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

CITY OF SPOKANE,

Petitioner,

Case No. 06-1-0002

v.

ORDER ON COMPLIANCE

SPOKANE COUNTY,

Respondent.

I. SUMMARY OF DECISION

The Respondent, Spokane County, was before the Board to determine if they have taken appropriate actions that would bring them into compliance. The County admitted that it had done nothing and therefore remains in noncompliance.

II. PROCEDURAL HISTORY

On March 31, 2006, the CITY OF SPOKANE, filed a Petition for Review, by and through their representative, Michael Piccolo.

On April 28, 2006, the Board received the City of Airway Heights' Motion for Intervention, Memorandum in Support of Intervention, and Declaration of Stanley Schwartz.

On April 27, 2006, the Board received Spokane County's Response to City of Airway Heights' Motion for Intervention.

On May 1, 2006, the Board heard the above motion prior to the Prehearing Conference. The Board granted City of Airway Heights' Motion to Intervene on behalf of Respondent. Intervention is limited to issues involving West Plains not the issues involving North Spokane.

On May 1, 2006, the Board held a telephonic Prehearing conference. Present were, Dennis Dellwo, Presiding Officer, and Board Member John Roskelley. Board Member Judy

1 Wall was unavailable. Present for Petitioners was Michael Piccolo. Present for Respondent
2 was Dave Hubert.

3 On May 8, 2006, the Board issued its Prehearing Order.

4 On May 9, 2006, the Board issued an Amended Prehearing Order.

5 On May 16, 2006, the Board received Spokane County's Motion to Dismiss Petition
6 for Review.

7 On May 22, 2006, the Board received City of Airway Heights' Motion and
8 Memorandum to Dismiss Petition to Review.

9 On June 5, 2006, the Board received City of Spokane's Response to Motions to
10 Dismiss by Spokane County and City of Airway Heights.

11 On June 12, 2006, the Board received Reply Memorandum in Support of Airway
12 Heights' motion to Dismiss.

13 On June 26, 2006, the Board held a telephonic motion hearing. Present were, Dennis
14 Dellwo, Presiding Officer, and Board Members John Roskelley and Judy Wall. Present for
15 Petitioners was Michael Piccolo. Present for Respondent was Dave Hubert. Present for
16 Intervenors was Stanley Schwartz.

17 On July 17, 2006, the Board received an Amended Petition for Review and Joint
18 Declaration of the Parties. The parties are requesting a continuance in this matter for
19 settlement negotiations. The parties have asked the Board to hold a pre-hearing conference
20 in this matter and continue the hearing on the merits. At this time the Board time will not
21 hold another pre-hearing conference. The Intervenors, City of Airway Heights have
22 withdrawn from this matter.

23 On July 24, 2006, the Board issued its Order Extending Briefing Dates and Hearing
24 on the Merits.

25 On October 26, 2006, the Board held the Hearing on the Merits. Present were,
26 Presiding Officer, Dennis Dellwo, and Board Members John Roskelley and Judy Wall. Present
for Petitioner was Michael Piccolo. Present for Respondent was Dave Hubert.

1 On November 27, 2006, the Board issued its Final Decision and Order. In the Final
2 Order, the Board set a compliance schedule.

3 On December 21, 2006, Respondent Spokane County filed an appeal to Spokane
4 County Superior Court. No stay of the proceedings has been filed with Superior Court.

5 On April 18, 2007, the Board held a telephonic compliance hearing. Present were,
6 Presiding Officer, Dennis Dellwo, and Board Members John Roskelley and Joyce Mulliken.
7 Present for Petitioner was Michael Piccolo. Present for Respondent was Dave Hubert.

8 III. DISCUSSION

9 Spokane County admits that it has done nothing to bring itself into compliance with
10 the order entered November 27, 2006. They stated that they have appealed this matter to
11 the Spokane County Superior Court and did not want to take any action that might be
12 unnecessary should the Superior Court determine that the Final Order and Decision is
13 reversed in total or in part. The Superior Court has not issued a stay of the above order at
14 this time. It is expected that the County will request such stay. The County recognized that
15 it remains in noncompliance with the Board's order.

