

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

RABIE, et al.,	)	<b>Case No. 98-3-0005c</b>
Petitioners,	)	<b>ORDER ON DISPOSITIVE</b>
v.	)	<b>MOTIONS</b>
CITY OF BURIEN,	)	
Respondent.	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

---

**I. PROCEDURAL HISTORY**

From January 12 through January 20, 1998, the Central Puget Sound Growth Management Hearings Board (the **Board**) received three petitions for review (**PFRs**) challenging the City of Burien’s (the **City**) comprehensive plan (the **Plan**), alleging violations of certain provisions of the Growth Management Act (**GMA** or the **Act**).

The Board consolidated the three PFRs and held a prehearing conference on February 17, 1998, and issued its Prehearing Order on February 20, 1998, setting a final schedule and the legal issues to be considered.

On March 13, 1998, the Board received “City of Burien’s Motion to Dismiss Petition of Randall Parsons for Failure to Properly Serve City” (**Burien’s Motion**). On this date, the Board also received “Dispositive Motion” from Petitioner Parsons (**Parsons’ Motion**).

On March 25, 1998, the Board received Parsons’ “Response to City of Burien’s Motion to Dismiss Petition of Randall Parsons for Failure to Properly Serve City of Burien” (**Parsons’ Response to Burien Motion**).

On March 26, 1998, the Board received “City of Burien’s Response to Petitioner Parsons’ Dispositive Motion.”

On April 1, 1998, the Board received “Burien’s Rebuttal to Petitioner Parsons’ Response.”

The Board did not hold a hearing on the motions.

## **II. FINDINGS OF FACT**

1. Petitioner Parsons personally served a copy of his PFR on Danielle Jensen, secretary to Burien's City Manager, on January 20, 1998. Declaration of Danielle Jensen in Support of City's Motion to Dismiss Petition of Randall Parsons (attached to Burien's Motion); City of Burien Public Information Directory (Ex. A to Parsons' Response to Burien's Motion).

2. The City's Mayor, City Manager, and City Clerk were not available to receive service on January 20, 1998, when Petitioner Parsons was in City Hall. Parsons' Response to Burien's Motion, at 2.

### **Iii. BURIEN'S MOTION**

When the respondent is a city, the Board's rules require that a copy of a PFR be served on the mayor, city manager, or city clerk. WAC 242-02-230(1). The Board may dismiss a PFR for failure to substantially comply with these requirements. WAC 242-02-230(2). Substantial compliance is not defined in the Board's rules.

Petitioner Parsons personally served a copy of his PFR on the secretary to the City Manager of Burien. The City argues that Petitioner failed to comply with the plain language of WAC 242-02-230(1), and that Petitioner's service does not substantially comply with the Board's rules of service. The City relies on *Wallock v. City of Everett*, CPSGMHB Case No. 96-3-0037, Order Granting Motion to Dismiss (February 20, 1997).

In *Wallock*, the petitioner served by mail a copy of the PFR on an assistant city attorney for Everett. This Board found that, on its face, petitioner's service failed to satisfy the Board's rules. *Wallock*, at 3. The Board also found that Wallock's service, by mail on an assistant city attorney, did not substantially comply with the Board's rules. *Wallock*, at 5. This decision is consistent with the Board's order in *Salisbury v. City of Bonney Lake*, where the petitioner served by mail a copy of the PFR and addressed the documents to "City of Bonney Lake." CPSGMHB Case No. 95-3-0058, Order Granting Bonney Lake's Motion to Dismiss (October 27, 1995), at 2-3. In *Salisbury*, the Board held that "a letter addressed only to 'the city' does not meet the requirements that the mayor, city manager, or city clerk be served with a copy of the petition." *Id.* at 3.

These two cases reflect a simple fact: when serving by mail, there is no excuse for failing to address the documents to one of the specific persons named in WAC 242-02-230. However, another simple fact is revealed by the facts in this case: when serving in person, the specific persons named in WAC 242-02-230 may not be available, even during regular office hours. It is undisputed that the mayor, city manager, and city clerk were unavailable when Petitioner Parsons attempted to serve the City. In their absence, Petitioner requested that the City Manager's

secretary accept service, which she did.

The Board finds that, in this case, Petitioner’s effort to serve a copy of the PFR on the City substantially complies with the Board’s rules. Therefore, Burien’s Motion is **denied**.

**Conclusion on Burien’s Motion**

Petitioner Parsons’ personal service of a copy of his PFR on the secretary to the City Manager, when the Mayor, City Manager, and City Clerk were unavailable to receive service, substantially complies with the Board’s rules of service. Therefore, Burien’s Motion is **denied**.

**IV. PARSONS’ MOTION**

Petitioner Parsons filed a dispositive motion regarding a City Council motion relating to the City’s development regulations. Petitioner asks the Board to direct “that the City of Burien suspend further efforts to amend and implement [its comprehensive plan].” Parsons’ Dispositive Motion, at 2. However, the substance of the City Council motion is not among the issues identified in this case. *See* Prehearing Order (February 20, 1998), at 6-9. The Board is without authority to rule on issues not properly before it. RCW 36.70A.290(1). Petitioner Parsons raises issues not properly before the Board in this case.<sup>[1]</sup> Therefore, Parsons’ Motion is **denied**.

**Conclusion on Parsons’ Motion**

Petitioner Parsons’ Motion presents legal issues not properly before the Board in this case. Therefore, Parsons’ Motion is **denied**.

**V. ORDER**

Having reviewed and considered the above-referenced documents and having deliberated on the matter, the Board orders:

Burien’s Motion is **denied**.

Parsons’ Motion is **denied**.

///

///

///

///

So ORDERED this 3<sup>rd</sup> day of April, 1998.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

---

Edward G. McGuire, AICP  
Board Member

---

Joseph W. Tovar, AICP  
Board Member

---

Chris Smith Towne  
Board Member

NOTICE: This is a final order for purposes of appeal. Pursuant to WAC 242-02-832, a Motion for Reconsideration may be filed within ten days of service of this final order.

---

[\[1\]](#)

Parsons has filed a new petition addressing the City action that is the subject of his dispositive motion. *See* CPSGMHB Case No. 98-3-0011.