal ordinances and placed no jurisdictional limit on the civil penalties the court could impose.⁶

The RALJ Court erred when it ruled RCW 35.20.030 was ambiguous and when it interpreted RCW 35.20.250 to mean that civil penalty actions brought in municipal court to enforce municipal ordinances are subject to the same jurisdictional claim limits as district courts under RCW 3.66.020. RCW 3.66.020 only applies to municipal courts when they are acting in their district court capacity trying state law claims.

This Court should reverse the RALJ Court and give effect to the plain meanings of RCW 35.20.030 and RCW 35.20.250 as an expression of legislative intent. When statutory language is plain and unambiguous, the statute's meaning must be derived from the wording of the statute.⁷ The plain meaning of a statutory provision is to be discerned from the ordinary meaning of the language, the context of the statute, related provisions, and the statutory scheme as a whole.⁸ A reading that produces absurd results

⁶ RCW 35.20.030.

⁷ *Post v. City of Tacoma*, 167 Wn.2d 300, 310, 217 P.3d 1179 (2009) (quoting *Chelan County v. Nykreim*, 146 Wn.2d. 904, 926, 52 P.3d 1 (2002)).

⁸ *Id.*

should be avoided because we presume the legislature does not intend them.⁹

The plain meaning of RCW 35.20.030 is to provide jurisdiction to municipal courts to hear and determine all violations of city ordinances and to pronounce judgment in accordance with the ordinances:

The municipal court shall have jurisdiction to try violations of all city ordinances . . . and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: PROVIDED, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five thousand dollars . . .¹⁰

Although the statute limits criminal penalties, it does not limit civil penalties.

The plain meaning of RCW 35.20.250 is to provide municipal courts concurrent jurisdiction with district courts to hear state law violations:

The municipal court shall have concurrent jurisdiction with the superior court and district court in all civil and criminal matters as now provided by law for district judges.... Fines, penalties, and forfeitures before the court under the provisions of this section shall be paid to the county treasure as provided for district court . . .¹¹

This statute allows municipal courts to act in the same capacity as district courts. When exercising jurisdiction under RCW 35.20.250, municipal

⁹ *State v. Vela*, 100 Wn.2d 636, 641, 673 P.2d 185 (1983).

¹⁰ RCW 35.20.030.

¹¹ RCW 35.20.250.

courts are subject to the same \$75,000 claim limit as district courts under RCW 3.66.020:

If the value of the claim or the amount at issue does not exceed seventy-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings: . . . (3) Actions for a penalty. . .¹²

The language of these statutes is plain and unambiguous.

Municipal court is subject to the claim limitations of RCW 3.66.020 when acting in its district court capacity, but not subject to claim limitations when trying violations of municipal ordinances. The RALJ Court's interpretation is contrary to the statutory language and should be reversed.

Additionally, the RALJ Court's interpretation should be reversed because it would lead to absurd results. The plain language of RCW 35.20.250 mandates all penalties be paid to the county treasurer. Under the RALJ Court's interpretation, municipal court would have to turn over all penalties assessed for violations of municipal ordinances to the county treasurer, not the city treasurer. No rational basis exists for allowing the county to financially benefit from violations of municipal ordinances tried in municipal court.

¹² RCW 3.66.020.

B. The RALJ Court's interpretation improperly limits the powers granted to first-class cities.

First-class cities, including Seattle, are self-governing bodies and the only limitation on their power is that their actions cannot contravene constitutional provisions or legislative enactments.¹³ The City Council, exercising the powers granted to it, amended the Housing Code in 2007 to increase the amount of penalties municipal court could assess for violations of the Housing Code.¹⁴ The RALJ Court's ruling that municipal court is subject to the \$75,000 claim limit in RCW 3.66.020 when enforcing municipal ordinances limits the authority granted to the City Council to determine penalties sufficient to protect rental-house occupants and neighborhoods from landlords who ignore the Housing Code. This Court should reverse the RALJ Court ruling because it diminishes the authority granted to the City Council to govern and establish standards for protecting the public and preserving the City's rental housing stock.

