

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

CITY OF BREMERTON, <i>et al.</i> ,	)	
	)	<b>CPSGMHB Consolidated Case</b>
Petitioners,	)	<b>No. 04-3-0009c</b>
	)	<b>( <i>Bremerton II</i> )<sup>1</sup></b>
v.	)	
	)	
KITSAP COUNTY,	)	<b>ORDER FINDING</b>
	)	<b>COMPLIANCE and</b>
Respondent,	)	<b>RESCINDING INVALIDITY –</b>
	)	<b>RWL Policies</b>
	)	
MANKE LUMBER COMPANY;	)	
OVERTON FAMILY; MCCORMICK	)	
LAND COMPANY; OLYMPIC	)	
PROPERTY GROUP; and PORT OF	)	
BREMERTON,	)	
	)	
Intervenors,	)	
	)	
	)	
and	)	
1000 FRIENDS OF WASHINGTON,	)	
	)	
	)	
<i>Amicus Curiae.</i>	)	

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**I. BACKGROUND**

On August 8, 2004, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued its Final Decision and Order (**FDO**) in the above captioned matter. Kitsap County’s Rural Wooded Lands (**RWL**) Policies were at issue. The Board found that RWL Policies RL-10(a) and (b) and RL-11(a) through (i) in Ordinance No. 311-2003 did not comply with the requirements of RCW 36.70A.070(5) and were not guided by Goals 1, 2, 3, 5, 8, 10, 11 and 12 [RCW 36.70A.020]. The Board remanded the Ordinance. Due to the unusual scope and complexity of the RWL issues, among other remand issues, the Board allowed a one-year compliance period, and established a compliance hearing date of September 27, 2005.

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<sup>1</sup> For convenience of reference this case is identified as “Bremerton II” to distinguish it from a previous case (95-03-0039c) involving the same petitioner and respondent.

On September 16, 2004, the Board issued an “Order on Reconsideration.” The RWL Policies were not among the items reconsidered in this Order.

On October 14, 2005, following the September 25, 2005 compliance hearing, the Board issued an “Order Finding Continuing Noncompliance and Invalidity.” Since the County had taken no action to comply with the Act or the Board’s FDO, the Board found continuing noncompliance pertaining to the RWL Policies and entered a Determination of Invalidity, specifically pertaining to RL – 11(b), RL – 11(c), the last sentence of RL – 11(e) and RL – 11(i). This Order established a new compliance schedule and set February 27, 2006 as the date for the compliance hearing.

On January 5, 2006, the Board received Kitsap County’s “Statement of Actions Taken to Comply” (SATC). Attached to the SATC was a copy of Ordinance No. 349-2005, which repealed the noncompliant RWL Policies and reinstated prior policies to guide the development of the County’s intended RWL program. The SATC also included the Remand/Compliance Index. The County contends that the adoption of Ordinance No. 349-2005 achieves compliance with the Act and FDO.

On February 8, 2006, the Board received “KCRP’s Response to Statement of Actions Taken.” KCRP agreed that the County’s adoption of the Ordinance related to the RWL Policies achieved compliance.

The Board did not receive any other responses to the County’s SATC from any other party.

On February 27, 2006 the Compliance Hearing was convened by telephone conference call at approximately 10:10. Board member Bruce C. Laing convened the hearing, with Board member Edward G. McGuire present. Board extern Justin Titus was also in attendance. Respondent Kitsap County was represented by Shelley E. Kneip. Petitioner City of Bremerton was represented by Carol A. Morris; Petitioner Suquamish Tribe was represented by Mark Bubenik; Petitioner KCRP/Port Gamble S’Klallam Tribe was represented by David A. Bricklin; and Jerry Harless participated *pro se*. Intervenors<sup>2</sup> choose not to participate. The proceedings were recorded by audio tape. The Compliance Hearing was closed at approximately 10:30 a.m.

## **II. DISCUSSION**

In its SATC, and at the compliance hearing, the County explained that the adoption of Ordinance No. 349-2005 accomplished two things: 1) it repealed the noncompliant RWL policies; and 2) reinstated prior directive RWL Policies. SATC, at 1-2; Ordinance 349-2005, Sections 1 and 2. The County asserted that these actions complied with the GMA and the Board’s Order. *Id.*

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<sup>2</sup> Manke and McCormick.

At the compliance hearing each of the Petitioners [Bremerton, Suquamish Tribe, KRCP/Port Gamble, S'Klallum Tribe and Harless] concurred that the County had address the RWL issue and was in compliance with the Act and FDO.

The Board concurs. Kitsap County's adoption of Ordinance No. 349-2005 complies with the provisions of RCW 36.70A.070(5) and Goals 1, 2, 3, 5, 8, 10, 11 and 12 [RCW 36.70A.020]. This Ordinance repeals the noncompliant and invalid provisions of the County's Plan.

### **III. FINDING OF COMPLIANCE and RECISION OF INVALIDITY**

Based upon review of the Board's FDO, the SATC, Ordinance No. 349-2005, the arguments and comments offered at the compliance hearing, the Board finds:

- By adopting Ordinance No. 349-2005, Kitsap County has complied with the goals and requirements of the GMA as set forth in the aforementioned Board FDO and the GMA. The Board therefore enters a **Finding of Compliance** for Kitsap County in CPSGMHB Case No. 04-3-0009c.

Having found compliance, there is no longer any substantial interference with the goals of the Act and the Board **Rescinds the Determination of Invalidity**.

### **V. ORDER**

Based upon review of the August 8, 2004 Final Decision and Order, the October 14, 2005 Order Finding Continuing Noncompliance and Invalidity, the SATC, review of Ordinance No. 349-2005, the statements of the parties at the compliance hearing, and having deliberated on the matter, the Board ORDERS:

- Kitsap County's adoption of Ordinance No. 349-2005, pertaining to the County's Rural Wooded Lands (RL) Policies, complies with RCW 36.70A.070(5) and goals 1, 2, 3, 5, 8, 10, 11 and 12 [RCW 36.70A.020]. The Board therefore enters a **Finding of Compliance** and **Rescinds the Determination of Invalidity** in CPSGMHB Case No. 04-3-0009c, *Bremerton, et al., v. Kitsap County* [*Bremerton II*].

So ORDERED this 27<sup>th</sup> day of February, 2006.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD<sup>3</sup>

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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 for reconsideration pursuant to WAC 242-02-832.

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<sup>3</sup> Board member Margaret A. Pageler was out of the country and did not participate in the compliance proceeding.