

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

BUCKLES, et al.,	)	<b>Superior Court Remand of</b>
	)	<b>Case No. 96-2-31900-7.KNT</b>
	)	
Petitioners,	)	<b>CPSGMHB Case No. 96-3-0022c</b>
v.	)	<b><i>Buckles, et al., v. King County</i></b>
	)	<b><i>(Duwamish Portion)</i></b>
KING COUNTY,	)	
	)	<b>ORDER FINDING COMPLIANCE</b>
	)	
Respondent.	)	
	)	
and	)	
	)	
PORT BLAKELY TREE FARMS, QUADRANT CORPORATION, et al.,	)	
	)	
Intervenors.	)	

**I. Procedural Background**

On October 23, 1995, the Central Puget Sound Growth Management Hearings Board (the **CPSGMHB** or the **Board**), issued a Final Decision and Order (the **Vashon-Maury FDO**) in *Vashon-Maury, et al., v. King County, et al.*, CPSGMHB Case No. 95-3-0008c, (the short case title is *Vashon-Maury*). The FDO dealt with almost sixty issues raised in nine consolidated petitions for review, all of which challenged the King County (the **County**) comprehensive plan (the **Plan**) for noncompliance with the Growth Management Act (**GMA** or the **Act**). The portion of the Plan which dealt with the Spencer Properties area (the **Duwamish Portion**) was challenged by petitioner Duwamish Valley Neighborhood Preservation Coalition (**Petitioner** or **DVNPC**).

In the *Vashon-Maury* FDO, the Board concluded the following regarding the challenged Duwamish portion of the County's Plan:

Comprehensive Plan Map Amendments 89 [the Spencer properties amendment], 90, and 101 and Zoning Map Amendments 81 and 81A are remanded to the County with

direction to delete them and provide a reasonable opportunity for public comment prior to consideration by the Council before subsequent readoption.

On March 11, 1996, the County Council adopted Ordinance 12170 in partial response to the Board's remand order.

On May 24, 1996, the Board issued an Order concluding that the County had complied with the remand direction in the *Vashon-Maury* FDO, including the Duwamish Valley portion, and determined that challenges to the County's public participation compliance upon remand would have to be filed as a new petition for review. *Vashon-Maury*, Finding of Compliance, May 24, 1996, at 10.

After receiving a new petition for review from DVNPC challenging adoption of Ordinance 12170, the Board consolidated the new PFR with two others into Consolidated Case No. 96-3-0022c, *Buckles, et al., v. King County*.

On November 12, 1996, the Board issued a Final Decision and Order (the **Buckles FDO**) in Case No. 96-3-0022c. The Board concluded that the challenged amendments, including the Duwamish Valley portion, were in compliance with the GMA. *Buckles FDO*, at 33.

On June 28, 1999, the Washington State Court of Appeals, Division One, issued its opinion in *Duwamish Valley Neighborhood Preservation Coalition v. Central Puget Sound Growth Management Hearings Bd.*, No. 41523-9-I (the **Court's Decision**). While upholding the *Buckles FDO*, in part, the Court of Appeals remanded the Duwamish Valley portion to the Board. The Court stated:

We find that the Board acted arbitrarily and capriciously by refusing to allow the Coalition to supplement the record with its rebuttal evidence. Accordingly, we reverse the Board and remand the matter with directions for the Board [to] permit supplementation of the record with the Coalition's evidence regarding the adequacy of the County's mailed notice, and for a redetermination by the Board, based on the supplemented record, as to whether the County complied with the GMA's public participation requirements. We affirm the Board's decision in all other respects. *Court's Decision*, at 2.

On December 5, 2000, the Board received notice that the Clerk of the King County Superior Court advised that the Court entered on their docket on November 30, 2000 that the matter was remanded to the Board and that no other notices would go out.

On January 12, 2001, the Board issued "Notice of Compliance Hearing Pursuant to Duwamish

Valley Neighborhood Preservation Coalition v. CPSGMHB, et al., Court of Appeals Case No. 41523-9-I and King County Superior Court Mandate in Case No. 96-2-31900-7.KNT”.

On January 29, 2001, the Board conducted a pre-compliance hearing in this matter in Suite 1022 of the Financial Center, 1215 Fourth Avenue, in Seattle. Present for the Board were members Lois H. North and Joseph W. Tovar, presiding. Representing the Petitioner was Steve Fredrickson. Representing the County was Cheryl D. Carlson. The Board reviewed with the parties the remand of this matter from the courts and discussed a briefing and hearing schedule as well as the record and the legal issue to be briefed and argued. Counsel for the parties agreed that they would submit a stipulation regarding supplementation of the record.

On February 2, 2001, the Board received from the parties a “Stipulation to Supplement the Record.”