¹³ *Wickenwerder v. City of Yakima*, 52 Wn.2d 617, 622, 328 P.2d 873 (1958) "It is evident from the Constitution of this state and legislative enactments that in Washington cities of the first class are vested with very extensive powers, and ... the statutes of this state concerning the same must be liberally construed by the courts for the purpose of carrying out the manifest intent of the Legislature to establish cities of the first class as self-governing bodies, only subject to and controlled by general laws."

¹⁴ SMC 22.206.280.

C. The State Supreme Court determined that RCW 35.20.250 grants municipal court the authority to hear state law violations, but does not limit municipal court's authority to assess civil penalties when trying municipal ordinance violations.

A fundamental rule of statutory construction is that once the highest court construes a statute, that construction operates as if it were originally written into the statute.¹⁵ Here, the Supreme Court construed the purpose of RCW 35.20.250 in *Avlonitis v. Seattle* as granting municipal courts concurrent jurisdiction with district courts to hear violations of state law while retaining independent jurisdiction to hear violations of city ordinances:

The grant of concurrent jurisdiction contained in RCW 35.20.250 is not unlimited. Rather, it grants municipal courts concurrent jurisdiction in those civil and criminal matters which are by law placed within the jurisdiction of justice courts (i.e. *violations of state laws as opposed to violations of municipal ordinances*). The *municipal courts, however, retain exclusive original jurisdiction to try all violations of municipal ordinances* subject only to review by the court. *Such interpretation* gives meaning to the balance of RCW 35.20.250 which authorizes a municipal judge to sit as a magistrate in preliminary hearings and also *gives meaning to the directive that fines, penalties and forfeitures shall be paid to the county treasurer rather than into the city treasury...*¹⁶

¹⁵ *Hale v. Wellpinit Sch. Dist. No. 49*, 165 Wn.2d 494, 506, 198 P.3d 1021 (2009).

¹⁶ *Avlonitis v. Seattle District Court*, 97 Wn.2d 131, 136-137, 641 P.2d 169 (1982) (Emphasis added).

The *Avlonitis* Court recognized that RCW 35.20.250 grants municipal courts additional authority to hear violations of state law, but does not restrict the authority originally granted to municipal courts to try violations of municipal law.

In 2004, the Supreme Court in *City of Spokane v. County of Spokane*, affirmed the *Avlonitis* Court's interpretation of RCW 35.20.250 when it cited to *Avlonitis* for the proposition that municipal courts have concurrent jurisdiction with district courts when sentencing under a state statute but act within their exclusive original jurisdiction when enforcing municipal ordinances.¹⁷

This Court should reverse the RALJ Court ruling because the Supreme Court has already construed the concurrent jurisdiction statute as expanding municipal courts' jurisdiction to hear state law based violations, not limiting municipal courts' authority under RCW 35.20.030 to impose civil penalties arising out of the enforcement of city ordinances.

D. The absence of civil penalty limits in RCW 35.20.030 was intended by the legislature.

When a statute lists the things it operates on, there is a presumption the legislature intended omissions to the list.¹⁸ In RCW 35.20.030, the

¹⁷ *City of Spokane v. County of Spokane*, 158 Wn.2d 661, 682, 146 P.3d 893 (2006).

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legislature limited criminal violation fines to \$5,000 and omitted limits on civil penalties. The Court must, therefore, presume the legislature intended this omission.

The legislative history of RCW 35.20.030 and RCW 3.66.020 supports this presumption. Although the legislature amended RCW 35.20.030 six times since 1955, including amendments to increase the maximum criminal penalty amounts, the legislature never established civil penalty limits.¹⁹ In comparison, since 1961 the Legislature amended RCW 3.66.020 ten times and increased the monetary limit for district court civil jurisdiction in seven of those amendments.²⁰ This history supports the presumption that the legislature's omission of civil penalty limits under RCW 35.20.030 was intentional.

