

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

)	
)	Case No. 00-3-0015
PIERCE COUNTY,)	<i>[Pierce II]</i>
)	
Petitioner,)	
)	
v.)	
)	ORDER OF DISMISSAL
CITY OF LAKEWOOD,)	
)	
Respondent.)	
)	
)	
)	

I. Procedural Background

On September 7, 2000, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Pierce County, (**the County**). The matter was assigned Case No. 00-3-0015, and is hereafter referred to as *Pierce County v. City of Lakewood*. Because the Board had a prior case with the short title *Pierce*, the short title for this case is *Pierce II*. The County challenges the City of Lakewood’s (**Lakewood** or the **City**) adoption of Ordinance No. 237 that adopted the comprehensive plan (the **Plan**) for the City. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA or Act**).

On October 9, 2000, the Board received “Respondent City of Lakewood Index of Record.”

On October 10, 2000, the Board received correspondence from the Lakewood City Attorney Daniel B. Heid. Among other things, the letter clarified the City’s representation, indicated that settlement discussions were underway regarding the County PFR, asked for leave to delay preparation of the index as to the County PFR matter pending progress on settlement discussions and asked that the two PFRs not be consolidated into a single case.

On October 11, 2000 the Board conducted the prehearing conference in the cases in Room 1022 of the Financial Center, 1215 Fourth Avenue, Seattle. Present for the Board were members Lois

H. North and Joseph W. Tovar, presiding officer. Representing the City as to the County PFR was Deborah Johnson. Representing the County was Lloyd Fetterly. With respect to the record, the presiding officer ordered the City to submit an amended index by October 25, 2000 or, alternatively, to submit a stipulated Motion for Continuance of up to 90 days pending ongoing settlement discussions with the County.

On October 12, 2000 the Board issued a “Prehearing Order” (**PHO**). The PHO established the schedule and filing deadlines for the case.

II. FINDINGS OF FACT – CONCLUSIONS OF LAW

The Board finds:

1. Petitioner Pierce County filed a PFR, which challenged the City of Lakewood adoption of ordinance No. 237.
2. On October 19, 2000 the Board issued a PREHEARING ORDER AND NOTICE OF COORDINATION in Case No. 00-3-0015, which established a deadline for Petitioners to file Prehearing Briefs by December 13, 2000 and for Respondents to file Prehearing Briefs by January 10, 2001.
3. On November 16, 2000 the Board issued an ORDER GRANTING SETTLEMENT EXTENSION AND AMENDING CASE SCHEDULE in Case No. 00-3-0015, which moved the deadline for Pierce County to file Prehearing Briefs to March 28, 2001 and the deadline for the City of Lakewood to April 11, 2001.
4. The Petitioners failed to file Prehearing Briefs by March 28, 2001.
5. The Respondent failed to file a Prehearing Brief by April 11, 2001.
6. WAC 242-02-570(1) states; “A petitioner, or a moving party when a motion has been filed, shall submit a brief on each legal issue it expects a board to determine. Failure by such a party to brief an issue shall constitute abandonment of the unbrieffed issue. Briefs shall enumerate and set forth the legal issue(s) as specified in the prehearing order if one has been entered.”
7. WAC 242-02-720(4) enables the Board to dismiss a petition “[u]pon a board’s own motion for failure by the parties to comply with these rules [WAC 242-02-570(1)] or any order of the board.”

The Board concludes:

Because the Petitioners and Respondent have failed to file Prehearing Briefs by their respective deadlines established in the Board's November 16, 2000 ORDER GRANTING SETTLEMENT EXTENSION AND AMENDING CASE SCHEDULE, it is appropriate for the Board to dismiss in its entirety Case No. 00-3-0015.

III. ORDER

Based on the above findings and conclusions, the Board enters the following ORDER:

Pierce County's Petition for Review (CPSGMHB Case No. 00-3-0015), challenging the City's adoption of Ordinance No. 237 is **dismissed with prejudice**.

The hearing on the merits for CPSGMHB Case No. 00-3-0015, which was scheduled for April 23, 2001, is **canceled**.

So ORDERED this 16th day of April 2001.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Lois H. North
Board Member

Joseph W. Tovar, AICP
Board Member

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