

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

In the matter of the Petition of GEOFFREY J. BIDWELL for a Declaratory Ruling.)
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) **Case No. PDR 00-3-0002**
) *(Bidwell)*
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) **NOTICE OF DECISION NOT TO**
) **ISSUE A DECLARATORY RULING**
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I. BACKGROUND

On November 6, 2000, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Declaratory Ruling (the **PDR**) from Geoffrey J. Bidwell (**Bidwell**) requesting a declaratory ruling “with respect to the City of Bellevue’s Growth Management Act (**GMA**) implementation.” Bidwell alleges that “the City of Bellevue in its actions appears to be unsure of the regulations as they relate to the GMA and of the statutory requirements that it must abide by. In not fulfilling the requirements of the GMA, the Petitioner and the citizens of Bellevue are being denied their rights pursuant to state law.”

The relief requested by Bidwell is (1) A ruling that the City of Bellevue is subject to the Growth Management Act and that part of the City’s implementation of the Act is not in compliance with the state statutes and rules governing the Act; and (2) Make a finding of noncompliance and issue a binding Declaratory Ruling (PDR at 7).

On November 13, 2000, the Board issued a Notice of Conference on Petition for Declaratory Ruling.

On Monday, December 4, 2000, a Conference on the Petition for Declaratory Ruling was held at 10:00 a.m. in room AB of the Financial Center, 1215 Fourth Avenue, Seattle. The purpose of the conference was to review the “Applicable Rules and Statutes” as presented in the Petition for Declaratory Ruling. Present for the Board were Joseph Tovar, and Lois North, presiding officer. Petitioner Geoffrey J. Bidwell appeared *pro se*. Representing the City was Lori M. Riordan. The Petitioner and the Respondent agreed that the description in the City’s code of the process for citizens to propose amendments to the Comprehensive Plan is confusing. The Respondent stated that Bellevue is aware that the City’s process needs clarification, and indicated that a revision of

the citizen amendment process is on the City's work program.

II. DISCUSSION

Any person may petition the Board for a declaratory ruling about the applicability to specific circumstances of a rule, order, or statute within the Board's jurisdiction (WAC 242-02-910).

The two "specific circumstances" that Petitioner refers to are: (1) Bellevue's adoption of Ordinance No. 5233 on July 17, 2000; and (2) the East Bellevue Community Council's veto of Ordinance No. 5233 (Exhibit 8 of PDR) on September 5, 2000.

The Board notes that the discussion in the Petition is of a very general nature about processes, procedure, and public participation. It is undisputed that the City of Bellevue is subject to all of the provisions of the GMA. However, based on the discussion at the conference, the nature of Petitioner's challenge seems to question the City's compliance with the various requirements of the Act. Such challenges are brought through a Petition for Review to a specific legislative action, not a Declaratory Ruling. Consequently, the Board **declines** to make a finding of noncompliance and **declines** to issue a binding Declaratory Ruling.

If the City of Bellevue should take legislative action in the near future to amend this process, and if the Respondent's action is not satisfactory to the Petitioner, the Petitioner will then have the option of filing a Petition for Review with the Board.

So ORDERED this 6th day of December, 2000.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Lois H. North
Board Member

Joseph W. Tovar, AICP

Board Member

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Board Member North's Concurrence

I concur with my colleagues that the Board must decline Mr. Bidwell's invitation to issue a declaratory ruling. However, I am compelled to write separately to underscore my belief that the City's present code language is confusing and that I encourage the City to follow through on its work program commitment to clarify. From the remarks at the conference, it was apparent that the City assigns different meanings to the words "apply" and "initiate." This is an important distinction that is not at all apparent from the words in the code. If and when such clarification is made, the City may also wish to consider the two fundamental questions that underlie Mr. Bidwell's present complaint: first, does a non-property owner have the same right as a property owner to place a proposed plan amendment before the planning commission for a hearing on the merits? Second, and more fundamentally, does anyone, property owner or not, have a right to such a hearing?