



Legal Issue No. 10 provides:

*Do the comprehensive plan's impact fee provisions comply with RCW 82.02.050, .060, .070 and .090?*

The Town's dispositive motion regarding Legal Issue No. 10 did not challenge the Board's jurisdiction to determine issues regarding Chapter 82.02 RCW; it was based on other grounds. However, a jurisdictional challenge was concurrently before the Board in *Robison et al. V. City of Bainbridge Island*, CPSGMHB Case No. 94-3-0025. An Intervenor in that case, the Bainbridge Island School District, raised a defense that claimed that the Board lacks subject matter jurisdiction over Chapter 82.02 RCW. On February 24, 1995, the Board issued an "Order Granting BISD's Dispositive Motion re: Jurisdiction," concurring with the school district and dismissing all legal issues in that case related to Chapter 82.02 RCW.

Although the Town has not specifically raised a subject matter jurisdiction defense in this case, the Board is bound by its own precedent. The Board cannot determine in one case (i.e., *Bainbridge Island*) that it does not have jurisdiction over challenges to Chapter 82.02 RCW, and then ignore that decision in another case where the jurisdictional defense was not specifically raised. Accordingly, the Board concludes that since it does not have jurisdiction to review petitions for review that challenge a city or county's actions for failing to comply with Chapter 82.02 RCW, it must dismiss Legal Issue No. 10. The Board is unable to determine the substantive merits of that issue.

## **II. ORDER**

Having reviewed the above-referenced documents, having considered the argument of the parties and deliberated on the matter, the Board enters the following order:

The Town's Motion regarding Legal Issue No. 10 is **granted** because the Board does not have jurisdiction to determine whether Chapter 82.02 RCW has been violated. Therefore, Legal Issue No. 10 is dismissed with prejudice.

So ordered this 24th day of February, 1995.

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD**

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**M. Peter Philley, Presiding Officer**

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**Joseph W. Tovar, AICP**

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Chris Smith Towne

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