

## 2012 GMHB Stakeholder Survey Results and Comments

1. How would you rate the quality of the Board's written orders?							
Very Poor	Poor	Average	Good	Very Good	N/A	Rating Avg.	Response Count
0.0% (0)	4.0% (1)	12.0% (3)	44.0% (11)	40.0% (10)	0.0% (0)	4.20	25

**COMMENTS:**

- Decisions could be improved by devoting less time and space to summarizing the arguments of the parties, and including more detailed exposition of the Board's reasoning/analysis.
- It really depends on the order and the chief author. Some orders are well structured and easily understandable. Others can be disjointed and confusing, leaving the reader to wonder exact what the holding was.
- Your written orders are characterized by meticulous attention to detail and careful analysis of the issues as presented by the parties.
- The orders I have received have been thoughtful analysis of the issues and resolutions. I like the format of having a summary of the findings first, followed by the detailed finding and order. It is important to stress the standard of review and the burden of proof in each order, since that becomes the frame that the argument is built upon.
- Orders would benefit from being shorter and, therefore, more direct, and they would also benefit ifrom following precedent. Unclear if any legal advice is provided to the Board prior to rendering its orders.
- The FDO for Whatcom County was very complete and demonstrated the Board had taken a ot of time to research the files.
- We realize that the Board wants to make itself clear, but sometimes with a very long decision there is more chance for inconsistent messages.
- Some details of cases are not correct in the written order.
- I think the board does a good job. In some cases, usually cases with lots of issues the quality of the Board's orders can suffer. The Board should consider making some changes to the schedule to give it more time in those cases, requiring the parties to file all of the briefing two weeks earlier would not be a problem, I do not think, but would give the board just that much more time. I think it would also be helpful on appeal if the board set out formal findings of fact. This would help superior courts in particular I think.

2. How would you rate the conduct and effectiveness of the Board's telephonic hearings?							
Very Poor	Poor	Average	Good	Very Good	N/A	Rating Avg.	Response Count
0.0% (0)	8.0% (2)	4.0% (1)	20.0% (5)	48.0% (12)	20.0% (5)	4.35	25

**COMMENTS:**

- Effective advocacy is more difficult without seeing facial expressions, reading body language, or (occasionally) knowing who is speaking.
- Although in person is always better - the benefit to the parties of not having to expend travel time is appreciated.
- As a participant in hearings both in-person and telephonic, I always feel some sense of loss when the parties are not in the same room together with the hearing examiners. The board does try to be fair in its conduct of the hearings.

- The telephonic hearings have been well conducted. I would stress that it is most helpful when a consistent order of presentation is followed and the time limits are consistently applied. It is also important to give each party an opportunity to rebut new arguments that are raised during the course of the hearing.
- Prefer telephonic hearings for summary matters. Saves time and energy for all.
- I think the board runs these well and the parties usually do a good job too.

### 3. How would you rate the conduct and effectiveness of the Board's in-person hearings, such as a hearing on the merits?

Very Poor	Poor	Average	Good	Very Good	N/A	Rating Avg.	Response Count
0.0% (0)	8.0% (2)	0.0% (0)	28.0% (7)	60.0% (15)	4.0% (1)	4.46	25

#### COMMENTS:

- Always well managed.
- In the past, I think that the Board members let the attorneys blab on and on too long. Oral argument should be limited or not at all. The Board members should use oral argument to obtain answers to their questions, not to allow attorneys to have hours for oral argument that is duplicated in their briefs.
- The hearings should accomplish two goals: Give each party to explain their arguments as contained in the briefing and a change to give the GMHB the opportunity to explore the arguments and get detailed explanations to questions raised by the briefing. However, pro-se appellants often go outside the briefing and try to argue additional matters and allowing that could be difficult for the planning jurisdiction to respond to unless the planning administrator is allowed to testify, something that is rarely allowed.
- They seemed to be able to parcel out the pertinent parts of a CP that thwarted the GMA intent.
- I have found the Board to run fair and effective hearings.
- I think the board runs its hearings in a very professional manner. It is good that the Board's now clearly set out the time limits in its agendas, very helpful.

### 4. Considering Board procedures, staff work, and Board decisions, what are the positive aspects of the Board's reorganization? Give examples.

#### COMMENTS:

- efficiency and cost
- Reorganization has provided a more singular, uniform approach to requirements for parties. Rather than having 3 boards, each with their own rules, a unified approach makes it easier for parties to adapt from one region to the other. For example, having the same process for filing additions to the record is helpful. Or, having the same standards for issues statements - such as whether invalidity needs to be included as an issue or just a requested remedy
- More consistency among three GMHBs
- Eventually, the Board structure should be easier to understand for the public.
- The differences among the three boards' interpretations of the GMA should be eliminated with the reorganization. E.g. the different interpretations of SEPA standing. Parties can now rely upon a decision of the Board for precedent, regardless of whether the decision occurs in the Eastern, Central or Western district.
- They worked hard to be unbiased, they were thorough and they were respectful.
- More telephonic hearings, broader perspectives from other Board members
- Board has held up well with less assistance.
- You saved a little money. I think that is about it.

**5. Considering Board procedures, staff work, and Board decisions, what are the negative aspects of the Board's reorganization? Give examples.**

**COMMENTS:**

- Transition seems to be slow.
- The Board is oversubscribed -- too many matters with large records, not enough help. Deadlines often are not realistic under those circumstances.
- Can't think of any
- Somewhat less predictability based on uncertainty of who the Board members hearing a given case might be. On the other hand, maybe this is a positive...
- Their decisions do not hold any power to mandate compliance, they give too much deference to the County. Whatcom county has always disdained GMA and refuse to abide by the limits to growth.
- They don't follow the laws as set forth and allow counties to in fill and piece meal develop in spite of the GMA. Carlsborg UGA prime example. Capital facilities and services were not in place at time of development occupancy and Clallam County was allowed to keep the Carlsborg UGA.
- Appears to be more administrative issues. Do not get the "local perspective" that was apparently intended when the regional boards were established.
- Providing electronic attachments would be more efficient for all parties. Making copies is wasteful, and when the Board allows intervening parties to participate, additional costs are incurred.
- Reduced Board Members and staff. It seems to me that the six Board members are pretty busy.

