76771-2

NO. 76771-2-I

IN THE COURT OF APPEALS, DIVISION ONE

OF THE STATE OF WASHINGTON

BRANDON WELCH, a single man,
Respondent,

v.

ROGER R. BOARDMAN, a single man,
Defendant,

and,

THE CITY OF BURLINGTON, WASHINGTON, a municipal corporation,
Petitioner.

BRIEF OF *AMICUS CURIAE* WASHINGTON STATE ASSOCIATION OF MUNICIPAL ATTORNEYS

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I. INTRODUCTION

For decades, Washington courts have adhered to the following principle: when the legislature specifies a particular person who can accept service of process on behalf of a municipality, no other person can be substituted. As authorized by state law for code cities employing a mayor-council form of government, the City of Burlington adopted an ordinance creating the position of city administrator, BURLINGTON MUNICIPAL CODE (BMC) § 2.08.010, vesting that official with the "responsibility and duty … to … [a]ssist the mayor in day-to-day operations which shall including the handling of complaints and talking with the public," *id.* § 2.08.030(C). The trial court concluded this code provision was sufficient to "designate[]" the city administrator to be the mayor's "agent" to accept service of a summons under RCW 4.28.080(2). This is incorrect.

Upholding the trial court's order would upset years of precedent and inject precisely the type of unwarranted uncertainty the legislature sought to avoid. This case also affords this Court with the first opportunity to clarify how an "agent" may be "designated" under RCW 4.28.080(2) to accept a summons on behalf of a mayor or city manager. For the reasons explained below, *amicus curiae* submits that only two conclusions are possible: if the municipality's council can designate an agent, it must do so by expressly designating one with authority to accept

a "summons," or (2) only the agent's statutorily designated principal—the mayor or city manager—can make such a designation. Under either alternative, service on Burlington's city administrator is insufficient.

Therefore, this Court should reverse.

II. IDENTITY AND INTEREST OF *AMICUS CURIAE*

The Washington State Association of Municipal Attorneys (WSAMA) is a non-profit organization of municipal attorneys in Washington. WSAMA members represent municipalities throughout the state, as both in-house counsel and as private, outside legal counsel.

WSAMA has a strong interest in ensuring that Washington law remains consistent in how courts acquire jurisdiction over municipalities. Though RCW 4.28.080(2) has for 30 years authorized a city to be served via the "mayor's or city manager's designated agent," no court to date has specified what is necessary for a person to be such a "designated agent." This case affords a Washington appellate court with the first opportunity to provide clarity on this point of law. Therefore, WSAMA has a strong interest in the outcome of this case.

III. STATEMENT OF THE CASE

WSAMA adopts the Statement of the Case as set forth in Burlington's opening brief. Br. of Pet'r at 4-7. For purposes relevant here, the only Burlington official served with process prior to the

expiration of the statute of limitations was its city administrator. The only cited source of the administrator's authority to do so is Burlington's Municipal Code, which vests the administrator with the duty to "[a]ssist the mayor in day-to-day operations which shall include the handling of complaints and talking with the public." BMC § 2.08.030(C).

IV. ARGUMENT

"Proper service of process is basic to personal jurisdiction." *Ralph's Concrete Pumping, Inc. v. Concord Concrete Pumps, Inc*., 154 Wn. App. 581, 585, 225 P.3d 1035 (2010). In order to acquire jurisdiction over a defendant, service of summons and process in civil cases within Washington must comply with RCW 4.28.080-.090. CR 4(d)(2).

The statute governing service of process, RCW 4.28.080, carefully circumscribes those who may accept service of process for artificial legal entities. In regards to cities and towns, the statute states:

> Service made in the modes provided in this section shall be taken and held to be personal service. The summons shall be served by delivering a copy thereof, as follows:
>
> ….
>
> (2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

RCW 4.28.080(2). The trial court below concluded that service of process upon Burlington's city administrator was sufficient. That is incorrect.

A. The absence of any statutory correction to case law adopting strict compliance confirms the legislature's acquiescence in the courts' adoption of the doctrine.