VI. CONCLUSION

The City respectfully requests this Court reverse the RALJ Court ruling because RCW 35.20.030 imposes no civil penalty limitations for violations of City ordinances, and the jurisdictional claim limit of RCW

¹⁹ RCW 35.20.030 [2005 c 282 § 41; 2000 c 111 § 7; 1993 c 83 § 3; 1984 c 258 § 801; 1979 ex.s. c 136 § 23; 1965 c 7 §35.20.030. Prior: 1955 c 290 § 3].

²⁰ RCW 3.66.020 [2008 c 227 § 1; 2007 c 46 § 1; 2003 c 27 § 1; 2000 c 49 § 1; 1997 c 246 § 1; 1991 c 33 § 1; 1984 c 258 § 41; 1981 c 331 § 7; 1979 c 102 § 3; 1965 c 95 § 1; 1961 c 299 § 113].

3.66.020 applies only to municipal courts when they are acting in their district court capacity as allowed by RCW 35.20.250.

Respectfully submitted this 20th day of December, 2010.

PETER S. HOLMES
Seattle City Attorney

By: Tamara Van Ness
TAMERA VAN NESS, WSBA #18648
Assistant City Attorney
Attorneys for Appellant
The City of Seattle

CERTIFICATE OF SERVICE

I certify that on the 20th day of December, 2010, I caused a copy of the **Brief of Appellant** to be served on the following party in the manner indicated:

Jeffrey C. Grant (X) Messenger
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1301 Fifth Avenue, Suite 3401
Seattle, WA 98101
Attorney for Respondent
Hugh K. Sisley and Martha E. Sisley

the foregoing being the last known address of the above-named party.

Rosie Lee Hailey
ROSIE LEE HAILEY

2010 DEC 20 PM 1:06

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legislature authorized municipal court to try all violations of municipal ordinances and placed no jurisdictional limit on the civil penalties the court could impose.⁶

The RALJ Court erred when it ruled RCW 35.20.030 was ambiguous and when it interpreted RCW 35.20.250 to mean that civil penalty actions brought in municipal court to enforce municipal ordinances are subject to the same jurisdictional claim limits as district courts under RCW 3.66.020. RCW 3.66.020 only applies to municipal courts when they are acting in their district court capacity trying state law claims.

This Court should reverse the RALJ Court and give effect to the plain meanings of RCW 35.20.030 and RCW 35.20.250 as an expression of legislative intent. When statutory language is plain and unambiguous, the statute's meaning must be derived from the wording of the statute.⁷ The plain meaning of a statutory provision is to be discerned from the ordinary meaning of the language, the context of the statute, related provisions, and the statutory scheme as a whole.⁸ A reading that produces absurd results

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This statute allows municipal courts to act in the same capacity as district courts. When exercising jurisdiction under RCW 35.20.250, municipal

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B. The RALJ Court's interpretation improperly limits the powers granted to first-class cities.

First-class cities, including Seattle, are self-governing bodies and the only limitation on their power is that their actions cannot contravene constitutional provisions or legislative enactments.¹³ The City Council, exercising the powers granted to it, amended the Housing Code in 2007 to increase the amount of penalties municipal court could assess for violations of the Housing Code.¹⁴ The RALJ Court's ruling that municipal court is subject to the \$75,000 claim limit in RCW 3.66.020 when enforcing municipal ordinances limits the authority granted to the City Council to determine penalties sufficient to protect rental-house occupants and neighborhoods from landlords who ignore the Housing Code. This Court should reverse the RALJ Court ruling because it diminishes the authority granted to the City Council to govern and establish standards for protecting the public and preserving the City's rental housing stock.

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C. The State Supreme Court determined that RCW 35.20.250 grants municipal court the authority to hear state law violations, but does not limit municipal court's authority to assess civil penalties when trying municipal ordinance violations.

