

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

BRIAN RAMEY,	)	
	)	<b>Superior Court Remand of</b>
	)	<b>CPSGMHB Case No. 99-3-0002</b>
Petitioner,	)	
	)	<b>(Ramey Remand)</b>
	)	
v.	)	
	)	
CITY OF SEATTLE,	)	<b>ORDER OF DISMISSAL</b>
	)	
Respondent.	)	
	)	

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**I. Background**

This case commenced on February 1, 1999, when Mr. Ramey filed a petition for review (**PFR**) on behalf of Friends of Brooklyn and the University District for a Livable Community. Mr. Ramey’s PFR was subsequently consolidated with a PFR filed by the Montlake Community Club (**MCC**). A more detailed background for this matter is set forth in Appendix A. The background set forth *supra*, begins with the Board’s Order granting a continuance pending the outcome of the appeal of the MCC case to the Court of Appeals.

On January 8, 2001, following discussions of a stipulation of the parties, the Board issued its “Order Granting Continuance Pending Outcome of Court of Appeals Decision in *Montlake Community Club v. City of Seattle* – Cause No. 46708-5-I (**1/8/02 Continuance Order**). The 1/8/02 Continuance Order continued further proceedings in the Ramey Remand matter until the *MCC* case was resolved by the Court of Appeals. It required the parties to report to the Board quarterly regarding the status of the Ramey Remand matter. The Board received “reports” quarterly through January of 2002.

On April 1, 2002, Division I of the Court of Appeals issued its decision in *MCC v. CPSGMHB and the City of Seattle*. The Honorable Judge A.C. J. Becker, writing for the Court, **upheld** and **affirmed** the Superior Court and the CPSGMHB’s Final Decision and Order. The Board did not receive any “reports” from the parties in April, or July of 2002. [\[1\]](#)

On September 18, 2002, the Board issued a “Pre-Remand Hearing Notice of Hearing and Pre-Remand Hearing Order [End of continuance due to outcome of *Montlake Community Club v.*

City of Seattle, Cause No. 46708-5-I]” (**PRHO**). The PRHO established September 26, 2002 as the date for a “Post Continuance and Pre-Remand Hearing Conference” (**PRHC**) at the Boards offices. The Order also set forth the final briefing schedule and remand hearing date, established the record for the proceeding and set forth the remaining issues to be resolved by the Board.

## **II. DISCUSSION**

Neither party “reported” to the Board on the status of the Ramey Remand proceedings subsequent to January of 2002. Neither party appeared at the September 26, 2002 PRHC. <sup>[2]</sup>

The PRHO established 4:00 p.m., October 15, 2002 as the deadline for Petitioner to file Petitioner’s Prehearing Brief. PRHO, at 3. Petitioner Ramey failed to file a Prehearing brief within the deadline set forth in the PRHO. As of the date of this Order, the Board has not received any briefing on the Ramey Remand matter. Pursuant to WAC 242-02-710 and 720(4), <sup>[3]</sup> the Board is authorized, by its own motion, to dismiss any action before the Board for failure by the parties to comply with the Board’s Rules or any order of the Board. The Board so moves.

In the instant case, the grounds for dismissal include: 1) neither party “reported” to the Board in April or July 2002, as required in the 1/8/02 Continuance Order; 2) neither party attended the September 26, 2002 PRHC, as required in the PRHO; and 3) Petitioner Ramey failed to prosecute his case by not filing a Prehearing Brief by October 15, 2002, as required in the PRHO. Consequently, by its own motion, and based on the grounds for dismissal noted *supra*, the Board has determined that the parties have failed to adhere to the requirements of the Board’s Rules and the 1/8/02 Continuance Order and PRHO. Therefore, the Board concludes that further proceedings on this matter are terminated and the case is **dismissed with prejudice**.

## **III. ORDER**

Based on review of the procedural history and filings in this case, the GMA, the Board’s Rules, case law and prior Orders of the Boards, and having deliberated on the matter, the Board ORDERS:

- The matter of *Brian Ramey v. City of Seattle [Ramey Remand]*, King County Superior Court Remand of CPSGMHB Case No. 99-3-0002, is **dismissed with prejudice**. Any further hearings in this matter are **cancelled**, the Board’s proceedings are **terminated** and the case is **closed**.

So ORDERED this 17<sup>th</sup> day of October, 2002.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP  
Board Member

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Lois H. North  
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. Pursuant to WAC 242-02-832(3), this Order on Motion to Reconsider is not subject to a motion for reconsideration.

**APPENDIX A**

On February 1, 1999, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a petition for review (**PFR**) from Friends of Brooklyn and the University District for a Livable Community (**Friends**). The matter was assigned CPSGMHB Case No. 99-3-0002. Friends challenged Seattle's adoption of Ordinance Nos. 119230 and 119235. The basis for the challenge was noncompliance with various provisions of the Growth Management Act (**GMA** or **Act**).