Thirty-seven years ago, this Court upheld the dismissal of an action against a city when the plaintiff's process server delivered the summons to the mayor's secretary instead of the mayor himself. *Meadowdale Neighborhood Comm. v. City of Edmonds*, 27 Wn. App. 261, 267, 616 P.2d 1257 (1980). At that time, and since the time of statehood, only the mayor was authorized to accept service on a city's behalf. Former RCW 4.28.080(2) (1977); LAWS OF 1893, ch. 128, § 7 (reflecting same language in effect in 1980). *Meadowdale* held "in actions involving municipalities, strict compliance with the statutory requirements of service of process is a prerequisite to the court's acquiring jurisdiction over a city." *Id.* It further held that "[w]hen a statute designates a particular person or officer upon whom service of process is to be made in an action against a municipality, no other person or officer may be substituted." *Id.* at 264. The court outlined the sound policy reasons supporting this view:

> To hold otherwise under the factual circumstances here presented would open the door to a host of problems which would inevitably arise in similar situations. Courts would be called upon to decide, for example, whether delivery of the summons to a deputy mayor is sufficient, or to a mayor's administrative assistant, or to the secretary to an administrative assistant, and so on. Confusion and uncertainty can be avoided by interpreting the statute according to its plain terms.

Id. Both the Supreme Court and this Court have followed *Meadowdale*'s approach to uphold dismissals when the plaintiff failed to serve the correct person when attempting to sue a government entity. *Nitardy v. Snohomish County*, 105 Wn.2d 133, 134-35, 712 P.2d 296 (1986); *Davidheiser v. Pierce County*, 92 Wn. App. 146, 153, 960 P.2d 998 (1998).

Since *Meadowdale*, the legislature has amended RCW 4.28.080 seven times,[1] but has not seen fit to overrule that *Meadowdale*'s adherence to strict compliance and prohibition against substitution. "The Legislature is deemed to acquiesce in the interpretation of the court if no change is made for a substantial time after the decision." *State v. Coe*, 109 Wn.2d 832, 846, 750 P.2d 208 (1988) (concluding that "legislative silence" after a Court of Appeals' decision "was an indication of legislative approval"). That is the case here. Any argument seeking to erode *Meadowdale* should be soundly rejected. Strict compliance remains the law when it comes to a court acquiring jurisdiction over a municipality.

[1] *See* LAWS OF 1987, ch. 361, § 1; LAWS OF 1991, sp. sess., ch. 30, § 28; LAWS OF 1996, ch. 223, § 1; LAWS OF 1997, ch. 380 , § 1; LAWS OF 2011, ch. 47, § 1; LAWS OF 2012, ch. 211, § 1; LAWS OF 2015, ch. 51, § 2.

B. As a matter of law, a city administrator is not a city manager.

Because strict compliance and the prohibition against substitution remain the law, the question presented is whether Burlington's city administrator fits RCW 4.28.080(2)'s definition of "mayor, city manager, or, … the mayor's or city manager's designated agent or the city clerk thereof." RCW 4.28.080(2). It is undisputed that Burlington's city administrator is neither its "mayor" nor "city clerk."

Thus, whether Mr. Welch's lawsuit against Burlington may proceed hinges on whether the city administrator is the "city manager," "the mayor's … designated agent," or the "city manager's designated agent," which requires this Court to engage in statutory construction. The primary goal of any statutory analysis is to give effect to the legislature's intent. *Schrom v. Bd. for Volunteer Firefighters*, 153 Wn.2d 19, 25, 100 P.3d 814 (2004). "Construing the statute as a whole and giving effect to every provision, [the court] derive[s] this intent from the text of the statute alone where its language is unambiguous." *Id.* If the text is plain, the inquiry ends, *State v. Engel*, 166 Wn.2d 572, 578, 210 P.3d 1007 (2009), because the court "presume[s] the legislature says what it means and means what it says," *State v. Costich*, 152 Wn.2d 463, 470, 98 P.3d 795 (2004). "The plain meaning of the statute is derived not only from the statute at hand, but also 'all that the Legislature has said in the … related

statutes which disclose legislative intent about the provision in question.'" *Id.* (quoting *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 11, 43 P.3d 4 (2002)). "[I]f, after th[e plain meaning] inquiry, the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous and it is appropriate to resort to aids to construction, including legislative history." *Campbell & Gwinn*, 146 Wn.2d at 12.

At the outset, Welch argues that a "city administrator" is synonymous with a "city manager," meaning that delivering a summons and complaint to a "city administrator" is no different than serving a "city manager." *See* Br. of Resp't at 18-21. That is wrong. The roles of city administrator and city manager are distinct positions defined by statute, which correspond to different forms of city government.

