

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 THOMAS E. HORNISH AND
11 SUZANNE J. HORNISH JOINT
LIVING TRUST, et al.,

12 Plaintiffs,

13 v.

14 KING COUNTY,

15 Defendant.

CASE NO. C15-284 MJP

ORDER ON MOTION TO STAY
ENFORCEMENT

16
17 The Court has received and reviewed Plaintiffs' Motion to Stay Enforcement of Order for
18 Summary Judgment Pending Resolution of Appeal (Dkt. No. 78), as well as the response and
19 reply briefing. In their briefing, Plaintiffs request that the Court stay enforcement of an order
20 issued over 18 months ago quieting title in Defendant King County, pending a ruling on
21 Plaintiffs' appeal of that order (and the resulting judgment) to the Ninth Circuit Court of
22 Appeals.

23 The Court is puzzled by Plaintiffs' statutory justification for their request. Plaintiffs
24 claim to bring their motion under FRCP 62(c), which reads:

1 (c) **Injunction Pending an Appeal.** While an appeal is pending from an interlocutory
2 order or *final judgment that grants, dissolves, or denies an injunction*, the court may
suspend, modify restore, or grant an injunction on terms for bond or other terms that
3 secure the opposing party's rights.

4 (emphasis supplied.)

5 A review of the record in this matter reveals no injunctive relief – an injunction was
6 neither sought nor ordered; neither granted, dissolved, nor denied. In the absence of any such
7 circumstance, the Court is at a loss to understand how FRCP 62(c) applies and what authority it
8 has to order the relief requested by Plaintiffs. With that in mind,

9 IT IS ORDERED that parties shall submit supplemental briefing, not to exceed five (5)
10 pages in length, on whether and how this Court possesses authority under FRCP 62(c) to order
11 the relief requested by Plaintiffs, and why Plaintiffs should not seek the relief they request from
12 the Ninth Circuit. The briefing is due no later than **February 27, 2018** (and the motion will be
13 re-noted to that date).

14 The clerk is ordered to provide copies of this order to all counsel.

15 Dated: February 20, 2018.

16
17 

18 Marsha J. Pechman
19 United States District Judge
20
21
22
23
24