CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

ELAINE LEWIS,	)	**Case No. 01-3-0020**
Petitioner,	)	***(Lewis)***
v.	)	**ORDER ON MOTIONS**
CITY OF EDGEWOOD,	)	
Respondent.	)	

I. PROCEDURAL Background

A. Motions to Supplement the Record

On October 3, 2001, the Central Puget Sound Growth Management Hearings Board (the **Board**) received Petitioner's "Motion to Supplement the Record And Supporting Brief" in the above captioned case. Petitioner requested the addition of twenty-eight items, none of which were attached to the Motion.

On October 16, 2001, the Board received the "City's Response to Request to Supplement the Record."

On October 17, 2001, the Board received Petitioner's "Motion to Compel Disclosure of Memorandum" with four exhibits. The Petitioner also sent an audio-cassette of Petitioner's testimony at the June 12, 2001 Edgewood City Council Meeting, and an additional taped excerpt from that same City Council Meeting (An exchange between Council-members, Mayor Hill, and City Attorney, Wayne Tanaka). In addition, the Petitioner sent copies of items P-13, P-14, and P-23 listed in Petitioner's "Motion to Supplement the Record" of October 3, 2001.

B. Motions to Dismiss Legal Issues

On October 2, 2001, the Board received the City of Edgewood's "Motion to Dismiss Legal Issues 1, 2, and 4." There were nine Exhibits attached to the Motion: Exhibits A – I.

On October 17, 2001, the Board received "Petitioner Elaine Lewis' Response to City of Edgewood's Motion to Dismiss Legal Issues 1, 2, and 4." Two Exhibits were attached.

On October 23, 2001, the Board received the "City's Rebuttal Regarding Its Motion to Dismiss Legal Issues 1, 2, ,and 3." This document corrected a mistake made by the Respondent. The City's Motion should be in reference to Legal Issues 1, 2, and 3 – not Legal Issues 1, 2, and 4.

On October 24, 2001, the Board received Petitioner Elaine Lewis' "Response to City's Rebuttal Regarding Its Motion to Dismiss Legal Issues 1, 2, and 3.

II. Discussion

A. Motions to Supplement the Record

The Petitioner states that the additional 28 items will assist the Board by providing for a more complete record "which includes historical data, some city council and committee minutes, and general background of issues." Petitioner's Motion to Supplement, at 3.

None of the documents were attached to the Motion which makes it impossible for the Board to determine how helpful the documents might be to the Board in reviewing the case. On October 17, 2001, the Petitioner did send copies of Items P-13, P-14, and P-23 to the Board.

Respondent requested the Board to deny the Motion to Supplement because the Petitioner has not attached copies of the documents. Several documents are already in the record (P-1, P-3, P-7, and P-10). Other documents, such as State and Pierce County records referenced in P-10, P-16, P-17, P-22, and P-27 are not in the City's possession. Edgewood states "the Petitioner has provided the Board with absolutely no justification for her request, beyond mere conclusory statements." City's Response, at 1.

The Board agrees that without any documentation it is impossible to determine whether or not the additional evidence would be "necessary or of substantial assistance." The Board has examined items P-13, P-14, and P-23 and **admits** them to the record. The Board **denies** the rest of the 28 items requested in Petitioner's Motion to Supplement the Record.

Petitioner has submitted a "Motion to Compel Disclosure of Memorandum." The Board's rules of Practice and Procedure as set forth in Chapter 242-02 WAC do not contain provisions for such a Motion. The Board **denies** this Motion.

B. Motions to Dismiss Legal Issues

The City of Edgewood moved to dismiss Legal Issues 1, 2, and 4 (now corrected to Legal Issues 1, 2, and 3) on the grounds that the "Petitioner's participation before the City was not reasonably related to the issues now presented, and with respect to Legal Issue 1, the cited provision of the GMA does not, as a matter of law, apply." City's Motion to Dismiss, at 1.

The Board has indicated in past cases that, while a person's participation before the City is essential, participation alone will not necessarily establish standing to raise all conceivable issues. [1] "If a Petitioner's participation is **reasonably related** to the Petitioner's issue as presented to the Board, then the Petitioner has standing to raise and argue that issue."[2] (Emphasis added)

Edgewood analyzes the nine exhibits which are the letters and oral comments of the Petitioner in relation to the four Legal Issues of this case. "Most all of her comments were general in nature and focused on over-all density for the City and the number of people that the city should be trying to accommodate." City's Motion to Dismiss, at 3.

The Respondent raises the point that RCW 36.70A.035, as cited in Legal Issue 1, deals with amendments to comprehensive plans and development regulations, not with the initial adoption as is the case here. Thus, the Petitioner can not have standing to raise an issue that is applicable only to comprehensive plan amendments and not applicable to the initial adoption of a GMA comprehensive plan. The Board agrees.

Petitioner Lewis argues that the Petitioner's participation at the local level was "reasonably related" to the issues set forth in the Prehearing Order. Even the City has been forced to admit that the Petitioner had raised and discussed legal problems with the "level of service along Meridian." Edgewood's Motion to Dismiss, at 4. There can be no genuine dispute that the comments as to "level of service" are "reasonably related" to Petitioner's Legal Issue No. 3, concerning transportation level of service.

Petitioner cites to City of Edgewood's Exhibits G and I to show that she addressed Legal Issue No. 2 in her letter to the City regarding environmental issues.

III. ORDER ON MOTIONS

The Board, having reviewed all of the above-referenced documents, enters the following ORDER:

A. Supplemental Motion

The Board **grants** Petitioner's Motion to Supplement the Record with Exhibits P-13, P-14, and P-

23. The Board **denies** the Petitioner's Motion to Supplement the Record with the rest of the 28 items listed.

B. Motion to Compel Disclosure of Memorandum

The Board **denies** the Petitioner's Motion to Compel.

C. Dispositive Motion on Legal Issues 1, 2, and 3

The Board **denies** the Respondent's Motion to dispose of Legal Issues 1, 2, and 3. The Board **grants** the Respondent's Motion to remove the citation of RCW 36.70A.035 from Legal Issue 1.

Legal Issue No. 4 was not challenged and remains as set forth in the Board's Prehearing Order.

So ORDERED this 29th day of October, 2001.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

_____
Lois H. North,
Board Member

_____
Edward G. McGuire, AICP
Board Member

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Joseph W. Tovar, AICP
Board Member

[1] *Alpine v. Kitsap County*, Case No. 98-3-0032c.

[2] *Alpine*, at 7-8.