Cities and towns are municipal corporations deriving their power from the legislature. CONST., art. XI, § 10; RCW 35.21.010. In 1943 the legislature granted cities of all classes the option to convert to a "council-manager plan of city government." LAWS OF 1943, ch. 271, § 17, *codified as amended at* RCW 35.18.010. Under this structure, a city may employ a city manager, who has "general supervision over the administrative affairs of the municipality." RCW 35.18.060(1). In these municipalities, the city manager is "the chief executive officer and head of the administrative branch of city or town government." RCW 35.18.010. This same process

is allowed for noncharter code-cities, ch. 35A.13 RCW, vesting the city manager with the same authority, RCW 35A.13.010; 35A.13.080.

By contrast, the position of city administrator was statutorily authorized 24 years later in 1967, *see* LAWS OF 1967, Ex. Sess., ch. 119, but only under a mayor-council plan[2] in code cities organized under Title 35A RCW. RCW 35A.12.100. But even for cities creating the position of city administrator, the mayor remains "the chief executive administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads." *Id.*[3]

In essence, the mayor serves as a municipality's chief executive in a mayor-council form of government, and the city manager serves as the municipality's chief executive in a council-manager structure. Other statutes confirm this view. *E.g.*, RCW 35A.63.010(1). Until 1987, the legislature permitted a city or town to be served with process only through service on the mayor. *See* HB 1199, LAWS OF 1987, ch. 361, § 1; *compare* LAWS OF 1893, ch. 128, § 7 *with* LAWS OF 1977, ch. 120, § 1 *and*

[2] The mayor-council and the council-manager form are the two most common structures of municipal government. *See* MUNICIPAL RESEARCH SERVICES CENTER, *City and Town Forms of Government, available at* http://mrsc.org/Home/Explore-Topics/Governance/Forms-of-Government-and-Organization/City-and-Town-Forms-of-Government.aspx (last modified Nov. 8, 2017).

[3] Towns (municipalities of the fourth class) may also provide for "subordinate officers and employees as may be provided for by ordinance." RCW 35.27.070. Some towns have created the position of town administrator to assist the mayor. *E.g.* EATONVILLE MUNICIPAL CODE § 2.02.030; FRIDAY HARBOR MUNICIPAL CODE § 2.08.010-.030.

Meadowdale, 27 Wn. App. at 267. The legislature amended the statute in 1987, authorizing a modest expansion of those who could be served to include the other type of chief executive (city manager) or the designated agent of the city's chief executive. HB 1199, LAWS OF 1987, ch. 361, § 1. The legislature is presumed to have known the full state of all existing laws when it passed the bill. *Maziar v. Dep't of Corr.*, 183 Wn.2d 84, 88, ¶ 9, 349 P.3d 826 (2015). Consequently, this Court presumes that in 1987, the legislature knew that a "city manager" is the chief executive in a council-manager form of government as opposed to an administrator appointed by the chief executive in a mayor-council form of government. As a result, any argument that a "city administrator" is the functional equivalent of a "city manager" is unfounded and contrary to Washington law. Mr. Welch's attempt to equate a "city administrator" with "city manager" as that position is described in Washington law is unavailing.

C. In order for an ordinance to properly designate an individual to be the mayor's or city manager's agent for purposes of RCW 4.28.080(2), the language must necessarily include the authority to accept a summons.

Because Burlington's "city administrator" is not a "city manager," and Burlington has no "city manager," Mr. Welch's service of process is was insufficient unless Burlington's city administrator was "the mayor's

… designated agent." RCW 4.28.080(2).[4] To date, no Washington court has interpreted the phrase "mayor's … designated agent."

Necessarily, determining whether a given individual is a "mayor's or city manager's designated agent" under RCW 4.28.080(2) begs two questions. First, who does, and who does not, have the authority to "designate" an "agent" to accept service of process? And second, how is an "agent" "designated" to accept service of process? As explained below, an agent can be designated to accept service under RCW 4.28.080(2) if, and only if, there is a formal designation by the agent's principal to act on behalf of the mayor or city manager to accept a summons. And regardless of whether this designation comes from the mayor, city manager, or the city's legislative body, Burlington's ordinance describing the city administrator's duties clearly falls short.

