

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

LAURELHURST COMMUNITY CLUB,	)	
FRIENDS OF BROOKLYN, RAVENNA-	)	<b>Case No. 03-3-0016</b>
BRYANT COMMUNITY ASSOCIATION,	)	
UNIVERSITY DISTRICT COMMUNITY	)	<i>(Laurelhurst II)</i>
COUNCIL, UNIVERSITY PARK	)	
COMMUNITY CLUB, SEATTLE	)	
DISPLACEMENT COALITION,	)	
HAWTHORNE HILLS COMMUNITY	)	
COUNCIL and NORTHEAST DISTRICT	)	
COUNCIL,	)	
	)	
Petitioners,	)	
	)	
v.	)	
	)	
CITY OF SEATTLE, a municipal	)	<b>ORDER FINDING</b>
corporation; UNIVERSITY OF	)	<b>COMPLIANCE</b>
WASHINGTON,	)	
	)	
Respondents.	)	
	)	

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**I. BACKGROUND**

On March 3, 2004, the Board issued its Final Decision and Order (**FDO**) in the above captioned case. In the FDO, the Board found that the City of Seattle’s Ordinance No. 121193 [Amending the 1998 Lease Agreement between the City of Seattle (**City**) and University of Washington (**UW**)] did not comply with the notice and public participation goals and requirements of RCW 36.70A.020(11), .035, .130 and .140. *See FDO*, at 27. The FDO remanded the Ordinance and established a compliance schedule. *Id.* at 27-28.

On August 3, 2004, the Board issued an “Order Denying Motion to Modify Compliance Schedule.” In its motion, the City explained that more time was needed to complete the public participation process initiated to respond to the Board’s FDO. The Board’s Order explained that the GMA only authorized 180-days for the compliance period.

On September 2, 2004, the Board issued an “Order Finding Continuing Noncompliance and Establishing a Second Compliance Schedule.” This Order gave the City until December 2, 2004 to take legislative action to comply with the FDO and file a Statement of Actions Taken to Comply (**SATC**) with the Board by December 14, 2004. January 20, 2005 was set as the date for the compliance hearing.

On November 29, 2004, the City of Seattle adopted Ordinance No. 121688.<sup>1</sup>

On December 14, 2004, the City timely filed its SATC and Remand Index. The SATC was served on the parties. The SATC outlined the notice and opportunities for public participation offered by the City during the extended remand period. The process commenced in March of 2004, provided for at least one meeting or hearing monthly until the Ordinance was adopted November 29, 2004.

January 6, 2005 was established in the 9/2/04 Order as the deadline for Petitioners to file a Response to the City's SATC. Neither the Board nor the City/UW received such a response. Consequently, the City/UW did not need to submit a Reply memo.

On January 19, 2005, the Board's Administrative Officer was asked to contact the parties to see if the scheduled compliance hearing could be conducted telephonically. The City and University agreed and indicated they would be participating; neither Petitioners representative nor Petitioners objected, but indicated they would not be participating in a telephonic compliance hearing. Nonetheless, the Board received a letter, with attachments,<sup>2</sup> dated January 19, 2004 from Jeannie Hale, offering comment. The Board faxed copies of the letter to the City and UW.

On January 20, 2005, the Board conducted a telephonic compliance hearing at the Board's offices. Board members Bruce C. Laing and Edward G. McGuire, Presiding Officer were present for the Board. Robert D. Tobin represented the Respondent City of Seattle and T.Ryan Durkin represented the University of Washington. None of the Petitioners or Petitioners attorney participated in the telephonic compliance hearing. The compliance hearing convened at 10:00 a.m. and concluded at approximately 10:30 a.m.

## **II. DISCUSSION**

Following introductions of the participants to the compliance proceeding, the City was asked to explain the notice and public participation process used by the City in adopting Ordinance No. 121688. The City noted provisions in the Ordinance and attachments that outlined the notice and public participation process.

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<sup>1</sup> Ordinance No. 121688 is entitled:

AN ORDINANCE amending the 1998 Agreement between the City of Seattle and the University of Washington, a Growth Management Act development regulation, to change the procedure for amending provisions concerning leasing by the University, to change restrictions on acquisition and leasing by the University, to change reporting requirements, to update references to agencies and documents, and authorizing execution of the amended Agreement.

