

2014 GMHB Stakeholder Survey Results and Comments

1. The Growth Board was created to render independent, regionally sensitive review of city and county planning actions in a process that is less formal, less costly, and more expeditious than superior court. How would you rate the Board's performance?

Scale/ Choices:	(1) Very Poor	(2) Poor	(3) Average	(4) Good	(5) Very Good	N/A	Rating Avg.	Response Count
Percent/	6.06%	9.09%	21.21%	15.15%	45.45%	3.03%	3.88	33
Responses:	(2)	(3)	(7)	(5)	(15)	(1)		

COMMENTS:

1. Best if the board just be abolished.
2. Board members are more knowledgeable about GMA related matters than judges tend to be.
3. Looking through past appeals, it looks like they are very effective.
4. The Growth Board lacks the authority to enforce its decisions, just like the Code Enforcement department of Spokane County - what a joke! Exactly how many orders for compliance are needed? The system is designed for attorneys and lawyers: a college educated, web savvy, voting citizen doesn't stand a chance in the quagmire we call a 'judicial system'.
5. Good overall, but they seem to have given up on Ferry County of late with regards to ag lands. They are not into recommending sanctions as much of late in eastern WA, not sure of the other boards. Seem willing to cut Ferry county more slack than they deserve!
6. The Board presumes the city or county is correct and forces the opponents to prove otherwise. I have lost cases because a city attorney lied during the hearings, and I was not able to produce evidence of the lying immediately at the time. I lost cases when the issue of policy was important, because the policy of preserving a park was deemed less important by the Board than the policy of economic development. When the cards are stacked against public participation, the public gives up after a while.
7. "Less formal" is a problem because the rules are so complex and hard to understand, and if you miss a deadline as a pro se appellant, you are done, regardless of whether or not you understood the rules.
8. Expanding the scope of issues in some instances.
9. In the context of this question - very good. Without the Board some important issues would not be addressed due to the huge expense of attorneys and such were Superior court the only option.
10. Given the Board's mission, decisions are often way too long, and way too arcane. Which then makes finding and distinguishing potential precedent time-consuming, contrary to the goal for expeditious, less costly proceedings.
11. So far, so good. Our Hearing is scheduled for December of 2014.
12. It is not readily apparent how the Board's review is "regionally sensitive" after the consolidation. The Board's review is certainly independent; although the Board acknowledges the statutorily-mandated deference to local legislative policy choices, in practice such deference to cities and counties is not much in evidence. In LUPA proceedings, the superior courts pay more careful attention to the basis and scope of their statutory authority.
13. The Board issues thoughtful, well reasoned, and timely decisions for the most part. It is also accessible to the generally public, which is very important to increase accountability.

2. Slow growth statewide since 2009 reduced appeals to the Board during the recession. Should the GMHB anticipate increased appeals as a result of a growing economy?

Scale/ Choices:	(1) Fewer Cases	(2) No Change	(3) More Cases	(4) Lots More Cases	N/A	Rating Avg.	Response Count
Percent/ Responses:	2.94% (1)	32.35% (11)	58.82% (20)	2.94% (1)	2.94% (1)	2.64	34

COMMENTS:

1. Absolutely more cases. In addition, Snohomish County cities, including Bothell are updating their Comp plans.
2. Most have learned that the board is not the honest option we had hoped it would be
3. By the time growth occurs, GMA enactments are in place and the 60-day appeal window is long closed.
4. In Spokane County poor planning is the rule and will continue.
5. The fewer cases were no doubt due to less money for borrowing. My experience is that developers needed city or county money to install basic services because of the tremendous cost of services. The cases that moved forward and were approved by the board involved developers who had obtained funding for services from cities without proper capital plans. The board tended to look the other way.
6. There has been a great deal of development in Whatcom County, plus we are out of "easy" land and what is left is critical areas that require variances and conditional use permits and this makes things more controversial.
7. Cases are likely to increase due to increased growth and static UGA boundaries. Inevitably, there will be efforts to expand those boundaries, which is sure to be controversial.
8. If the Spokane County Commissioners were held personally liable, there would be a lot less work for the Board and for the people who oppose these frequent violations of law. No one wants to use the word "misfeasance," but that is what is needed to stop these zoning changes designed for people with an unusually high degree of influence.
9. Since the Board handles appeals of legislative actions and does not review project-specific decisions, it seems more likely that appeal volume is related to local governments' GMA adoption/update schedules, not "growth" or recession statewide.
10. I think there will be some more cases. However, it is unlikely the development industry will come back to the peak of the bubble.