1. Even if a city council or town council could designate an agent for the mayor, the scope of the agency must be explicitly articulated by the principal, which necessarily renders BMC 2.08.030 insufficient to designate the city administrator.

Municipal powers are traditionally vested in its legislative body, which is the city or town council. *Town of Othello v. Harder*, 46 Wn.2d 747, 752, 284 P.2d 1099 (1955) (holding that the "powers delegated to a

[4] WSAMA understands Mr. Welch's argument vis-à-vis RCW 4.16.170 and estoppel, but believes that Burlington's analysis is correct. Therefore, WSAMA does not add to that argument. RAP 10.6(b)(4).

municipal corporation by the legislature are vested in the city or town council unless expressly delegated to some other officer or body"). While a plausible reading of the statute would permit only the mayor or city manager to designate an agent, *see infra* Part IV.C.2, under basic principles of municipal law, it is equally plausible that the city council has this authority notwithstanding the fact that the legislature chose not to include "legislative body" in RCW 4.28.080(2). *Accord Town of Othello*, 46 Wn.2d at 752.

Assuming that a city council has authority to designate an agent to accept a summons for the mayor, BMC 2.08.030 falls far short. It does not expressly refer to summons, service of process, or lawsuits, and the general reference to "complaint" is insufficient. It has long been held that the creation of a principal-agent relationship does not vest an agent with all power to bind the principal on all things. *E.g.*, *Scully v. Book*, 3 Wash. 182, 186, 28 P. 556 (1891). Burlington's code does not expressly refer to receipt of legal process, and consistent with the sound policy concerns outlined in *Meadowdale*, this Court should require an express delegation of the authority to accept a "summons" in order to satisfy the statutory "designat[ion]" requirement. RCW 4.28.080(2).

To be sure, RCW 4.28.080 governs not just personal injury actions, but also how a party seeks judicial review of a land use decision under the

Land Use Petition Act. RCW 36.70C.040(1) (requiring initiation of review by petition); RCW 36.70C.040(5) (requiring delivery of "a copy of the petition to the persons identified pursuant to RCW 4.28.080 to receive service of process"). The same is true when a party seeks a statutory or constitution writ of certiorari—it is done by petition. *E.g., Griffith v. City of Bellevue*, 130 Wn.2d 189, 190-91, 922 P.2d 83 (1996) (certiorari). And when a writ is obtained and must be served, it must be done so "in the same manner as a summons in a civil action." RCW 7.16.270. Consequently, an ordinance vesting an employee to "handl[e] complaints" cannot be a designation of authority receive the one document that commences a civil action through service—the "summons"—when many other types of civil actions are commenced without a "complaint."

This is clear from RCW 4.28.020, which clarifies that an action is commenced through "service of *summons*" (emphasis added), which occurs only when "[t]he *summons* [is] served by delivering a copy thereof." (Emphasis added). Thus, the scope of authority given to a "designated agent" must include the authority to accept a "summons" for either the mayor or city manager. RCW 4.28.080. BMC 2.08.030 does not provide that. Thus, if the Court concludes that Burlington's City Council—and not its mayor—is the proper source of authority to designate

the mayor's agent, BMC 2.08.030 does not suffice for purposes of RCW 4.28.080(2).

2. In the alternative, this court could conclude that only the mayor or city manager can designate his or her agent, meaning that Burlington's ordinance cannot designate anyone to be the mayor's agent under RCW 4.28.080(2).

In the alternative, another plausible reading of the statute is that only the mayor or city manager may designate an agent to accept service of process. As with defining "city manager," *see supra*, determining how an agent is designated under RCW 4.28.080(2) is subject to the normal rules of construction. If the text is plain, the inquiry ends. *Engel*, 166 Wn.2d at 578. But if the language is reasonably subject to multiple interpretations, the court may resort to other aids, such as legislative history. *Campbell & Gwinn*, 146 Wn.2d at 12.

A plain language analysis requires the court to define terms that are statutorily undefined. *See Schrom*, 153 Wn.2d at 25-32. The term "agent" has deep roots in case law, and Washington courts have looked to the common law when defining that term in other statutory contexts. *E.g.*, *Ellerman v. Centerpoint Prepress, Inc.*, 143 Wn.2d 514, 522, 22 P.3d 795 (2001) (quoting BLACK'S LAW DICTIONARY 85 (4th ed. 1951) (defining "agent" as "generally as a 'person authorized to act for [the principal]'"). This is in accord with the dictionary, and Washington courts have not

hesitated to turn to the dictionary to interpret statutorily undefined terms. *Schrom*, 153 Wn.2d at 28 (citations omitted). There, "agent" is defined to mean "one that acts for or in the place of another by authority from him." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 40 (1966).