16 The Petitioner agreed that the County was in noncompliance but did not seek the
17 request of sanctions from the Governor's office.

18 IV. ORDER

19 The Eastern Washington Growth Management Hearings Board finds that the County
20 is in continued noncompliance and directs that it bring itself into compliance with the
21 Board's Order and the GMA within 60-days from the date of this Order.

- 22 1. Spokane County must take the appropriate legislative action to bring
23 itself into compliance with this Order by **June 25, 2007, 60** days from
24 the date issued. The following schedule for compliance, briefing and
25 hearing shall apply:
 - 26 • The County shall file with the Board by, **July 9, 2007, an original
and four copies** of a Statement of Actions Taken to Comply (SATC)
with the GMA, as interpreted and set forth in this Order. The SATC shall
attach copies of legislation enacted in order to comply. The County

1 shall simultaneously serve a copy of the SATC, with attachments, on
2 the parties. **By this same date, the County shall file a**
3 **"Remanded Index,"** listing the procedures and materials considered
4 in taking the remand action.

- 5 • By no later than **July 23, 2007** Petitioners shall file with the Board an
6 **original and four copies** of Comments and legal arguments on the
7 County's SATC. Petitioners shall simultaneously serve a copy of their
8 Comments and legal arguments on the parties.
- 9 • By no later than **August 6, 2007**, the County shall file with the Board
10 an **original and four copies** of the County's Response to Comments
11 and legal arguments. The County shall simultaneously serve a copy of
12 such on the parties.
- 13 • By no later than **August 13, 2007**, Petitioners shall file with the Board
14 an **original and four copies** of their Reply to Comments and legal
15 arguments. Petitioners shall serve a copy of their brief on the parties.
- 16 • Pursuant to RCW 36.70A.330(1) the Board hereby schedules a
17 telephonic Compliance Hearing for **August 24, 2007, at 10:00 a.m.**
18 The parties will call **360-357-2903 followed by 17084 and the #**
19 **sign**. Ports are reserved for Mr. Piccolo and Mr. Hubert. If additional
20 ports are needed please contact the Board to make arrangements.

21 If the County takes legislative compliance actions prior to the date set forth in
22 this Order, it may file a motion with the Board requesting an adjustment to this
23 compliance schedule.

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

25 **Reconsideration:**

26 Pursuant to WAC 242-02-832, you have ten (10) days from the mailing of
this Order to file a petition for reconsideration. Petitions for reconsideration shall
follow the format set out in WAC 242-02-832. The original and four (4) copies of
the petition for reconsideration, together with any argument in support thereof,
should be filed by mailing, faxing or delivering the document directly to the
Board, with a copy to all other parties of record and their representatives. **Filing**
means actual receipt of the document at the Board office. RCW 34.05.010(6),

1 WAC 242-02-330. The filing of a petition for reconsideration is not a
2 prerequisite for filing a petition for judicial review.

3 **Judicial Review:**

4 Any party aggrieved by a final decision of the Board may appeal the
5 decision to superior court as provided by RCW 36.70A.300(5). Proceedings for
6 judicial review may be instituted by filing a petition in superior court according
7 to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and
8 Civil.

8 **Enforcement:**

9 The petition for judicial review of this Order shall be filed with the
10 appropriate court and served on the Board, the Office of the Attorney General,
11 and all parties within thirty days after service of the final order, as provided in
12 RCW 34.05.542. Service on the Board may be accomplished in person or by mail.
13 Service on the Board means actual receipt of the document at the Board office
14 within thirty days after service of the final order.

13 **Service:**

14 This Order was served on you the day it was deposited in the United States
15 mail. RCW 34.05.010(19).

16 SO ORDERED this 24th day of April 2007.

17 EASTERN WASHINGTON GROWTH MANAGEMENT
18 HEARINGS BOARD

19 _____
20 Dennis Dellwo, Board Member

21 _____
22 John Roskelley, Board Member

23 _____
24 Joyce Mulliken, Board Member