

## **For Immediate Release**

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### **Court Ruling Punctures City's Plan for Burke-Gilman Trail on Shilshole** *Original Leary Way Route for the Missing Link is Still the Right One*

SEATTLE - In the most significant ruling yet in the 20-year debate over finishing the Burke-Gilman Trail Missing Link, King County Superior Court Judge Averil Rothrock let the air out of the City of Seattle's plan to build on Shilshole Avenue.

Rothrock ruled that the City has no authority to demand that the Ballard Terminal Railroad Company move nearly a half-mile of its tracks along Shilshole to make room for the 1.4-mile Missing Link portion of the bike and recreation trail. In addition, the City can't charge the Railroad nearly \$700,000 to do so.

"The Court concludes that Congress intended categorical preemption of local government acts such as the forced relocation and reconstruction of one-half mile of track," Judge Rothrock wrote.

The City of Seattle had sued the Railroad trying to force it to move its tracks - and make the Railroad cover the cost of doing so. The City spent nearly \$250,000 on outside lawyers, only to once again lose in court.

The City can appeal the decision or, for a third time, abandon finished design plans that have cost the City nearly \$7 million since 2009 and redesign the Shilshole segment to avoid impacting the Railroad. The City will then need to reapply for permits that can once again be challenged in court.

"The City can't touch the railroad," said Josh Brower, attorney for the Railroad and the Ballard Coalition. "This should be the end of the road, unless the City wants to continue wasting millions of dollars in taxpayer money on more misguided plans and losing legal arguments."

Seattle granted a 30-year franchise to the Ballard Terminal Railroad in 1997 to provide last-mile freight service to Ballard businesses. The Burke-Gilman Trail is named for early-day Seattle lawyers and railroad builders Thomas Burke and Daniel Gilman.

For 20 years the City has been intent on building the Missing Link section on Shilshole Avenue, ignoring a 1996 [City Council Resolution](#) naming Northwest Leary Way as the preferred route. Numerous decisions by courts, boards and commissions over the years have affirmed Shilshole is the wrong place for the trail.

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