3. City and county comprehensive plans are required to be updated in 2015 – 2019. Is this likely to result in an increase in the number of appeals to the GMHB?

Scale/ Choices:	(1) Fewer Cases	(2) No Change	(3) More Cases	(4) Lots More Cases	N/A	Rating Avg.	Response Count
Percent/ Responses:	3.03% (1)	9.09% (3)	63.64% (21)	21.21% (7)	3.03% (1)	3.06	33

COMMENTS:

1. Our County had one appeal during the last update (appeal was filed in 2009). I would expect at least one appeal, but not numerous appeals.
2. Best to focus on eliminating the board
3. Those who fail to learn from history are doomed to repeat it. We have a whole new generation of city and county councils who may not remember the lessons of the past.
4. Spokane County has a very 'flexible' attitude when it comes to their Comprehensive Plan and the need to follow it. The continued replacement of Agricultural Land by residential development has not slowed

county-wide. We suffer from a deep rooted, well established "Good ol' Boys Club" of government officials and developers.

5. I believe the opponents to developers have given up due to the cost and time it takes to oppose developments. Basically, the developers have won.
6. Doesn't it always?
7. Appears that most communities are only performing minor adjustments (at best) to existing plans.
8. Another factor the Board needs to keep in mind is that the cases before them are likely to be more factually based. For example, the newer Commerce minimum guidelines have more factors to consider in designating natural resource lands of long-term commercial significance, so the Board will have more factual determinations to make. This will likely take the board more time.

4. Updates of city and county shoreline master programs are required to be completed in 2014. Is this likely to increase the number of appeals to the GMHB?

Scale/ Choices:	(1) Fewer Cases	(2) No Change	(3) More Cases	(4) Lots More Cases	N/A	Rating Avg.	Response Count
Percent/ Responses:	0.0% (0)	26.67% (8)	60.00% (18)	3.33% (1)	10.00% (3)	2.74	30

COMMENTS:

1. The SMP are different than the Comp Plan updates. While this is the first time many jurisdictions are using the new guidelines, I do not believe more appeals will follow.
2. This is an unknown for our County.
3. How many years has Stevens County refused to implement a shoreline master program? I believe we're almost to the ten(10) year anniversary and still no plan or enforcement.
4. At least in Whatcom County, fewer people knew, or follow SMP issues. They are less transparent because they involve the staff and HE, and do not go to the council. GMA issues go to the council.
5. Battles are being fought with Dept. of Ecology.
6. It has been surprising at how few appeals have come out of the SMP updates, however some of them, such as the Jefferson County appeal are very complex with very many issues. These sorts of appeals will require a lot of Board time to decide. The number of issues in appeals needs to be taken into account in planning workload.

5. How effectively does the Board handle appeals filed by non-attorney citizens (pro se)? Please comment or make suggestions.

Scale/ Choices:	(1) Very Poor	(2) Poor	(3) Average	(4) Good	(5) Very Good	N/A	Rating Avg.	Response Count
Percent/ Responses:	9.09% (3)	6.06% (2)	9.09% (3)	27.27% (9)	21.21% (7)	27.27% (9)	3.63	33

COMMENTS:

1. We had a good experience before the Board. It is very challenging and difficult to appeal, pro se-- particularly if the opposing attorney is not considerate. The Board was even handed and thoughtful.
2. There is very little good that comes from board. It has become a way for politically connected people to make good money doing nothing good for the citizens who pay their salary.
3. The Boards seem to be highly attentive to the 'at times' lack of legal understanding by non-attorney petitioners. The Board members should be commended for their patience! One small area where there could be some change involves providing greater detail on which issues will be considered in the Compliance Hearings. From a non-attorney perspective, an omission implies that those issues have been

