

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

**State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON**

JULIA McHUGH, PALISADES
NEIGHBORHOOD, and NEIGHBORHOOD
ALLIANCE OF SPOKANE,

Petitioner,

v.

SPOKANE COUNTY,

Respondent,

GREG and KIM JEFFREYS, GJ L.L.C., and
G.J. GENERAL CONTRATORS,

Intervenors.

Case No. 05-1-0004

**ORDER FINDING CONTINUED
NON-COMPLIANCE**

20
21
22
23
24
25
26

I. BACKGROUND

On December 16, 2005, the Eastern Washington Growth Management Hearings Board (the Board) issued its Final Decision and Order (FDO) finding that Spokane County's actions were clearly erroneous and violated the requirements of the Growth Management Act (the GMA). The Board found the County's expansion of its UGA was in error prior to the County's review and updating its Capital Facilities Plan (CFP) covering the area added, the County's performance of a population and land quantity analysis showing that an expansion

1 of the UGA is needed and prior to the County formally consulting with the airport owners,
2 managers, operators, pilots and Aviation Division of DOT as required by RCW 36.70A.547.

3 On April 12, 2006, the Board received Spokane County's Statement of Action Taken
4 to Comply and Request for Extension of Time for Compliance.

5 On April 28, 2006, the Board received Petitioners' Objection to Finding of Compliance
6 and Motion to Request for Sanctions and Declaration of Rick Eichstaedt in Support of.

7 On May 30, 2006, the Board held a telephonic compliance hearing. Present were,
8 Dennis Dellwo, Presiding Officer, and Board Member John Roskelley. Board Member Judy
9 Wall was unavailable. Present for Petitioners were Rick Eichstaedt, Julia McHugh, Robbi
10 Castleberry, and Bonnie Mager. Present for Respondent was Dave Hubert. Present for
Intervenors was Stacy Bjordahl.

11 II. DISCUSSION

12 The County admitted at the May 30, 2006, hearing that they have not brought itself
13 into compliance with the Final Decision and Order (FDO) on any of the above issues. The
14 County stated that it had begun its 5-year review of the County's Comprehensive Plan,
15 including the capital facilities plan (CFP) and is beginning the process of performing a land
16 and population analysis. These activities will not be completed until December 1, 2006, or
17 before. The County has also met with airport and Washington State Department of
18 Transportation (DOT) personnel, but gave the Board no information as to what it had to do
with the subject of this appeal.

19 The County remains out of compliance on all issues listed in the FDO in this matter.
20 The County sought an extension of the time for the completion of its efforts to bring the
21 County into compliance. The County contends the work done in the 5-year review will be
22 the same work required in this matter. While some of the County's actions are similar or
23 duplicative, the matters are separate and the actions that are needed to bring the County
24 into compliance can be done separately and more expeditiously than the full review of the
25 Comprehensive Plan. The update of the CFP, land population, and land quantity analysis
26 shall be a priority and completed quickly. The County is presently considering other

1 expansions of the UGA and a decision without these tools is impossible and noncompliant.
2 An extension is not granted and the County is directed to bring itself into compliance within
3 30-days. A second compliance hearing shall be held within 30 days of the issuance of this
4 Order.

5 The Petitioners sought the imposition of sanctions, claiming that the County is
6 refusing to comply and will continue to expand the UGA without the appropriate information
7 unless the Governor is asked to impose sanctions on the County. The Board is aware that
8 the County is working to update the CFP, perform a land and population analysis and meet
9 with the appropriate airport officials and owners. The Board is also aware that the County
10 did not expand the UGA pursuant to other pending applications. The Board is optimistic that
11 the refusal to expand the UGA was for the purposes of awaiting the completion of the land
12 and population analysis and update of the CFP for that area. Because of these possibilities,
13 the Board will not recommend the imposition of sanctions at this time. If however, the
14 Board finds that the County further expands the UGA prior to the completion of the required
15 tasks, the matter of sanctions shall be reconsidered and sanctions may be recommended.

The Board finds and concludes:

- 16 1. Spokane County has failed to update its CFP and perform a population
17 and land quantity analysis to bring itself into compliance with the FDO
18 issued in this matter.
- 19 2. Spokane County has failed to formally consult with the airport owners,
20 managers, operators, pilots and Aviation Division of DOT, as required
21 by RCW 36.70A.547.
- 22 3. Therefore, based upon RCW 36.70A.130(1) and the Board's 12/16/05
23 Order, the Board will enter a **Finding of Continued Noncompliance**.

1 **III. ORDER**

2 Based upon the Board's review of the GMA, prior decisions of the Boards, the
3 December 16, 2005, Final Decision and Order, the presentations of the Parties at the
4 compliance hearing, and having discussed and deliberated on the matter, the Board enters
5 a Finding of Continued Noncompliance –Therefore, Spokane County is directed to take the
6 necessary steps to bring itself into compliance. The Board hereby schedules a telephonic
7 Compliance Hearing on **July 14, 2006, at 10:00 a.m.** The parties will call **360-357-**
8 **2903 followed by 16928 and the # sign.** Ports are reserved for Mr. Eichstaedt, Ms.
9 McHugh, Ms. Castleberry, Ms. Mager, Mr. Hubert, and Ms. Bjordahl. If additional ports are
10 needed, please contact the Board office to make arrangements.

11 **Pursuant to RCW 36.70A.300 this is a final order of the Board.**

12 **Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the**
13 **mailing of this Order to file a petition for reconsideration. The original and four**
14 **copies of a motion for reconsideration, together with any argument in support**
15 **thereof, should be filed with the Board by mailing, faxing, or otherwise**
16 **delivering the original and four copies of the motion for reconsideration directly**
17 **to the Board, with a copy served on all other parties of record. Filing means**
actual receipt of the document at the Board office. RCW 34.05.010(6), WAC 242-
02-240, WAC 242-02-330. The filing of a motion for reconsideration is not a
prerequisite for filing a petition for judicial review.

18 **Judicial Review. Any party aggrieved by a final decision of the Board may appeal**
19 **the decision to superior court as provided by RCW 36.70A.300(5). Proceedings**
20 **for judicial review may be instituted by filing a petition in superior court**
21 **according to the procedures specified in chapter 34.05 RCW, Part V, Judicial**
22 **Review and Civil. The petition for judicial review of this Order shall be filed with**
23 **the appropriate court and served on the Board, the Office of the Attorney**
24 **General, and all parties within thirty days after service of the final order, as**
25 **provided in RCW 34.05.542. Service on the Board may be accomplished in person**
26 **or by mail. Service of the Board means actual receipt of the document at the**
Board office within thirty (30) days after service of the final order. A petition for
judicial review may not be served on the Board by fax or electronic mail.

1 **Service.** This Order was served on you the day it was deposited in the United
2 States mail. RCW 34.05.010(19).

3 **SO ORDERED** this 14th day of June 2006.

4 EASTERN WASHINGTON GROWTH MANAGEMENT
5 HEARINGS BOARD

6 _____
7 Dennis Dellwo, Board Member

8 _____
9 John Roskelley, Board Member

10 _____
11 Judy Wall, Board Member
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26