

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

CITY OF TACOMA, ET AL.,	)	
	)	<b>Case No. 99-3-0023c</b>
Petitioners,	)	
	)	<i>(Tacoma II)</i>
v.	)	
	)	<b>ORDER on MOTION for</b>
PIERCE COUNTY,	)	<b>RECONSIDERATION</b>
	)	
Respondent.	)	
	)	

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**i. PROCEDURAL BACKGROUND**

On March 10, 2000, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued its Order on Dispositive Motions in Case No. 99-3-0023c.

On March 20, 2000, the Board received Petitioners’ “Motion for Reconsideration of the Board’s Order on Dispositive Motions and Motion to Amend Prehearing Order” (Motion for Reconsideration).

On March 22, 2000, the Board received “Pierce County’s Response to Request for Reconsideration.”

**II. order**

Based upon review of the Order on Dispositive Motions, the filings of the parties, including the briefs and exhibits submitted by the parties, and having deliberated on the matter, the Board **ORDERS:**

Petitioners’ Motion for Reconsideration is **granted**.

Section III (pages 2-3) of the Board’s March 10, 2000 Order on Dispositive Motions is stricken and replaced with the following language:

**III. DISCUSSION**

The County moved to dismiss PFRs 99-3-0022 (**Racca**) and 99-3-0023 (**Jaffe**). The deadline for filing Petitioners' response brief was March 1, 2000, as set out in the Board's Prehearing Order. Without explanation or prior Board approval, Petitioners filed their response brief with the Board on March 3, 2000, two days after the Board's deadline.

Racca and Jaffe proposed comprehensive plan amendments to the County and the County declined to adopt their proposed amendments. The County argued that the Board lacks jurisdiction over challenges to the County's failure to adopt proposed comprehensive plan amendments. The GMA authorizes a local government to amend comprehensive plans annually; however, it does not require amendments. RCW 36.70A.130. In *Cole v. Pierce County*, a property owner appealed a county's refusal to adopt his proposed amendments that he alleged would "correct" the county's original land use designation of his property. CPSGMHB Case No. 96-3-0009c, Final Decision and Order (Jul. 31, 1996). The Board rejected Cole's argument, holding that "the County's failure to act cannot be construed to be an 'action' under RCW 36.70A.130" and further holding that the actions challenged in Cole's petition were not taken in response to a GMA duty to act by a certain deadline, or in response to any other duty imposed by the Act, and that WAC 242-02-220(5) does not apply to this case." *Cole*, at 10-11. Consequently, the Board concluded that it did not have jurisdiction to resolve Cole's complaint. *Id.* at 11.

Just as in *Cole*, Petitioners argue that the County had a duty to adopt their proposed amendments in order to correct an internally inconsistent Comprehensive Plan. [Memorandum In Opposition to Pierce County's Motion to Dismiss], at 3. The present case is indistinguishable from *Cole*. Pierce County did not adopt the amendments proposed by petitioner Cole and did not adopt the amendments proposed by Petitioners Racca and Jaffe. Pierce County was under no GMA duty to adopt the amendments proposed by Racca and Jaffe. Because all of Racca's and Jaffe's Issues are premised on the County's failure to adopt their proposed amendments, all Issues must be dismissed. The County's motion to dismiss PFRs 99-3-0022 (Racca) and 99-3-0023 (Jaffe) is **granted**. PFRs 99-3-0022 and 99-3-0023 are **dismissed with prejudice**.

### Conclusion

Pierce County was under no GMA duty to adopt the amendments proposed by Racca and Jaffe. Because all of Racca's and Jaffe's Issues are premised on the County's failure to adopt their proposed amendments, all Issues must be dismissed. The County's motion to dismiss PFRs 99-3-0022 (Racca) and 99-3-0023 (Jaffe) is **granted**. PFRs 99-3-0022 and 99-3-0023 are **dismissed with prejudice**.

So ORDERED this 27th day of March, 2000.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Lois H. North  
Board Member

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Joseph W. Tovar, AICP  
Board Member

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Edward G. McGuire, AICP  
Board Member