- excluded from the written and will not be heard.
4. Nearly all of my experience with the Board is as a pro se citizen petitioner. Board members have always treated me fairly and heard my arguments with no apparent bias.
 5. We are very early in the appeals process but I would say that they have been extremely helpful to regular citizens like myself who are not attorneys.
 6. It's no wonder county government and their attorneys can ignore the Growth Management Act - the review process is cumbersome, vague, and frustrating for a farmer wishing to protect their way of life. Right vs. Wrong is no longer a valid legal argument.
 7. I was a non-attorney who hired an attorney for my research and getting the details correct. I did the writing and presenting and was well received because of my careful preparation. However, the board members once upon a time invited our challenges and we won every case. After the board changed personnel, we then lost every case. Now how can that be? The new board obviously had a bias built into it which supported developers.
 8. I wish the rules were not so complex because few pro se citizens can really appeal, unless they have a planning or legal background. And these are the most procedurally complex and difficult cases to follow that I have ever encountered, and my back ground is in tax law.
 9. Having challenged pro se I would say the Hearings Board staff was really great to work with providing all the information possible within the bounds of the rules. The Board was courteous and understanding of the limitations I might have regarding legal issues.
 10. Non-attorney citizens without any previous experience in the procedure will probably receive nothing more than an education in a governmental process.
 11. It would be very difficult for the common citizen to follow the format required for making an appeal to the board. By making the process fit a certain format, the GMBoard can eliminate many valid claims on the basis that the material is not presented in the correct format.
 12. We are not using an attorney. During the Prehearing Conference the Board members were helpful and respectful. The handbook "Practicing Before the Growth Management Hearings Board" is very useful. I could of used more information on how to do the legal paperwork, such as writing a Motion to Supplement the Record. It would be nice to provide people with blank legal paper (the kind with the numbers going down the side of the page). The case law digest is very helpful. So far, good marks for the Board.
 13. Generally the board hands pro se appeals very well. The Board should continue it practice of giving pro se's a little flexibility in adjusting issues.

6. The Board's legislative reorganization in 2010 reduced the Board from 9 members to 7, and since 2011 the Board has been operating with only 6 members (one unfilled position). How would you rate the conduct and effectiveness of the Board's work at the reduced size?

Scale/ Choices:	Very Poor	Poor	Average	Good	Very Good	N/A	Rating Avg.	Response Count
Percent/ Responses:	3.13% (1)	6.25% (2)	28.13% (9)	28.13% (9)	18.75% (6)	15.63% (5)	3.63	32

COMMENTS:

1. Would prefer the board count go to zero and let people go to court.
2. While the work is graded 'good', the consolidation has reduced what should be 'very good' by some seemingly apparent procedural glitches arising from three different operating styles. Those should be resolved over time.
3. I was skeptical at first, but the results did not seem different from before the change.
4. I don't have enough experience with the board to answer this.

5. I stopped filing cases in 2010 and have had no contact with the revised board.
6. I do not support the practice of board members hearing matters (HOM) telephonically, with the exception of non-substantive procedural hearings.
7. No discernible impact.
8. I don't think size matters. I think the quality of the members matters.
9. It appeared that the board had been given instructions about the outcome and they listened but made the results come out the way the board wanted the ruling to be.
10. So far, so good.
11. The Board's work product does not appear to be any better or worse since the reduction in the number of Board members.
12. My experience with the six member board has been good. I have notice that some orders are coming out at the absolutely last minute and in some decisions some issues have been glossed over due to a take of board resources.

7. The GMHB will review its procedural rules (WAC 242-03) later this year. What procedures do you think should be revised or amended?

