

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

<b>WEYERHAEUSER REAL ESTATE )</b>	)	
<b>COMPANY, LAND )</b>	)	<b>Case No. 98-3-0035</b>
<b>MANAGEMENT DIVISION, )</b>	)	
	)	<b>(WRECO)</b>
Petitioners, )	)	
	)	<b>FINDING of COMPLIANCE</b>
v. )	)	
	)	
<b>CITY OF DUPONT, )</b>	)	
	)	
Respondent, )	)	
	)	
	)	

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**I. Procedural Background**

On May 19, 1999, the Central Puget Sound Growth Management Hearings Board (the **Board**) entered a Final Decision and Order (**FDO**) in the above-captioned case. The FDO set a compliance deadline of September 17, 1999, and directed the City of DuPont (the **City**) to file a Statement of Actions Taken to Comply not later than September 24, 1999.

The Board’s May 19, 1999 FDO provided:

Based upon review of the Petition for Review, the briefs and exhibits submitted by the parties, having considered the arguments of the parties, and having deliberated on the matter the Board **ORDERS:**

1. The City of DuPont’s Ordinance No. 98-612, does **not comply** with the notice requirements of RCW 36.70A.140 and .035. The City’s notice provisions for its public participation process for plan amendments, as contained in Ordinance No. 98-612, are **clearly erroneous**.
2. In order for DuPont to achieve compliance with the Act, as set forth in this Final Decision and Order, the Board **remands** Ordinance No. 98-612 to the City of DuPont with direction to include in its GMA plan amendment process procedures to encourage broad public participation and provide effective notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested

individuals, tribes, government agencies, businesses and organizations.

3. The Board directs the City of DuPont to comply with the goals and requirements of the Act, as set forth in the Final Decision and Order, by no later than **Friday, September 17, 1999**. The City shall submit to the Board a “Statement of Compliance” (SOC). The SOC shall include: 1) a description of the legislative actions taken by the City to comply with the Act; and 2) copies of all legislative enactments adopted to achieve compliance with the Act, as directed in this FDO. The City shall provide four copies of the SOC to the Board and a copy to Petitioner by no later than **Friday, September 24, 1999**.

*WRECO v. City of DuPont*, CPSGMHB Case No. 98-3-0035, Final Decision and Order (May 19, 1999), at 14.

On September 24, 1999, the Board received “City of DuPont’s Statement of Compliance.” The SOC indicates that, pursuant to the FDO, the City adopted Ordinance No. 99-638 on August 24, 1999. Ordinance No. 99-638 amended Ordinance No. 98-612.

On September 28, 1999, the Board issued a “Notice of Compliance Hearing.” (NCH). Following the NCH, at the request of the parties, the Board changed the date of the compliance hearing from October 21, 1999 to October 14, 1999.<sup>[1]</sup> A telephonic compliance hearing was arranged.

On October 14, 1999 the Board held the telephonic compliance hearing in CPSGMHB Case No. 98-3-0035. Participating for the Board were Board Members Joseph W. Tovar and Edward G. McGuire, Presiding Officer. Other participants included: Roger D. Wynn, representing the City of DuPont and William Lynn, representing Weyerhaeuser Real Estate Company, Land Management Division.

## **II. compliance ISSUE**

### **A. Applicable Law**

RCW 36.70A.330 provides, in relevant part:

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired . . . the board shall set a hearing for the purpose of determining whether the . . . city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. . . .

(3) If the board after a compliance hearing finds that the . . . city is not in compliance, the board shall transmit its findings to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the . . . city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

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### **B. Discussion**

In its FDO, the Board found that the City's notice provisions for public participation during the plan amendment process, as contained in Ordinance No. 98-612, were clearly erroneous. The City was directed to include in its GMA plan amendment process procedures to encourage broad public participation and provide effective notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses and organizations.

In response, the City adopted Ordinance 99-638, on August 24, 1999. The Ordinance repealed the noncompliant section of Ordinance No. 98-612<sup>[2]</sup> and adopted new notice procedures. The new notice provisions<sup>[3]</sup> of Ordinance No. 99-638 encourage broad public participation and provide effective notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses and organizations.

### **III. ORDER and FINDING OF COMPLIANCE**

The Board finds that the City of DuPont's adoption of Ordinance No. 99-638 encourages broad public participation and provides effective notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses and organizations. Therefore, the City of DuPont, by adopting Ordinance No. 99-638, **complies** with the notice requirements of RCW 36.70A.140 and .035 of the GMA.

So ORDERED this 14th day of October 1999.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP

Board Member

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Joseph W. Tovar, AICP  
Board Member

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[1] *See* October 11, 1999 Notice of Change of Date for Compliance Hearing.

[2] Section 3, Ordinance No. 98-612.

[3] Exhibit A to Ordinance 99-638 entitled Section 3. Notice of Proposal, Community Workshop, Public Hearing.