On February 5, 2001, the Board issued “Pre-Remand Hearing Order” (the **PRHO**). The PRHO identified the materials in the Record of this proceeding, set forth a briefing schedule and a statement of the legal issue presented for the Board’s determination.

On March 6, 2001, the Board received “Petitioner DVNPC’S Pre-Remand Hearing Brief” (**DVNPC’s Brief**) with attachments.

On March 16, 2001, the Board received “King County’s Pre-Remand Hearing Brief” (the **County’s Brief**).

On March 19, 2001, the Board received “Petitioner DVNPC’s Pre-Remand Hearing Reply Brief” (**DVNPC’s Reply**).

On March 22, 2001, the Board conducted the remand hearing in this matter in Suite 1022 of the Financial Center, 1215 Fourth Avenue, in Seattle. Present for the Board were Edward G. McGuire, Lois H. North and Joseph W. Tovar, presiding. Also present was the Board’s legal intern, Brian Norkus. Representing DVNPC was Steve Fredrickson. Representing the County was Cheryl D. Carlson. Court reporting services were provided by Jeanne Ericksen of Robert H. Lewis and Associates of Tacoma, Washington.

On April 19, 2001, the Board issued an “Order Finding Noncompliance and Notice of Compliance Hearing” (the **Board’s April 19, 2001 Order**).

On June 20, 2001, the Board issued an “Order Adjusting Hearing Schedule” which moved the date for the compliance hearing to July 26, 2001.

On July 9, 2001, the Board received “King County’s Second Statement of Compliance (Regarding Actions Taken to Comply with Board’s Order on Remand Hearing)” (the **County’s Second Statement**).

On July 13, 2001, the Administrative Officer for the Board, Susannah Karlsson, contacted counsel for the parties to inquire about moving the date for the compliance hearing to late July as well as the possibility of a telephonic hearing. With the agreement of the parties, the presiding officer determined to set a telephonic compliance hearing for July 30, 2001 at 10:00 a.m.

On July 16, 2001, the Board received “Petitioner DVNPC’s Response to County’s Second Statement” (**DVNPC’s Response**).

On July, 30, 2001, beginning at 10:00 a.m., the Board conducted a compliance hearing in this matter. Present for the Board in its Seattle office were Edward G. McGuire and Joseph W. Tovar, presiding officer. Participating telephonically were Steve Fredrickson, representing DVNPC, and Cheryl D. Carlson representing the County.

## **II. Findings of Fact**

1. On or about May 25, 2001 and June 1, 2001, the County mailed notice of Proposed Ordinance No. 2001-0296 (the **Notice**) regarding the proposed legislative action on remand to taxpayers listed of record by the Office of Assessments for property within 500 feet of the affected parcels, as well as to all parties of record in the proceedings before the Board. County’s Second Statement, Attachment A.
2. On or about May 30, 2001, the County published the Notice in the White Center News and the Seattle Times. County’s Second Statement, at 1.
3. On July 2, 2001, the King County Council conducted a public hearing regarding the proposed legislative action (i.e., proposed Ordinance 2001-0296.2). County’s Second Statement, at 2.
4. On July 2, 2001, the County adopted Ordinance 14156 (a/k/a proposed Ordinance N. 2001-0296.2), which designated the Spencer Industries property residential and adopted residential zoning. County’s Second Statement, Attachment B.
5. RCW 36.70A.330 requires the Board to conduct a compliance hearing. The Board conducted its compliance hearing on Monday, July 30, 2001.

6. Petitioner, in its Response and orally at the compliance hearing, agreed that the County's action complied with the Board's April 19, 2001 Order.

### **III. CONCLUSION OF LAW**

The Board concludes that the County's Notice, the County Council public hearing on July 2, 2001, and the Council's subsequent adoption of Ordinance No. 14156 cure the noncompliance with RCW 36.70A.140 previously identified in the Board's April 19, 2001 Order.

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

1. The Board finds that RCW 36.70A.330 requires the Board to conduct a compliance hearing. The Board conducted its compliance hearing on Monday, July 30, 2001.
2. Having reviewed its April 19, 2001 Order, the County's Second Statement, the provisions of the GMA, and considering the Findings of Fact and Conclusion of Law, *supra*, the Board finds that the County has complied with the requirements of the GMA, as set forth in the Board's April 19, 2001 Order. Therefore, the Board issues this **Finding of Compliance** to King County in CPSGMHB Case No. 96-3-0022c (*Buckles v. King County [Duwamish Portion]*).

So ORDERED this 31st day of July, 2001

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD<sup>[1]</sup>

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Edward G. McGuire, AICP  
Board Member

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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.

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[\[1\]](#) Board Member North was unavailable to review the County's Second Statement or to participate in the compliance hearing.