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**Sharp v. Union St. Dev. Co., No. 19001-3-III, 2000 Wash. App.
LEXIS 2121 (Wash. Ct. App. Nov. 2, 2000)**

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Sharp v. Union St. Dev. Co., No. 19001-3-III, 2000 Wash. App. LEXIS 2121 (Wash Ct. App. Nov. 2, 2000) (holding a dispute over rerouting an irrigation mainline may fall within the scope of an arbitration agreement).

Loren K. and Teresa A. Sharp appealed a Benton County Superior Court decision dismissing their motion for arbitration and awarding Union Street Development Co. ("Union") attorney fees.

The Sharps and Union entered into a settlement agreement to resolve an issue regarding an easement and rights to irrigation water access. The Sharps and Union owned adjacent parcels of land that were served by one irrigation system. In order to straighten the shared boundary, create easements for both to establish irrigation systems, and to do so with the intent of allowing both parties optimal use of their property, they entered into an agreement. The agreement required both parties to submit preliminary plans regarding lot placement and irrigation lines to the other party. Arbitration was the exclusive method of resolution in case any dispute arose.

If a party had concerns regarding the other party's plan, they were to send written notice of their concerns to the other party and then meet to discuss the issue in good faith. If the issue was unresolved, the parties were to engage in mediation and if necessary, arbitration. Attorney fees would be awarded to the prevailing party.

Union objected to the Sharp's cutting and rerouting the main irrigation line. The Sharps received written notice of the objection and replied that the objection was subject to the procedures in the agreement. Union refused to meet with the Sharps. The Sharps applied for the appointment of an arbitrator and Union filed an answer stating the issue was not subject to the agreement. The parties went to mediation, but failed to reach an agreement. The Sharps then moved the court to compel arbitration. The trial court denied the motion and awarded Union attorney fees.

On appeal to the Washington Court of Appeals, the Sharps argued the court should have restricted its analysis to the scope of the agreement, and instead decided the case on its merits. Union argued the arbitrator had no jurisdiction to modify the terms of the irrigation easement.

The court determined the complaint called for an interpretation of the irrigation agreement, and the issue was one of fact to be decided by an arbitrator. The court reasoned the arbitration clause was broad, as it contained no exclusions. Without an express exclusion of the issue, the parties intended to have the dispute settled in arbitration. The court remanded the case for arbitration. The court also reversed the award of attorney fees, because no prevailing party existed until arbitration resolved the issue.

Lynne Stadjuhar