

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

LORA PETSO,)	
)	Case No. 07-3-0006
Petitioner, <i>Pro Se</i> ,)	
and)	
)	
ALVIN RUTLEDGE)	ORDER ON MOTIONS
)	FOR RECONSIDERATION
Intervenor,)	
)	
v.)	
)	
SNOHOMISH COUNTY,)	
)	
Respondent.)	
)	

I. PROCEDURAL HISTORY

On April 11, 2007, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued an “Order of Dismissal” (**Order**) in the above captioned matter. The Order provided, in part:

The Board finds and concludes that it lacks subject matter jurisdiction to review Motion 06-546. The County’s Motion to Dismiss is **granted**.

...

(2) The matter of *Petso v. Snohomish County*, CPSGMHB Case No. 07-3-0006, is **dismissed with prejudice**.

(3) All further proceedings in this matter are **cancelled** and the matter is **closed**.

Order, at 10-11.

On April 20, 2007, the Board received Petitioner’s “Motion for Reconsideration” (**Petitioner’s Motion**) filed pursuant to WAC 242-02-832.¹

On April 20, 2007², the Board received Intervenor’s “Motion for Reconsideration” (**Intervenor’s Motion**) with attachments.

¹ Pursuant to WAC 242-02-832, any party may file a Motion for Reconsideration within 10 days of service of the Board’s final decision.

² Intervenor’s motion was received via fax transmission on April 20, 2007. The original motion was received at the Board’s offices on April 24, 2007.

On April 30, 2007³, the Board received Snohomish County's "Response to Motions for Reconsideration" (**County's Response**) with attachments.

II. MOTION FOR RECONSIDERATION

With this matter, Petitioner and Intervenor challenged Snohomish County's adoption of Motion 06-546, which authorized the termination of a 1999 Interlocal Agreement (**1999 ILA**) established in 1999 between Snohomish County, the Edmonds School District, and the City of Edmonds. The Board dismissed the matter, finding that Motion 06-546 is not a comprehensive plan amendment or implementing development regulation, nor did it amount to a *de facto* amendment to the County's Comprehensive Plan and, therefore, pursuant to RCW 36.70A.280(1), the Board did not have subject matter jurisdiction to review the County's actions in adopting Motion 06-546. Order of Dismissal, at 8-10. Petitioner's Motion alleges that in making this determination, the Board has erred in both fact and in law. Petitioner's Motion at 2, 4. Intervenor's Motion appears to allege that the Board has erred in the law. Intervenor's Motion at 2-7.

In regard to factual errors, the Petitioner asserts that the Board mistakenly concluded that the termination of the ILA was requested by the Edmonds School District (Factual Error 1) and that the basis for this request was that the property had been subdivided and sold (Factual Error 2). *Id.* at 2. In addition, Petitioner argues that the Board erroneously concluded that Motion 06-546 led to the creation of a new ILA which furthered the goals of the County's Comprehensive Plan and Park Plan (Factual Error 3). *Id.* at 3.

In regard to legal errors, the Petitioner argues that not only did the Board incorrectly limit the application of the GMA to property owned by Snohomish County (Legal Error 1) but the Board failed to properly apply precedent established in *Alexanderson et al v. Clark County*, 135 Wn. App. 524, 144 P.3d 1219 (2006), *Campbell v. Everett*, CPSGMHB Case No. 06-3-0031 (Order, 11/9/06), and *Bremerton/Port Gamble v. Kitsap County*, CPSGMHB Case No. 95-3-0039c (Order, 9/8/97) (Legal Errors 2, 3, 4, and 5). *Id.* at 4-7. Lastly, Petitioner asserts that the Board's finding of consistency was incorrect (Legal Error 6). *Id.* at 7.

As for the Intervenor, he asserts errors of law in that the Board should have denied Snohomish County's Motion to Dismiss because it was untimely filed and contained errors of law in that documentation submitted by the Intervenor for supplementing the record was necessary and could substantially assist the Board in making its final decision. Intervenor's Motion at 2-7.

In response, Snohomish County asserts that neither Petitioner nor Intervenor have demonstrated that their asserted errors constitute material errors of fact or of law, as required by WAC 242-02-832(2)(a). County's Response at 2. The County argues that the errors in fact which the Petitioner points to are not material such that an error, if any,

³ WAC 242-02-832(1) states that a response to a motion for reconsideration shall be submitted within 5 days.

would affect the Board's final decision. *Id.* at 3-7. The County further alleges that Petitioner has failed to provide any evidence supporting her assertion that the Board committed errors in law nor did the Board erroneously apply the holdings of the cited cases. *Id.* at 7-16.

The County asserts that the Intervenor's request to supplement the record was properly denied because the documentation submitted by the Intervenor for supplementation failed to meet the requirements of WAC 242-02-530. *Id.* at 16-19.

Board Discussion

A motion for reconsideration must be based on alleged material errors of procedures, misinterpretation of fact, misinterpretation of law; an irregularity that occurred at the hearing preventing a fair hearing; or clerical mistakes in the final decision. WAC 242-02-832(2)(a)-(c). With the motions presented by the Petitioner and the Intervenor, these parties allege both a misinterpretation of facts and a misinterpretation of law.

The parties dispute whether Snohomish County's motion terminating the 1999 ILA originated with a request from the Edmonds School District. While the Board does not view this as material to its decision, the disputed statement will be deleted. Accordingly, the Board issues a Corrected Order of Dismissal revising the factual narrative.

Petitioner's argument for reconsideration on the law introduces no additional authorities but simply reargues the case – passionately and cogently – with Petitioner reaching a different conclusion than the Board in application of the governing statutory and case law to the facts at hand. The Board is sympathetic to the regional and local need for sports fields. However, the Board is not persuaded that it erred in its application of the law regarding the limitations of its jurisdiction under the GMA. See *Bremerton II v. Kitsap County*, CPSGMHB Case No. 04-3-0009c, Order on Reconsideration (Sept. 16, 2004), at 6: (“The fact that the Board disagreed with Petitioner's legal analysis does not provide a basis for a Motion for Reconsideration under WAC 242-02-832”).

Having reviewed the Petitioner's and the Intervenor's Motions for Reconsideration, the County's Response, and the relevant provisions of the GMA and the Board's Rules of Practice and Procedure, the Board finds that neither the Petitioner nor the Intervenor has provided a basis either in error of fact or in error of law that compels further reconsideration of the Order of Dismissal. Consequently, except for the factual correction noted above, the parties' Motions are **DENIED**.

III. ORDER

1. The Board issues a Corrected Order of Dismissal deleting a disputed statement of fact.
2. In all other respects, Petitioner's Motion for Reconsideration is **DENIED**.

3. The Intervenor's Motion for Reconsideration is **DENIED**.
4. The Board's April 11, 2007 Order of Dismissal in the matter of *Petso et al v. Snohomish County*, CPSGMHB 07-3-0006 is **AFFIRMED as corrected**.

So ORDERED this 10th day of May, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire
Board Member

David O. Earling
Board Member

Margaret A Pageler
Board Member

Note: This order constitutes a final order as specified at WAC 242-02-832(4).