These definitions suggest that the legislature intended the named principal—i.e., the mayor or city manager—to take action to designate an agent for service of process. Significantly, the term "agent" appears in RCW 4.28.080(2) in conjunction with the possessives "mayor's" and "city manager's." This reading of the statute is strengthened by comparing the parallel provision in RCW 4.28.080 relating to service of process for counties. RCW 4.28.080(1). In the same legislation that authorized the "mayor's or city manager's designated agent" to accept service of process, HB 1199 amended RCW 4.28.080 to allow a charter county to be served if the summons is delivered to "*the* agent, if any, *designated by the legislative authority*." LAWS OF 1987, ch. 361, § 1(1), *codified at* RCW 4.28.080(1) (emphasis added).

"When the legislature uses different words within the same statute, [the Supreme Court] recognize[s] that a different meaning is intended." *State v. Beaver*, 148 Wn.2d 338, 343, 60 P.3d 586 (2002); *see also State v. Roggenkamp*, 153 Wn.2d 614, 625, 106 P.3d 196 (2005) ("the legislature is deemed to intend a different meaning when is uses different terms").

This is particularly true when different language is employed in the same legislation. *In re Dependency of D.L.B.*, 186 Wn.2d 103, 118, 376 P.3d 1099 (2016).

Applying these principles, a sensible interpretation of RCW 4.28.080(2) would conclude that by excluding "by the legislative authority" in RCW 4.28.080(2) while simultaneously referring to the "designated agent" as "the mayor's or city manager's", the legislature intended only the mayor or city manager to be able to "designate[]" his or her agent. Three reasons support this conclusion.

First, it must be assumed that the legislature consciously chose only the mayor and city manager—the officials carrying the title of "chief executive" for a municipality—to have the ability to designate an agent on their behalf to accept a summons. *See Citizens Alliance for Property Rights Legal Fund v. San Juan County*, 184 Wn.2d 428, 440, 359 P.3d 753 (2015) (all language is to be given effect). When examining a statute, courts look to other statutes for guidance. *Costich*, 152 Wn.2d at 470. The legislature specifically vested the legislative body of cities to designate agents in other contexts, *e.g.*, RCW 4.96.020(1) (requiring "governing body of each local governmental entity [to] appoint an agent to receive any claim for damages"); RCW 35A.63.010(8) (defining "Planning agency" to mean "any person, body, or organization designated

by the legislative body to perform a planning function or portion thereof for a municipality"), but chose to omit that language in RCW 4.28.080(2). A plain language analysis strongly counsels against inserting "by the legislative body" into RCW 4.28.080(2) when the legislature chose not to do so. *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003).

Second, any ambiguity in the term "designated" is clarified by legislative history. When HB 1199 was first introduced, a city could be served by delivering the summons "to the mayor's or city manager's *office staff*." *See* H.B. 1199, § 1, 50th Legis. (Mar. 6, 1987, as referred to Judiciary Committee) (emphasis added). The bill was amended by motion on the Senate floor. 1 S.J., 50th Legis., Reg. Sess., at 1118 (Apr. 8, 1987). When introducing the amendment, Senator Talmadge explained the reasoning:

> Thank you Mr. President, Members of the Senate. This amendment is actually one that was suggested by Senator Rasmussen with his usual eagle eye in reading the bill. He noted that with respect to city and town officials, that when you do service of process, there was some opportunity to serve the entire office staff of the mayor or city manager. That was inconsistent with the provision of the bill that said for county officials you designate an agent that would be the recipient of service of process. So what this amendment does is *delete the opportunity to serve the entire office staff of the mayor or the city manager* of a town or city in favor of *a designated agent of the mayor or city manager*. I think *it's a narrower focus for who can accept service of process for a municipal government* and deserves your support.

