

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

)	
CORINNE R. HENSLEY and JODY	)	(Snohomish County Superior Court
L. McVITTIE	)	Cause Nos. 03-2-05177-1 and 03-2-
	)	05181-9)
Petitioners,)	
	)	Re: CPSGMHB Case No. 01-3-0004c,
v.	)	<i>Hensley IV v. Snohomish County</i>
	)	[Maltby UGA Remand portion]
SNOHOMISH COUNTY,)	
)	
Respondent,	)	Order Denying Certificate of
	)	Appealability Re: Order on Remand
MALTBY CHRISTIAN ASSEMBLY	)	and Reconsideration (Maltby UGA
	)	Remand)
Intervenor.)	
)	

I. applications for Certificates of Appealability

On February 20, 2003, the Board received “Snohomish County’s Application for Direct Review by the Court of Appeals” [Cause No. 03-2-05177-1] (**Co. Application**). ^[1]

Also on February 20, 2003, the Board received “Application for Direct Review in the Court of Appeals” [Cause No. 03-2-05181-9] filed on behalf of Maltby Christian Assembly (**MCA Application**).

The Board’s jurisdiction is generally limited ^[2] to addressing whether local governments, within the Puget Sound region, have complied with the goals and requirements of the state’s Growth Management Act (**GMA** - Chapter 36.70A RCW). However, the Applications of both Snohomish County and Maltby Christian Assembly ask the Board to issue a Certificate of Appealability with the Superior Court of Washington for Snohomish County regarding the same prior Board Order. Both Applications ask the Board to certify its December 19, 2002 “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 and CPSGMHB Case No. 01-3-0004c, *Hensley v. Snohomish County (Hensley IV)*](**Maltby UGA Remand Order**) for direct review by the Court of Appeals.

II. Discussion and findings

The Board's authority regarding Certificates of Appealability is set forth in RCW 34.05.518, which provides in relevant part:

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.12B.005 and growth management hearings boards identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of Appealability if it finds that *delay* in obtaining a final and prompt determination of the issues *would be detrimental to any party or the public interest* **and either**:

- (i) *Fundamental and urgent state-wide or regional issues are raised; or*
- (ii) *The proceeding is likely to have significant precedential value.*

(Emphasis supplied.)

The Board is bound by the criteria established in RCW 34.05.518(3)(b)(I-ii) in determining whether to issue a Certificate of Appealability. In applying these criteria, the Board finds and concludes as follows:

- One of the purposes of the UGA, GMA Plan and implementing development regulations is to provide a degree of certainty for land use decision-making. As MCA and the County proceed with their appeal through the judicial system, the status of the County's UGA, Plan and implementing regulations in this limited area of the County is uncertain. However, since the action in question only involves a limited area of the County [MCA property], delay in obtaining a final and prompt determination is not detrimental to the general public interest. The Board's Final Decision and Order was issued on August 15, 2001, its Order on Remand and Reconsideration was issued December 19, 2002. In order to avoid delay, both the Board (in the FDO – Concurring Opinion) and the Superior Court [in *dicta*] offered guidance to resolve this dispute. Nonetheless, the parties continue to seek judicial review. Consequently, the Board is not persuaded that delay in obtaining a final and prompt determination of the issues involved in this case is detrimental to MCA or the County.
- Having found that delay is not detrimental to the public interest or the parties, the Board need not address the other criteria for issuing a certificate of appealability.

III. Conclusion

Pursuant to RCW 34.05.518, the Board **denies** both Snohomish County's and Maltby Christian Assembly's Applications for a Certificate of Appealability.

So ORDERED this 20th day of March 2002.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Lois H. North
Board Member

Joseph W. Tovar, AICP
Board Member

[1] Pursuant to RCW 34.05.518(6)(c), the Board has until March 24, 2003 to grant or deny the application.

[2] *See*: RCW 36.70A.280