A fundamental rule of statutory construction is that once the highest court construes a statute, that construction operates as if it were originally written into the statute.¹⁵ Here, the Supreme Court construed the purpose of RCW 35.20.250 in *Avlonitis v. Seattle* as granting municipal courts concurrent jurisdiction with district courts to hear violations of state law while retaining independent jurisdiction to hear violations of city ordinances:

The grant of concurrent jurisdiction contained in RCW 35.20.250 is not unlimited. Rather, it grants municipal courts concurrent jurisdiction in those civil and criminal matters which are by law placed within the jurisdiction of justice courts (i.e. *violations of state laws as opposed to violations of municipal ordinances*). The *municipal courts, however, retain exclusive original jurisdiction to try all violations of municipal ordinances* subject only to review by the court. Such interpretation gives meaning to the balance of RCW 35.20.250 which authorizes a municipal judge to sit as a magistrate in preliminary hearings and also gives meaning to the directive that fines, penalties and forfeitures shall be paid to the county treasurer rather than into the city treasury...¹⁶

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¹⁶ *Avlonitis v. Seattle District Court*, 97 Wn.2d 131, 136-137, 641 P.2d 169 (1982) (Emphasis added).

The *Avlonitis* Court recognized that RCW 35.20.250 grants municipal courts additional authority to hear violations of state law, but does not restrict the authority originally granted to municipal courts to try violations of municipal law.

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This Court should reverse the RALJ Court ruling because the Supreme Court has already construed the concurrent jurisdiction statute as expanding municipal courts' jurisdiction to hear state law based violations, not limiting municipal courts' authority under RCW 35.20.030 to impose civil penalties arising out of the enforcement of city ordinances.

D. The absence of civil penalty limits in RCW 35.20.030 was intended by the legislature.

When a statute lists the things it operates on, there is a presumption the legislature intended omissions to the list.¹⁸ In RCW 35.20.030, the

¹⁷ *City of Spokane v. County of Spokane*, 158 Wn.2d 661, 682, 146 P.3d 893 (2006).

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The legislative history of RCW 35.20.030 and RCW 3.66.020 supports this presumption. Although the legislature amended RCW 35.20.030 six times since 1955, including amendments to increase the maximum criminal penalty amounts, the legislature never established civil penalty limits.¹⁹ In comparison, since 1961 the Legislature amended RCW 3.66.020 ten times and increased the monetary limit for district court civil jurisdiction in seven of those amendments.²⁰ This history supports the presumption that the legislature's omission of civil penalty limits under RCW 35.20.030 was intentional.

VI. CONCLUSION

The City respectfully requests this Court reverse the RALJ Court ruling because RCW 35.20.030 imposes no civil penalty limitations for violations of City ordinances, and the jurisdictional claim limit of RCW

¹⁹ RCW 35.20.030 [2005 c 282 § 41; 2000 c 111 § 7; 1993 c 83 § 3; 1984 c 258 § 801; 1979 ex.s. c 136 § 23; 1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3].

²⁰ RCW 3.66.020 [2008 c 227 § 1; 2007 c 46 § 1; 2003 c 27 § 1; 2000 c 49 § 1; 1997 c 246 § 1; 1991 c 33 § 1; 1984 c 258 § 41; 1981 c 331 § 7; 1979 c 102 § 3; 1965 c 95 § 1; 1961 c 299 § 113].

3.66.020 applies only to municipal courts when they are acting in their district court capacity as allowed by RCW 35.20.250.

Respectfully submitted this 20th day of December, 2010.

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CERTIFICATE OF SERVICE

I certify that on the 20th day of December, 2010, I caused a copy of the **Brief of Appellant** to be served on the following party in the manner indicated:

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the foregoing being the last known address of the above-named party.

Rosie Lee Hailey
ROSIE LEE HAILEY