Attachment to SATC, Ordinance No. 121688, at 1.

<sup>2</sup> There were seven items attached to the 1/19/04 letter. These attachments were copies of letters or testimony submitted to the City during the remand period. Each was noted in the City's Remand Index.

After the City's description of its action and process, the Presiding Officer read the following statement from Petitioners' 1/19/04 letter into the record, "We [Laurelhurst Community Club] agreed to the final measure passed by the Seattle City Council, primarily because concessions were made shortly after the May 2004 stakeholder meeting at the one and only meeting to address the issues one-on-one with the Petitioners." 1/19/05 letter, at 1.

Both the City and UW **objected** to the 1/19/04 letter, with attachments, submitted by Ms. Hale, as an *untimely* submittal. The grounds for the objection was that, as a late submittal, neither the City nor the UW had adequate opportunity to review the submittal and prepare written responses. Therefore, the City and UW urged the Board to disregard the submittal. The City noted, however, that each item attached to the letter was included in the City's Remand Index, therefore demonstrating that Petitioners had notice of, and adequate opportunity to participate in the City's process.

The Board agrees that the submittal was an untimely filing, and further notes that Petitioners chose not to participate in the compliance proceeding. Therefore, the Board will not consider the untimely submittal in rendering this decision.

The Board finds and concludes:

1. The Board's 3/3/04 FDO directed the City to comply with the notice and public participation procedures of the GMA in addressing amendments to the 1998 Agreement [a GMA regulation] between the City of Seattle and University of Washington. FDO, at 27.
2. Ordinance No. 121688, amending the 1998 Agreement, was adopted November 29, 2004. Ordinance 121688, at 2.
3. The notice and public participation process used by the City in considering Ordinance No. 121688 began in March 2004 and ended with the adoption of the Ordinance. The notice and public participation process is described and documented in: a) the City's SATC, at 2; b) Attachment 2 to the Ordinance entitled, "Summary of Public Process for Council Bill 114941;"<sup>3</sup> c) Attachment 3 to the Ordinance entitled, "Findings of the Seattle City Council Regarding Council Bill 114941;"<sup>4</sup> and d) the 19 page Remand Index submitted along with the SATC.

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<sup>3</sup> Council Bill 114941 was the City Council's notation for Ordinance No. 121688 prior to its passage.

<sup>4</sup> Noted in these findings are the following:

- Prohibit UW from most ground floor leasing in Primary and Secondary Impact Zones
- Prohibit UW from non-residential leasing in Single Family zones and low-density multi-family zones (SR 5000, SF 7200, SF 9600, RSL, LDT, L1, L2 and L3)
- Prohibit UW from leasing or acquiring the "Battelle" property
- Prohibit UW from allowing advertising of housing that the City determines violates City housing code requirements

4. These summaries, documents and references demonstrate that the City of Seattle has complied with the notice and public participation requirements of the GMA, specifically RCW 36.70A.020(11), .035, .130 and .140.
5. Therefore the Board will enter a **Finding of Compliance** in *Laurelhurst II v. City of Seattle*, CPSGMHB Case No. 03-3-0016.

### **III. ORDER**

Based upon the Board's review of the GMA, the Board's Rules of Practice and Procedure, the March 3, 2004 FDO, the City's SATC and attachments, Ordinance No. 121688, the statements of the participating parties at the compliance hearing, and having deliberated on the matter, the Board ORDERS

- The notice and public participation process used by the City in adopting Ordinance No. 121688 [Amending the 1998 Agreement between the City of Seattle and the University of Washington] **complies** with RCW 36.70A.020(11), .035, .130 and .140.
- The Board enters a **Finding of Compliance** for the City of Seattle and UW in *Laurelhurst Community Club, et al., v. City of Seattle and University of Washington*, CPSGMHB Case No. 03-3-0016 [*Laurelhurst II*].
- CPSGMHB Case No. 03-3-0016 [*Laurelhurst II*] is **closed**.

So ORDERED this 24<sup>th</sup> day of January 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Bruce C. Laing, FAICP  
Board Member

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Edward G. McGuire, AICP  
Board Member

Note: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion of reconsideration.

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- Require additional information regarding housing stock in periodic housing reports
- Ordinance No. 121688, Attachment 3, at 1.