

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

CORINNE R. HENSLEY and JODY L. McVITTIE,)	Case No. 01-3-0004c
)	
)	
Petitioners,)	<i>(Hensley IV – [Maltby UGA Remand])</i>
)	
v.)	
)	ORDER ON RECONSIDERATION
SNOHOMIHS COUNTY,)	
)	
Respondent.)	
)	

I. Background

On July 17, 2003, the Central Puget Sound Growth Management Board (the **Board**) held its compliance hearing in the Maltby UGA Remand portion of the *Hensley v. Snohomish County* [\[1\]](#) (*Hensley IV*) case – CPSGMHB Case No. 01-3-0004c.

On July 24, 2003, the Board issued its “Order Rescinding Invalidity and Finding Compliance” in this matter.

On August 4, 2003, the Board received “Hensley Motion for Reconsideration on Order Rescinding Invalidity and Finding Compliance” (**Hensley Reconsideration Motion**).

On August 11, 2003, the Board received “Snohomish County’s Opposition to Petitioner Hensley’s Motion for Reconsideration” (**County Answer**).

II. MOTION FOR RECONSIDERATION

Applicable Law and Position of the Parties:

The Board’s Rules of Practice and Procedure provide for motions for reconsideration. WAC 242-02-832. Hensley’s Reconsideration Motion was timely filed; the County’s Answer was also timely.

The County adopted Ordinance Nos. 03-049, 03-050, 03-051 and 03-052 on June 27, 2002, pursuant to the Board's remand. *See* Finding of Fact 2, at 7, in "Order Rescinding Invalidity and Finding Compliance."

The Board issued its Order Rescinding Invalidity and Finding of Compliance in this matter on July 24, 2003.

The grounds for Hensley's Reconsideration Motion is an "irregularity in the hearing prevented Petitioner from having a fair hearing." *See* WAC 242-02-832(2)(b), and Hensley Reconsideration Motion, at 2. The alleged "irregularity" was that the Order Rescinding Invalidity and Finding Compliance was issued before the 60 day period ran for challenging Ordinance Nos. 03-049, 03-

[2]

050, 03-051 and 03-052 with a new PFR. Therefore, Petitioner asserts, "This error created an irregularity in the briefing schedule and final decision that should not have been reached until Petitioner(s) [and other citizens] have the right to exhaust all remedies before them." Hensley Reconsideration Motion, at 2. Additionally, Petitioner references the dissenting opinion offered by Board Member North as a basis for reconsideration. Hensley Reconsideration Motion, at 3.

The County responds by noting that the GMA requires the Board to "[T]reat compliance hearings

[3]

on invalidity orders as its top priority, see RCW 36.70A.302(6); .330(2), and the Board's prompt resolution of this matter was consistent with that statutory directive." County Answer, at 2.

Discussion:

RCW 36.70A.330(2) requires the Board to accord compliance hearings the "highest priority of business to be conducted by the Board." This is what the Board did. The Board notes that in "Hensley Response to Snohomish County's Statement of Actions to Comply" (**Hensley Comment on SATC**), Petitioner does an excellent job of briefing issues and arguing her case. However, it did not persuade the majority of the Board. Also, nowhere in the Hensley Comment on SATC does Petitioner indicate that more time was needed nor that the scheduling of the compliance hearing was irregular. Likewise, Petitioner never raised this concern during the July 17, 2003 Compliance Hearing. *See* July 17, 2003 Compliance Hearing Transcript, at 1-62; specifically at 23-36 and 56-62.

Reference to a dissenting opinion of a Board Member is not grounds for reconsideration.

Petitioner's Motion for Reconsideration is **denied**.

III. ORDER

Based upon review of the Order Rescinding Invalidity and Finding Compliance, Petitioner's Motion for Reconsideration, the County's Answer, the County's SATC, Hensley's Comments on SATC, the Compliance Hearing Transcript, the GMA, and having considered the arguments of the parties, and having deliberated on the matter the Board ORDERS:

- Petitioner Hensley's Motion for Reconsideration on Order Rescinding Invalidity and Finding Compliance is **denied**.

So ORDERED this 12th day of August 2003.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Joseph W. Tovar, AICP
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300. A Board order on a motion for reconsideration is not subject to a motion for reconsideration. WAC 242-02-832(3).

[1]

The Maltby UGA issue was first addressed in *Hensley v. Snohomish County* (***Hensley IV***), Consolidated CPSGMHB Case No. 01-3-0004c, Final Decision and Order, (August 15, 2001), at 28-35 and 38-39. The Maltby UGA was next addressed in *Hensley v. Snohomish County*, Consolidated CPSGMHB Case No. 01-3-0004c, (*Maltby UGA Remand*), Order on Remand and Reconsideration (*Maltby UGA Remand*) [Snohomish County Superior Court Remand of *Maltby Christian Assembly v. CPSGMHB, Corinne Hensley and Snohomish County*, No. 1-2-07907-5 and CPSGMHB Case No. 01-3-0004c, *Hensley v. Snohomish County* (***Hensley IV***)], (Dec. 19, 2002), at 1-20.

[2]

The Board notes that Petitioner Hensley filed a new PFR on August 4, 2003 challenging these same ordinances.

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RCW 36.70A.330(2) provides in relevant part:

A hearing under this subsection shall be given the highest priority of business to be conducted by the Board, . . .