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

YAKIMA COUNTY FARM BUREAU, INC.,
YAKIMA COUNTY CATTLEMEN'S ASSOC.,
LARRY DYKES,

Petitioners,

v.

YAKIMA COUNTY,

Respondent.

Case No. 08-1-0009

ORDER ON MOTION FOR DISMISSAL

I. PROCEDURAL HISTORY

In February 2008, YAKIMA COUNTY FARM BUREAU, INC., YAKIMA COUNTY CATTLEMENS' ASSOCIATION, and LARRY DYKES, by and through their representatives, Richard Stephens and Samuel Rodabough (collectively Petitioners), filed a Petition for Review (PFR).¹ With this PFR, Petitioners challenged Yakima County's adoption of Ordinance 13-2007.

In April 2008, Yakima County filed a Motion for Summary Judgment seeking dismissal of two issues which related to the application of RCW 36.70A.480 and 36.70A.560 to the

¹ This PFR was consolidated with a PFR (Case No. 08-1-0004) also filed against Yakima County by the Sunnyside Division Board of Control (SDBOC). The consolidated matter was referenced with Case No. 08-1-0009c. Pursuant to a request by the Board after Petitioners filed a Stipulated Order, Petitioners and SDBOC filed a Joint Motion to Bifurcate the consolidated matter in October 2008 which the Board granted thereby returning the parties and their related issues to the pre-consolidated status. See, October 27, 2008, Order on Joint Motion to Bifurcate.

1 challenged Ordinance. The parties then filed a Joint Motion for Extension and, based on this
2 motion and representations to the Board during a May 2008 Motions Hearing, the Board
3 granted the parties request for extension and did not rule on the issues presented by the
4 County's in its Motion for Summary Judgment.²

5 In September 2008, the parties filed a Stipulated Order with the Board. With this
6 Order, the parties, with the exception of issues raised in regards to RCW 36.70A.480 and
7 RCW 36.70A.560, sought dismissal of all other issues. For the remaining issues, the parties
8 sought a ruling by the Board as to the application of Ordinance 13-2007 in relationship to
the two cited GMA provisions.

9 On November 10, 2008, the Board held a telephonic status conference with the
10 parties to discuss the pending Stipulated Order and requested that the parties revise the
11 Stipulated Order. This the parties did and a Revised Stipulated Order was received by the
12 Board on November 17, 2008.

13 II. DISCUSSION

14 The Petitioners filed a Motion for Dismissal with the Eastern Washington Growth
15 Management Hearings Board (Board). With this Motion, Petitioners request the dismissal of
16 Issues 4.3 through 4.8 of their Amended PFR. In addition, Petitioners request the dismissal
17 of Issues 4.1 and 4.2 "premised upon the Board's acceptance and execution" of a Revised
18 Stipulated Order. Thus, with this Motion the Petitioners are seeking dismissal of the case in
its entirety.

19 As for Issues 4.3 through 4.8, it appears Petitioners no longer wish to pursue the
20 claims set forth in these issues as it is Petitioners alone who seek dismissal.³ Issues
21 presented for the Board's review are the province of the petitioner presenting those issues
22 and, as such, the Board will dismiss these issues.

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25 ² May 9, 2008 Order on Motions.

26 ³ The Motion for Dismissal was filed solely by Petitioners. The Revised Stipulated Order has signature blocks for the Board, the Petitioners, and Yakima County.

1 As for Issues 4.1 and 4.2, at the November 10, telephonic conference the Board
2 requested a revision of the Stipulated Order believing that the parties were requesting the
3 Board issue an advisory opinion as to the application of RCW 36.70A.480 and 36.70A.560 in
4 relationship to Ordinance 13-2007.⁴ Evidently, this was not made clear to the parties and
5 there has been a misunderstanding. With the Revised Stipulated Order, the parties are
6 continuing to ask the Board to rule on the merits of the claims presented with Issues 4.1
7 and 4.2 without the parties providing current briefing on the issues or the Board holding a
8 Hearing on the Merits. In essence, the Board views this as the parties seeking an advisory
9 opinion from the Board, which the Board will not do.

10 If the parties have resolved the basis for the Petitioners filing of this matter before
11 the Board, then the parties can file a motion to dismiss the matter in its entirety or
12 Petitioners can simply withdraw their PFR, both of which would terminate the Board's
13 review of this matter as there would no longer be a dispute for the Board to address. If
14 there is still a dispute for which the parties seek the Board's assistance to resolve as to the
15 merits of the issues, then the parties need to move forward with the new revised schedule
16 for briefing and hearing date under the Order section for Issues 4.1 and 4.2. Unless the
17 Board receives a Motion for Settlement Extension, the Board will continue the schedule as
18 set forth below in order to complete the process, as per RCW 36.70A.300(2), with several
19 adjusted dates for briefing and the Hearing on the Merits.

20 **III. ORDER**

21 The Board will not accept and execute the Revised Stipulated Order. Therefore, the
22 BOARD:

- 23 1. GRANTS in part, and DENIES in part, the Motion for Dismissal.
 - 24 (A) Issues 4.3 through 4.8 are dismissed in their entirety.
 - 25 (B) Issues 4.1 through 4.2 remain as issues presented for the
26 Board's resolution.

⁴ RCW 36.70A.290(1). Board is precluded from issuing advisory opinions.

1 The new schedule for briefing and Hearing on the Merits to comply with RCW
2 36.70A.300(2) is as follows:

<u>Due date</u>	<u>Event</u>
3 Dec. 1, 2008	Deadline for Petitioners' Hearing on the Merits Brief with exhibits. 4 <u>BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF.</u>
5 Dec. 8, 2008	Deadline for Respondent's Hearing on the Merits Brief with exhibits. 6 <u>BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF.</u>
7 Dec. 15, 2008	Deadline for Petitioners' Hearing on the Merits Optional Reply Brief. 8 <u>BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF.</u>
9 Dec. 22, 2008	HEARING ON MERITS: 10:00 A.M. at 15 W. Yakima Avenue, Ste. 102, Yakima, WA.

9 The FINAL DECISION AND ORDER will be issued by the 180-day deadline of
10 January 20, 2009.

11 SO ORDERED this 21st day of November 2008.

12 EASTERN WASHINGTON GROWTH MANAGEMENT
13 HEARINGS BOARD

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John Roskelley, Board Member

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17 _____
Joyce Mulliken, Board Member

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Raymond L. Paolella, Board Member