Statement of Sen. Talmadge on Amendment to HB 1199 (Apr. 8, 1987) (emphasis added), *available at* https://www.digitalarchives.wa.gov/Record/View/2F6160E1E9513F37BF70324F735C95E8 (on file with State Archivist) (audio starts at 17m01s). The Senate adopted the proposed amendment, 1 S.J., 50th Legis., Reg. Sess., at 1118 (Apr. 8, 1987), and the House followed at the time of final passage, *see* 2 H.J., 50th Legis., Reg. Sess., at 1670 (Apr. 21, 1987). The plain meaning of the word "designate," and this legislative history, suggest the legislature *specifically* chose the mayor and city manager as the principals with authority to designate their own agents. The dictionary defines "designate" as synonymous with "choosing or detailing a person or group for a certain post by a person or group having power or right to choose." WEBSTER'S, *supra* at 612. Likewise, Black's defines "designate" to mean "to choose (someone or something) for a particular job or purpose." BLACK'S LAW DICTIONARY 75 (10th ed. 2014). Thus, the legislative history supports the view that the agent's principal for purposes of accepting a summons is the mayor or city manager, meaning that at a minimum, the mayor or city manager has the authority to designate his or her agent "for [the] particular job" of accepting service of a summons. *Id.*

Finally, the mayor's and city manager's authority is especially evident when juxtaposed against common law agency principles, of which

the legislature was aware when it passed HB 1199. *State ex rel. Madden v. Pub. Util. Dist.*, 83 Wn.2d 219, 222, 517 P.2d 585 (1973). The existence of an agency relationship requires mutual consent between the principal and agent and control by the principal of the agent. *Uni-Com NW v. Argus Publ'g Co.*, 47 Wn. App. 787, 796, 737 P.2d 304 (1987). Because the "designated agent" is "the mayor's or city manager's," the legislature selected only those two officials as principals to consent to another—i.e., an agent—to accept a summons on their behalf. RCW 4.28.080(2). Whereas the agent's principal is the county itself under RCW 4.28.080(1), the agent's principal under RCW 4.28.080(2) is the mayor or city manager.

If this Court is to give effect to the legislature's intent, it must give meaning to both words: "designated" and "agent." *Schrom*, 153 Wn.2d at 25 (noting requirement to give meaning to every provision). And doing so requires that, in order for a person to be a "mayor's designated agent" or a "city manager's designated agent," there must be some formal designation by the chief executive of the municipality, which would be either the mayor or city manager. Then, and only then, may a court acquire jurisdiction over a municipality when process is served on an individual other than the mayor, city manager, or city clerk. This would mean that only the mayor may designate his or her agent to accept service of process

and only the city manager may designate his or her agent to accept service of process. Applied here, a city council ordinance could not, as a matter of law, "designate" anyone to act on the mayor's behalf, meaning that any reliance on Burlington's Municipal Code is misplaced. There being nothing cited to support the conclusion that Burlington's mayor consented to the city administrator's acceptance of a summons on his behalf, the service of process here was insufficient as a matter of law.

WSAMA notes, as Burlington recognizes, that the Court may be concerned that confusion might surface over an agent's identity if the authority to designate an agent is not vested exclusively in the city or town council. The reality, though is that any manifestation of consent by the agent's principal (mayor or city manager) would be a matter of public record, subject to disclosure and production upon request. RCW 42.56.070. Thus, one could easily find out—well before the expiration of any statute of limitations—whether a mayor or city manager has designated an agent and if so, to whom. And a plaintiff always has the option of serving the city clerk during normal business hours or the mayor and/or city manager directly at any time of day. RCW 4.28.080(2). Moreover, requiring a delegation by the legislative body does not necessarily address this concern: while some city council ordinances are adopted into municipal codes, not all ordinances are codified, and for the

most part, neither are resolutions. Regardless of how the RCW 4.28.080(2) "designat[ion]" occurs, the fact is that the plaintiff will be required to make some inquiry in order to determine who the designated agent is. This is no more onerous than the legwork required of a plaintiff seeking to sue a private corporation.

V. CONCLUSION

WSAMA urges this Court to decline Mr. Welch's invitation to erode the standard of strict compliance established in *Meadowdale* and affirmed in the legislature's subsequent amendments to RCW 4.28.080. Furthermore, WSAMA asks this Court to provide clarity and guidance as to when, and how, an agent may be designated to accept a summons on behalf of a municipality's mayor or city manager. For the reasons outlined above, Burlington's Municipal Code is insufficient as a matter of law to designate its city administrator to have this authority.

The Court should reverse.

RESPECTFULLY SUBMITTED this 12th of February, 2018.

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