**6. How easy is it to use the Board's website?**

Very Difficult	Difficult	Average	Easy	Very Easy	N/A	Rating Avg.	Response Count
0.0% (0)	5.6% (1)	50.0% (9)	33.3% (6)	5.6% (1)	5.6% (1)	3.41	18

**COMMENTS:**

- Case search function is confusing and produces uneven results.
- The different digests can be confusing but understandable given the history.
- Greater searchability with database. Although it is much better than PCHB and SHB
- It would help the public if the disposition of Board decisions were made available, when they are appealed to the court system and published decisions result. It's possible to figure out what happened with Lexis or Westlaw, of course, but that doesn't help planning departments and citizen petitioners.
- Its sometimes seems cumbersome to find a final substnative decision in a specific case, without having to scroll through all the procedural orders.
- combined search for all 3 board decisions now that there is just one board.
- The case search engine can be clunky to use. If you know the case number, no problem but if you are searching on key words, party names, etc. it can be frustrating.
- Searching for decisions is very clunky. A better search engine would be helpful.
- With consolidation, being able to see other Board decisions is important.
- I think the Board's website is good. Previous you could search on the board's decisions using any key words, not you can only search using predetermiend words from a pull down menu. This has the advantage of helping people chose good key words, which is helpful. Unfortunately none of hte key words are sections or subsections of the GMA. So I recommend that you also allow the entry of any key word, not just those on the pull down menu.

**7. Did you participate or comment on the revision of the Board's rules (WAC 242-03) in 2011? If yes, please comment on the revised rules or the revision process.**

**COMMENTS:**

- Yes. I appreciate that the Board continues to emphasize mediation as an option.
- Improvements but still show issues. The Board needs to update rules as to methods of service to include for profit courier services (e.g. Fed Ex or UPS) and not just mail. In addition, requiring service on responding jurisdiction the same day as Board - e.g. in the hands of the jurisdiction - puts a costly burden on petitioners, especially when last minute appeals are common
- no what's the use.
- I did participate. It seems to me that the board took the comments into consideration and generally I think the now rules are quite helpful.

**8. Please share your thoughts with the Board about the Growth Management Act, its administration and adjudication process.**

**COMMENTS:**

- I think the state should approve Comp plans and development regulations, like the Oregon system. Either by Commerce or a new agency. This would require stronger administrative rules. Under the current system, I suspect many jurisdictions have non compliant sprawl allowing plans that have never been challenged. Moreover, a broader statewide approach is needed rather than the balkanization of different plans and DRs.
- A political compromise - when will challenges stay effectiveness of ordinances during pendency of appeal?
- We're awfully glad to have you around. Thanks for all that you do.
- The Legislature should create a land use board to hear appeals of land use decisions, similar to the board in Oregon. We should have three land use attorneys on the board, and they should be making decisions on final land use decisions, instead of the superior court. Right now, any LUPA appeal goes to superior court. Then, the superior court's decision is thrown out if the decision is appealed to the court of appeals. The court of appeals conducts the exact same review of the local government's record as the superior court did. So, there are two duplicate reviews of the same decision. What a waste of time and money. The GMA Board has a procedure that allows one to bypass the superior court, but is is discretionary, right? I haven't looked at it in a while. Eliminate the superior court review. All that happens at superior court is we waste a bunch of time arguing about land use before judges who don't see many land use decisions -- and they are frustrated with them because they are so complicated.
- Telephonic hearings should be used as frequently as possible. The GMHB should dismiss cases where it obviously lacks jurisdiction without requiring extensive briefing from respondents.
- As representing the public sector, it seems that despite the presumption of validity the planning jurisdiction still has the burden of proving they are correct. But a bigger concern is the issue of standing, and whether it is appropriate to allow appellants who have only marginally participated in the process, or whose participation was only at the very last moment where their position could not be appropriately considered. There should be an objective process of considering standing challenges based on a test of whether there was actual involvement in a meaningful way that would be sufficient to allow the planning jurisdiction to consider the proposal prior to final action.
- it is apropos that this survey is powered by surveymonkey. the board is the most biased forum I have ever had the misfortune to deal with. I understand now why people are disillusioned about our justice system. The act itself is not that bad. the boards twisting of the act is horrendous and I pray that God will visit his justice upon those who have used it grossly in an attempt to

socialize private property and the rights to thereof.

- Given that the Legislature placed enforcement in the hands of citizen appellants rather than a State agency, I think the system works well. It takes years to resolve a contested dispute, but that is more a factor of the courts than the GMHB.
- It is a wonderful idea, there are no real 'teeth' to it for Counties that do not want to follow this law. In Whatcom County it is a years long battle, now almost 20!
- The board has been and is too lenient when counties violate the spirit and intent of the GMA. Carlsborg should be down zoned to rural.
- Electronic submission of attachments. Citizen appeals cannot keep up with the copy charges for records that the local government already has. It is extremely wasteful to make copies of those records.
- I think the Boards do a hard job well. Its staff is very helpful, the board's decisions are almost always well thought out, and the orders are generally well written. You can see that in that most of the board's decisions are upheld by the courts. The compliance process needs some work, perhaps allowing petitioners to respond to local government's response brief.