

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

ANDRUS, et al., <a href="#">[1]</a>	)	
	)	Case No. 98-3-0030
	)	
Petitioners,	)	(Andrus)
	)	
v.	)	<b>FINDING OF COMPLIANCE</b>
	)	
CITY OF BAINBRIDGE ISLAND,	)	
	)	
Respondent,	)	
	)	
	)	

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**I. Procedural Background**

On March 31 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 24, 1999, and directed the City of Bainbridge Island (the **City**) to file a Statement of Actions Taken to Comply (**SATC**) not later than October 1, 1999.

The Board’s March 31, 1999 FDO provided, in relevant part:

Having reviewed and considered the above referenced documents, having considered the arguments of the parties, and having deliberated on the matter, the Board **ORDERS**:

1. The City of Bainbridge Island’s adoption of Ordinance No. 98-11, adopting the Winslow Master Plan (WMP), specifically as it relates to the Ferry Terminal Overlay District (FTOD), **does not comply** with the GMA public participation requirements of RCW 36.70A.020(11), .130 and .140.
  
2. Ordinance No. 98-11, specifically as it relates to the FTOD in the WMP, is **remanded** to the City with directions to provide a reasonable opportunity for public review and comment. The City shall, through legislative action, reaffirm, amend or repeal the provisions of the FTOD in the WMP within the compliance period set out in this Final Decision and Order (**FDO**).

*Andrus, et al., v. City of Bainbridge Island*, CPSGMHB Case No. 98-3-00305, Final Decision and Order (March 31, 1999), at 12.

On September 10, 1999, the Board received the City of Bainbridge Island's "Statement of Actions Taken to Comply and Motion for Extension of Time for Compliance" (**SATC-1**). The Statement indicates that the City has held several workshops, study sessions and public hearings on Draft Ordinance 99-32<sup>[2]</sup>; the Ordinance intended to address the Board's Order. Additionally, the City wishes to obtain additional public comment on several issues regarding the Ferry Terminal Overlay District polices in the Winslow Master Plan. The City also notes that Petitioner's counsel supported the City's request for extension of time. SATC, at 1-2.

On September 15, 1999, the Board issued an "Order Granting Compliance Extension and Notice of Compliance Hearing." The Order gave the City until November 30, 1999 to comply with the provisions of the GMA as set forth in the March 31, 1999 FDO, and required the filing of a second Statement of Actions Taken to Comply, by December 6, 1999. The Order also set February 3, 2000 as the date for the Compliance Hearing.

On December 6, 1999, the Board received the City of Bainbridge Island's "Statement of Actions Taken to Comply with Order" (**SATC-2**) and "Declaration of Kathy Cook Regarding Actions Taken to Comply with Order." The SATC – 2 listed each of the notices issued and meetings held between May and October 1999. Following this public participation process, the City ultimately adopted Ordinances No. 99-32A and 99-32B, which amended the City's Plan. SATC–2, at 3-4. The City also passed an additional ordinance implementing the Plan changes (Ordinance No. 99-64).

On January 19, 2000, the Board received a letter from the representative of Andrus, et al. The letter stated:

*Petitioners are of the view that the remand proceedings and the City's adoption of three ordinances to fully reflect the goals and policies developed during those proceedings (Ordinance Nos. 99-32A and 99-32B, passed by the City Council on October 27, 1999, and Ordinance No. 99-64, passed by the City Council on December 22, 1999) duly complied with the public participation requirements of the GMA, RCW 36.70A. Consistent with this view, Petitioners believe that a determination of compliance is now warranted.*

Petitioner's January 18, 2000, letter, at 1 (emphasis supplied). Petitioners also requested that the February 3, 2000 Compliance Hearing be cancelled.

On January 21, 2000, the Board issued an “Order Authorizing Telephonic Compliance Hearing.” The date of the Compliance Hearing remained as February 3, 2000.

On February 3, 2000, the Board held a telephonic Compliance Hearing (**CH**) in Case No. 98-3-0030, at the Board’s offices. Present for the Board were Board Members Joseph W. Tovar, Lois H. North and Edward G. McGuire, Presiding Officer. Andrew Lane, Law Clerk to the Board, was also present at the Board’s office. Parties participating in the telephonic hearing included: 1) James Kirkham Johns, representing Andrus, et al., and 2) Rosemary A. Larson, representing the City of Bainbridge Island. Stephanie Warren and Kathy Cook (City of Bainbridge Island) also participated. The hearing was recorded.

## **II. FINDINGS OF FACT**

1. RCW 36.70A.330 requires the Board to conduct a compliance hearing. The Board conducted a compliance hearing, telephonically, on February 3, 2000.
2. The Board’s March 31, 1999 FDO directed the City to “provide a reasonable opportunity for public review and comment” and take legislative action to reaffirm, amend or repeal the provisions of the Ferry Terminal Overlay District (**FTOD**) in the Winslow Master Plan (**WMP**). FDO, at 12.
3. From May through October 1999, the City gave notice and provided numerous opportunities for public review and comment on proposed revisions to the FTOD in the WMP. SATC-2, at 2-4.
4. Following the lengthy public participation process, the City adopted Ordinance Nos. 99-32A and 9932B. SATC-2, at 4.
5. Petitioners did not contest the City’s compliance with the provisions of the GMA as set forth in the Board’s March 31, 1999 FDO, and in fact support the issuance of a Finding of Compliance. January 18, 2000, letter, at 1.
6. At the telephonic compliance hearing, Petitioners spoke in support of the City’s public participation process and compliance efforts. Tape of February 3, 2000 CH.
7. Petitioner Jessie Hey, 1163 Irene Place N.E. Bainbridge Island, WA 98110, was inadvertently deleted from the Board’s Service List. Petitioner Hey will be added to the Board’s Service List.

## **III. conclusions of law**

1. The public participation process conducted by the City provided a reasonable opportunity for public review and comment and public participation, as required by RCW 36.70A.020 (11), .130 and .140.
2. The City's adoption of Ordinance Nos. 99-32A and 99-32B satisfies the direction given by the Board in its FDO, that, on remand, the City take additional legislative action following its public participation process.

#### **IV. FINDING OF COMPLIANCE**

Having reviewed its March 31, 1999 FDO, the Statements of Actions Taken to Comply (SATC-1 and SATC-2), provisions of the GMA, testimony provided by the parties, and considering Findings of Fact 1-6 and Conclusion of Law 1-2, *supra*, the Board finds that the City of Bainbridge Island has **complied** with the requirements of the GMA, as set forth in the Board's March 32, 1999 FDO. Therefore, the Board issues this **Finding of Compliance** to the City of Bainbridge Island in CPSGMHB Case No. 98-3-0030 (*Andrus, et al., v. City of Bainbridge Island*).

So ORDERED this 10th day of February 2000.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP  
Presiding Officer

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Joseph W. Tovar, AICP  
Board Member

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Lois H. North  
Board Member

NOTICE: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a petition for reconsideration pursuant to WAC 242-02-832.

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[\[1\]](#) Includes Petitioner Charles Schmid and Petitioner Jessie Hey.

[\[2\]](#) Ordinance No. 99-32 was eventually split into two separate enactments: Ord. Nos. 99-32A and 99-32B.