

**BEFORE THE WESTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD**

EVERGREEN ISLANDS, et al.,

Petitioners,

v.

SKAGIT COUNTY,

Respondent,

and

AFFILIATED HEALTH SERVICES, et al.,

Intervenors,

No. 00-2-0046c

**ORDER
RE: LIFTING
INVALIDITY
(SIGN
ORDINANCE)**

This matter comes to us at the request of Skagit County. In its Responding Brief regarding their interim ordinance on lot aggregation (April 21, 2004), the County asked that the Board set a briefing schedule and set a hearing date within 90 days of the issuance of the order on the lot aggregation issue on its soon-to-be adopted sign ordinance. The Board issued an order concerning lot aggregation on June 23, 2004, and established a briefing schedule and established a hearing date for August 31, 2004. In this order, the Board finds that the County has removed substantial interference with the goals of the Growth Management Act. Because the County has been under an order of invalidity in this matter for over two years, the Board acts expeditiously to lift invalidity now and will issue an order concerning compliance at a later date.

I. PROCEDURAL HISTORY

In its February 6, 2001, Final Decision and Order in this case, the Board required Skagit County to set much stricter parameters for rural signage to protect the rural character of the County and conform with RCW 36.70A.030(14)(a) and .070(5)(c). If compliance was not achieved within 90 days, the Board said it would consider Petitioners' request for invalidity. On January 2, 2002, the Board found the County had not yet adopted new sign regulations to protect rural character and had reverted back to an older, more noncompliant sign ordinance. For these reasons, the Board decided that SCC 14.16.820 and Skagit County's failure to ensure that its rural lands remain rural through adequate signage controls, substantially interfered with the fulfillment of Goals (2) and (10) of the Act. In its September 11, 2003, Compliance Order in this case, the Board gave the County an additional 180 days to complete its work on revising its sign ordinance to protect rural character. On June 14, 2004, the County adopted amendments to its sign ordinance—Skagit County Ordinance 020040010. On August 31, 2004, the Board held a telephonic hearing. Ms. June Kite represented Friends of Skagit County (FOSC) and Mr. Samuel W. ("Billy") Plauche represented Skagit County. All three Board members attended.

II. DISCUSSION OF THE ISSUES

RCW 36.70A.302(1)(b) gives authority to the Growth Management Hearings Board to issue an order of invalidity upon a finding of noncompliance if the Board further finds that the continued validity of part or parts of a plan or regulation interferes with the fulfillment of the goals of the GMA. In other words, a determination of invalidity means that the continued implementation of specified plans, plan policies, and regulations seriously threatens the County's future ability to adopt planning legislation

that complies with the Act. *WEAN v. Island County*, WWGMB 95-2-0063 (Compliance Order, April 10, 1996).

In the orders outlined above, the Board found that the lack of adequate signage controls failed to protect rural character and was noncompliant with RCW 36.70A.030 (14(a) and .070(5)(c)). When the County failed to enact stricter signage controls to protect rural character as directed by the original order in this case, the Board found that the County's current sign regulations substantially interfered with RCW 36.70A.020(2), the GMA's sprawl reduction goal, and RCW 36.70A.020 (10), the Act's environmental protection goal.

On June 14, 2004, the County adopted Ordinance No. 020040010 in response to the Board's finding of invalidity in this case. The County requests that the Board lift the finding of invalidity based on the County's adoption of this ordinance. In their briefs, Petitioners oppose the motion to lift invalidity, raising concerns about the County's sign ordinance amendments that included the following:

- Nonconforming signs could remain in place for three years.
- Many signs could remain in place because they were approved through a special use permit.
- Billboards that are allowed in Rural Freeway Service (RFS) Zones dominate over the natural environment.
- Off premise signs could occur on every parcel in the rural area.
- Size of on-premise signs and rural industrial and commercial signs were too large and too tall and are not consistent with rural character.
- Landscaping requirements for signs would be ineffective.
- There were not enough restrictions on the size and number of pennants, banners, flags, etc., that businesses could have for promotions and the

restrictions on the number of promotions that used these items were not enough.

- Despite these amendments, the sign ordinance still did not protect rural character and substantially interfered with the goals and requirements of the GMA.

However, at the Compliance Hearing, Petitioners' representative conveyed that most of Petitioners' concerns about the sign ordinance amendments had been alleviated except for their concern about billboards being allowed in the Rural Freeway Service (RFS) Zone. Petitioner argued that the allowed size and spacing of billboards in RFS Zone interfered with the rural character of the surrounding rural area and that Washington Department of Transportation's tourist information signs were adequate to convey needed information to the traveling public. Petitioners continued to contend that the County's regulation of billboards substantially interferes with the goals of the GMA and that, therefore, the finding of invalidity should not be lifted.

Respondent points out that the County's new amendments confined billboards to the four RFS Zones and that billboards located outside of these zones had to be phased out over three years. The County maintains that RFS Zones are compliant Limited Areas of More Intense Development (LAMIRDs) and are appropriate locations for billboards.

III. DECISION

This Board has said that it will find invalidity if the continued implementation of specified plans, plan policies, and regulations seriously threatens the County's future ability to adopt planning legislation that complies with the Act. *WEAN v. Island County*, WWGMB 95-2-0063 (Compliance Order, April 10, 1996). We find that the

County has enacted more stringent signage controls in rural areas and, therefore, has removed the substantial interference with RCW 36.70A.020(2) and (10) by adopting Ordinance 020040010. The ordinance institutes the following measures:

- Larger commercial and industrial signs are confined to businesses and industries located in LAMIRDs.
- Billboards are confined to the four Rural Freeway Zones.
- Nonconforming off-premise signs that were not permitted through the use of special use permit must be phased out over three years.
- The regulations for signs apply to all zoning districts in the County.
- Abandoned signs; flashing, revolving, animated, and moving signs; strobelights; searchlights; revolving signs; and certain types of rooftop signs are prohibited.
- Temporary signs advertising community events are limited in type, size, and duration.
- The County has authority to remove signs that are a threat to health and safety and makes it clear that illegal signs will be abated through the County's regular enforcement procedures.

We find that these measures remove the substantial interference with goals 2 and 10 of the GMA by limiting the challenged signs to rural areas of more intense development (goal 2, reducing sprawl) and by applying reasonable measures to protect the environment (goal 10, environment).

IV. ORDER

Based upon review of the County's request to consider lifting invalidity and its supporting briefs, the briefs submitted by FOOSC, the arguments of the parties at the compliance hearing, and the files and records herein, the Board finds that Skagit

County has removed substantial interference with the goals and requirements of the GMA in this case.

The Board hereby **rescinds** its prior determination of invalidity for Skagit County's sign regulations and the issues determined invalid in the January 2, 2002, order in WWGMHB 00-2-0046c.

The Board will issue an order concerning compliance subsequently.

So ordered this 14th of September, 2004.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Holly Gadbow, Board Member

Margery Hite, Board Member

Gayle Rothrock, Board Member