On February 9, 1999, the Board issued an "Order of Consolidation and Notice of Hearing." The Order consolidated the Friends PFR with a PFR filed by the *Montlake Community Club (MCC)* (CPSGMHB Case No. 99-3-0001), challenging the same ordinances adopted by the City of Seattle.

On April 23, 1999, the Board issued an “Order on Motions to Supplement the Record” that established the record for the case. On the same day, the Board also issued an “Order on Dispositive Motions” that **denied** Friend’s motion to substitute Brian Ramey as Plaintiff/Real Party in interest or to amend the PFR. The Order also **dismissed** Friends’ PFR for lack of standing.

Friends’ subsequently appealed the Board’s decision to King County Superior Court (Cause No. 99-2-12488-0SEA).

On January 4, 2000, Judge Kathleen Learned issued a Final Order on Appeal that among other things remanded the *Friends/Ramey* case to the Board for further proceedings. However, the remand was delayed pending a final Superior Court decision in the *MCC* appeal from the Board’s Final Decision and Order on the *MCC* portion of the case.

On April 24, 2000, Judge Patricia Clark issued a Judgment (No. 99-2-20106-0SEA) in the *MCC* case, upholding the Board’s decision.

On June 19, 2000, the Board received an E-mail from Brian Ramey noting that the Superior Court’s *MCC* decision had been appealed to the Court of Appeals and asking for further guidance from the Board regarding the scheduling on remand of the Ramey (formerly *Friends*) PFR.

On July 6, 2000, the Board issued “Notice of Pre-Remand Hearing Conference” setting a date for a conference with the parties. The Order also captioned the case as *Ramey v. City of Seattle (Ramey Remand)*, Superior Court Remand of CPSGMHB Case No. 99-3-0002 (**Remand Case No. 99-3-0002**).

On July 13, 2000, the Board issued “Order Changing Date of Pre-Remand Hearing Conference” (**PRHC**).

On August 31, 2000, the Board conducted the PRHC at the Financial Center, Seattle. Board member Edward G. McGuire, Presiding Officer (**PO**) in this matter, conducted the conference. Petitioner Brian Ramey represented himself and Robert D. Tobin represented Respondent City of Seattle.

On September 18, 2000, the Board issued the “Pre-Remand Hearing Order” that established the briefing schedule and Legal Issue to be resolved in this matter.

On November 17, 2000, the Board issued its “Order on Motions [To supplement the record and dispositive]. This Order *conclusively established the record* for the proceeding and noted no further supplementation of the record would be permitted. The Board deferred resolution of the City’s motion to dismiss certain issues for lack of participation standing. Subsequently, the City

of Seattle filed a motion for reconsideration of the Order on Motions.

On December 15, 2000, the Board issued its “Order on Motion to Reconsider” that granted the City’s motion to dismiss four of the seven issues pending in this matter.

On January 8, 2001, following discussions of a stipulation of the parties, the Board issued its “Order Granting Continuance Pending Outcome of Court of Appeals Decision in *Montlake Community Club v. City of Seattle* – Cause No. 46708-5-I. The Order continued further proceedings in the Ramey Remand matter until the *MCC* case was resolved by the Court of Appeals. The Order required the parties to report to the Board quarterly regarding the status of the Ramey Remand matter.

On September 18, 2002, the Board issued a “Pre-Remand Hearing Notice of Hearing and Pre-Remand Hearing Order [End of continuance due to outcome of *Montlake Community Club v. City of Seattle*, Cause No. 46708-5-I]” (**PRHO**). The PRHO established September 26, 2002 as the date for a “Post Continuance and Pre-Remand Hearing Conference” (**PRHC**) at the Board’s offices. The Order also set forth the final briefing schedule and remand hearing date, established the record for the proceeding and set forth the remaining issues to be resolved by the Board. <sup>[4]</sup>

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<sup>[1]</sup> Further, the Board notes that it did not receive a “report” in October of 2002.

<sup>[2]</sup> The Section III of the PRHO provided, at 3:

A party who fails to attend or participate in any hearing or other stage of the adjudicative proceedings before this Board in this case may be held in default and the case may be dismissed pursuant to WAC 242-02-710.

WAC 242-02-710(1) provides, in relevant part:

When a party to a proceeding has, after proper notice, failed to attend a hearing or any other matter before a board or presiding officer, a motion for default or dismissal may be sought by any party to the case or raised by a board upon its own motion or by a presiding officer. Any order granting the motion shall include a statement of the grounds for the order and shall be served upon all parties to the case.

<sup>[3]</sup> WAC 242-02-720 provides, in relevant part:

Any action may be dismissed by a board:

(4) Upon a board’s own motion for failure by the parties to comply with these rules or any order of the board.

<sup>[4]</sup> The record and the Legal Issues set forth in the PRHO reflected the record and Legal Issues established in the Board in its December 15, 2000 Order on Reconsideration.