COMMENTS:

1. All paperwork should be kept at a minimum.
2. Eliminating the requirement to hole-punch and send multiple copies of briefs and other documents to the Board. We don't have the staff or equipment that can easily handle these activities. Our County has never filed a petition. If these activities are truly necessary, they should be handled by the Board's staff and covered by filing fees of petitioners. Additionally, the Board should e-mail its final orders to the Parties. Due to the time it takes for mail to come across the state, it can take days before parties in eastern Washington are aware of the Board's decision.
3. Almost every one.
4. No comment at this time.
5. Electronic service was the big improvement, but that has already been done.
6. I only have limited experience at this time so don't really know
7. Could you please make it more complex?? (yes... note the sarcasm!)
8. They could go to a complete electronic format, save lots of paper and thus end any delays in sending hard copies and or service
9. The loopholes which allow a city or county to immediately implement activity should be plugged. A city or county should have to wait until a 60-day period has passed before new planning regulations are implemented.
10. It would be helpful and more cost-effective to provide greater opportunity for dispositive motion practice on subjects other than standing and jurisdiction.
11. The extent of the record should be clarified...in the case I challenged in the County refused to include Council Committee minutes addressing the issue as well as other material directly influencing the case... The discussion in the Hearings Board booklet regarding the record is more complete than that in the WAC... It should be made more clear that the city or county has an obligation to provide a complete record so far as is reasonable... In my case the County deliberately left out committee minutes and other material... I think it would also be a good idea were the WACs to make it clear that the Board should offer opinions only on the issues being addressed... In recent years some Boards have made "decisions" on issues not truly a part of the case... Those decisions, left unchallenged, become precedent and are difficult to undo.
12. Mediation procedures need to be improved to increase mediation participation.
13. No comment
14. Make the appeal process easier for the common person.

15. Final orders should be consistent with RCW 34.05.461(3), and be written more concisely. In lieu of regurgitating the parties' arguments on each issue, the Board should devote more effort to explaining its own reasoning. It is helpful to state each issue, identify any findings of fact, and list specific conclusions based on those findings and relevant law. Board decisions should not rely on "officially noticed" items outside the local government's record.
16. Overall, I think the board's rules work well.

8. How useful is the Board's website? Please comment on useful features or suggest improvements.

COMMENTS:

1. The ability to access and search past board decisions is very helpful.
2. Very useful, especially past Board cases.
3. The case search function is pretty good. I do wish to add that the Board clerical staff is professional and has been very helpful when assistance has been requested.
4. The website is extremely valuable from the standpoint of (1) providing detailed procedural guidance and (2) providing an index to precedent cases. Without such information non-attorney petitioners would be at a distinct disadvantage in drafting their Petitions for Review as well as formal Briefs. The Hearings Board should be commended for its work, including producing its Handbook.
5. Very useful. The combination of digests of decisions and digital copies of those decisions is invaluable to pro se citizen parties. Digital copies of parties' pleadings from closed cases would also be useful.
6. Very useful. The search engine in particular works very well and provided me with a lot of information on related cases.
7. Why not pile it all into a single, searchable, database? Multiple digests from different years make no sense.
8. not on there enough to comment, it seems easy to get most case files/rulings. It would be nice to have the winning sides arguments/briefs on the site...
9. I have not used the website since 2010. The ability to study cases is an important tool. The ability to find pertinent cases could be improved using key words. The ability to access supreme court decisions pertaining to GMA would also be helpful.
10. It would be easier to navigate if new case law could be incorporated into the main body of cases sooner.
11. Generally useful
12. Being able to search past decisions is the most important function.
13. Difficult to search by issue area; improvements in that regard would be appreciated.
14. The site seems fine to me...
15. Digests are critical
16. N/A
17. Advise that appeals need to be brief and prepared before the time line starts.
18. It had some good information but it would be helpful if we could have asked a live person some questions -especially about the presentation procedure
19. See answer to question 5. (*See Question 5, Answer #12.*)
20. The website provides access to a lot of information, but it appears cluttered. Readability could be improved. See the new ELUHO website for an example.
21. I think the board's website is very useful. The newly added ability to search on any word, not just the predefined words is very helpful. The board does a good job of getting recent decisions on the website.