

State of Washington
**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD**

TRIS SAMBERG, CHERI MILLER,)
MICHAEL HABLEWITZ, ANN) Consolidated
AAGAARD and SUE KIENAST; and) Case No. 94-3-0011
CRAIG BERNHART and JUDY FISHER,)
) FINDING OF COMPLIANCE
Petitioners,)
v.)
)
CITY OF BOTHELL,)
)
Respondent.)
_____)

I. PROCEDURAL BACKGROUND

On June 20, 1994, the City of Bothell (the **City**) adopted Ordinance No. 1557 adopting its Comprehensive Plan (the **Plan**).

Three petitions for review were filed with the Central Puget Sound Growth Management Hearings Board (the **Board**), alleging that certain provisions of the Plan were not in compliance with the Growth Management Act (**GMA** or the **Act**). A hearing on the merits of the petitions, consolidated into Case No. 94-3-0011, was held on January 11 and 12, 1995.

On February 21, 1995, the Board entered a Final Decision and Order, ruling that the City's Plan was in compliance with the requirements of the Act except for a Plan provision, Revision HO7a modifying the Proposed Comprehensive Plan to allow for high-density senior housing throughout the city, subject to certain specified restrictions. The Board remanded that provision to the City, with instructions to bring it into compliance with the Act and the Board's Order not later than July 21, 1995.

On August 2, 1995, the Board issued a Notice of Compliance Hearing, pursuant to RCW

36.70A.330(1), setting a hearing for August 18, 1995.

On August 11, 1995, the Board received three documents from the City: Findings, Conclusions and Action - Summary of Proposal [to amend Plan and zoning regulations concerning senior housing]; Ordinance No. 1599, Senior Housing Comprehensive Plan Amendment; and Ordinance No. 1600, Senior Housing Zoning Code Amendment.

On August 18, 1995 the Board held a compliance hearing at the Board's office, with Joseph W. Tovar and Chris Smith Towne, Presiding Officer, in attendance. Wayne Tanaka, representing the City of Bothell, appeared telephonically. None of the petitioners appeared. Court reporting services were provided by Cynthia J. LaRose, Robert H. Lewis & Associates.

I. STATEMENT OF FACTS

1. The Board's Final Decision and Order contained the following order:

- 1.) The City of Bothell Comprehensive Plan is in compliance with the requirements of the Growth Management Act, except for Revision HO7a.
- 2) Revision HO7a is remanded to the City with instructions to bring it into compliance with the Act and the Board's holding and conclusions.
- 3) Pursuant to RCW 36.70A.300(1)(b), the Board directs the City to comply with this Final Decision and Order no later than **5:00 p.m. on July 21, 1995.**

2. Revision HO7a amended the text of Policy HO-P18 as set forth in the Proposed Comprehensive Plan. Because of the addition of a new Policy HO-P17, the policy at issue in this matter was renumbered as HO-P19 in the final Comprehensive Plan.

4. On July 31, 1995 the Bothell City Council passed Ordinance 1599, Senior Housing Comprehensive Plan Amendment (the **Plan Amendment**). Notice of Ordinance adoption was published on August 9, 1995. The Amendment repealed Policy HO-P19 found in the Plan adopted June 20, 1994, and added a new policy HO-P19 to the Plan. That policy identifies senior housing types; projects the future need for each type; provides location, intensity and design criteria for each type; encourages development of low-income senior housing; and provides for monitoring of implementation. Appendix N, Senior Housing Needs and Policy Analyses, is adopted by reference in and appended to the Ordinance.

5. Also on July 31, 1995, the City Council passed Ordinance No. 1600, Senior Housing Zoning Code Amendment (the **Code Amendment**). Notice of Ordinance adoption was published on August 9, 1995. The Code Amendment modifies the Bothell Municipal Code and Code Appendix

by adding, deleting or amending sections to implement the amended senior housing policies adopted in Ordinance No. 1599.

III. FINDINGS

The Board has reviewed its Final Decision and Order and the file in this case, including the exhibits submitted by the City to demonstrate compliance, and considered the argument presented by the City at the compliance hearing. While the City failed to meet the July 21, 1995 deadline set in the Order for taking action to comply with the Order, none of the Petitioners objected to the delay. Further, even with the ten-day delay, the action was taken within the maximum period allowed for compliance by the Act, 180 days. The Board holds that the delay was minor and would have had a minimal effect, if any, and concludes that the city **has complied** with the Board's Final Decision and Order. Therefore, the Board issues a Finding of Compliance to the City in this case.

So ORDERED this 29th day of August, 1995.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

M. Peter Philley

Board Member

Joseph W. Tovar, AICP

Board Member

Chris Smith Towne

Board Member

(4311FOC.DOC Aug. 29, 1995)

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