

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

)	
ANN AAGAARD, ANDREA PERRY)	Case No. 02-3-0012
and JOSE BLAKELY)	[AAGAARD II]
)	
Petitioners,)	ORDER OF DISMISSAL
v.)	
)	
CITY OF BOTHELL)	
)	
Respondent.)	

I. BACKGROUND

On August 19, 2002, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Ann Aagaard, Andrea Perry, and Jose Blakeley (collectively, **Aagaard**). The matter was assigned Case No. 02-3-0012 and captioned **Aagaard, et al., v. Bothell**. Petitioners challenged City of Bothell (**Bothell** or the **City**) Ordinance No. 1876

On September 12, 2003, the Board received from the parties “Stipulated Agreement, Declaration and Order Extending the Time for Issuing a Decision” (the **Fourth Stipulated Agreement re: Settlement Extension**).

On September 23, 2003, the Board issued “Fourth Order Granting Motion for Settlement Extension and Order Adopting Revised Final Schedule” (the **Fourth Extension Order**). Included in the Fourth Extension Order was a “Revised Final Schedule” which established Monday, December 8, 2003 as the “Deadline for Petitioners’ Prehearing Brief.” Fourth Extension Order, at 2.

III. FINDINGS OF FACT

1. The City of Bothell adopted Ordinance No. 1876 on June 17, 2002. PFR.
2. *Aagaard, et al.* filed their PFR on August 19, 2002. Notice, at 1.
3. The Board granted four 90 extensions to the parties while they purused settlement discussions. Fourth Extension Order, at 1-2.

4. The Fourth Extension Order established December 8, 2004 as the deadline for the Petitioners to file their Prehearing Brief. Fourth Extension Order, at 2.

5. The Fourth Extension Order informed the parties that any issues not briefed in the prehearing brief would be deemed abandoned. Fourth Extension Order, at 4.

II. DISCUSSION

The Board has granted four extensions pursuant to RCW 36.70A.300(2) while the parties have attempted to settle this matter. The Fourth Extension Order provided in part:

The Board understands that the parties will proceed with negotiations to settle this matter. If such a settlement agreement is reached, a copy shall be provided to the presiding officer and an appropriate order issued closing this case. In the alternative, if no settlement agreement is reached, the case will proceed according to the schedule and requirements set forth in Sections III through IX below.

Fourth Extension Order, at 2. Emphasis added.

The deadline for the “Petitioners’ Prehearing Brief” was set as December 8, 2004. Finding of Fact 4. Petitioners were notified that “issues not briefed will be deemed to have been abandoned and cannot be resurrected in Reply Briefs or in oral argument at the Hearing on the Merits. Finding of Fact 5.

III. ORDER

WAC 242-02-720 provides that “any action may be dismissed by a board . . . upon a board’s own motion for failure by the parties to comply with these Rules or any order of the board.” Because the Petitioners submitted no prehearing brief by the December 8, 2004 deadline, they have failed to comply with the Fourth Extension Order and have abandoned all their legal issues. Therefore, the *Aagaard II* PFR is **dismissed with prejudice** and CPSGMHB Case No. 02-3-0012 is **closed**.

So ORDERED this 18th day of December, 2003.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Bruce C. Laing, FAICP

Board Member

Edward G. McGuire, AICP
Board Member

Joseph W. Tovar, AICP
Board Member