

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

FEARN, MTB ASSOCIATES, MASTER)	
BUILDERS ASSOCIATION OF KING)	Consolidated CPSGMHB
AND SNOHOMISH COUNTIES and)	Case No. 04-3-0006c
BOTHELL OWNERS FOR RESPONSIBLE)	
GROWTH,)	<i>[FEARN]</i>
)	
Petitioners,)	
)	
v.)	
)	
CITY OF BOTHELL,)	ORDER ON MOTIONS
)	
Respondent.)	
)	

I. BACKGROUND

On January 28, 2004, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from FEARN and MTB Associates (collectively, **FEARN**). The matter was assigned Case No. 04-3-0005. The Presiding Officer (**PO**) in this matter was Board Member Joseph W. Tovar.

On January 30, 2004, the Board received a PFR from the Master Builders Association of King and Snohomish Counties (**MBA**); and Bothell Owners for Responsible Growth Regulation (collectively, **MBA**). The matter was assigned Case No. 04-3-0006. The PO in this matter was also Board Member Tovar.

On February 6, 2004, the Board issued a “Notice of Hearing” (**NOH**). The NOH established a tentative schedule for this matter and set March 6, 2004 as the date for the prehearing conference (**PHC**).

During, and subsequent to, the PHC the Board received the City’s Index of the record and revisions, as well as revised petitions for review with restatements of the issues. The Board issued its “Order on Consolidation and Prehearing Order” on March 18, 2004, and on March 26, 2004, the Board issued an “Amended Prehearing Order” (**PHO**). The PHO established the final schedule for this matter and set the Legal Issues to be decided.

Pursuant to the deadlines established in the PHO, the Board received numerous motions, including: a motion for amicus status;¹ motion to intervene; motion to supplement the record; dispositive motion; motion to dismiss; and motion to strike. The full chronology

¹ The Board notes that 1000 Friends of Washington was granted status as *amicus curiae* in the 4/23/04 Order, noted *infra*.

of the filings [motions, responses and replies] received by the Board is found in Appendix A.

On April 22, 2004, the Board received a stipulation and request for settlement extension.

On April 23, 2004, the Board issued its “Order Granting Settlement Extension, Order Amending Final Schedule, Order on Motions and Notice Regarding Presiding and Settlement Officers” (**4/23/04 Order**). The 4/23/04 Order indicated that Board Member Tovar was withdrawing as the PO in this matter and would not participate further in this proceeding, but was willing to serve as a settlement officer. Board Member Edward McGuire assumed the role of PO. The same Order also extended the schedule for the case for 30-days and indicated that lacking successful settlement of the matter or a request for settlement extension, the Board would issue its Order on Motions by May 21, 2004.

The parties did have occasion to meet and discuss settlement options with the assistance of Board Member Tovar, but the PO was informed by Board Member Tovar, on May 14, 2004, that the settlement discussions had been suspended and the Board would need to issue its Order on Motions pursuant to the deadline established in the 4/23/04 Order.

In this Order, the Board addresses the City of Bothell’s Motion to Dismiss,² MBA’s Dispositive Motion,³ FEARN’s Motion to Intervene,⁴ FEARN’s Motion to Supplement⁵ and the City’s Motion to Strike Amicus Response Brief.

II. DISCUSSION OF MOTIONS

A. Motion to Strike Amicus Response Brief

The Board’s 4/23/04 Order granted Amicus status to 1000 Friends of Washington. This entitled Amicus to participate in this proceeding. The City’s motion to strike the *Amicus* Response Brief [See Appendix A, City Reply, at 21.] is **denied**.

B. Bothell’s Motion to Dismiss

The Issues and the Action:

Although there are six FEARN, and six MBA Legal Issues set forth in the PHO, the essence of the challenge posed by both FEARN and MBA is that the City of Bothell has “failed to act” by not having, or amending, development regulations that implement its GMA Plan.

² See Appendix A for the dates and titles of the motion, response and reply briefs filed by the parties.

³ See Appendix A for the dates and titles of the motion, response and reply briefs filed by the parties.

⁴ See Appendix A for the dates and titles of the motion, response and reply briefs filed by the parties.

⁵ See Appendix A for the dates and titles of the motion, response and reply briefs filed by the parties.

FEARN's PFR alleges that the City's development regulations, adopted on December 12, 1994 and March 21, 1996, fail to implement the City's GMA Plan. PFR, at 2. FEARN also alleges that City has not adhered to the statutory deadlines of September 1, 2002 for adopting reasonable measures pursuant to the Buildable Lands review and evaluation (RCW 36.70A.215); nor the December 1, 2004 deadline for completion of GMA Plan and development regulation review and evaluation (RCW 36.70A.130(4)(a)). *Id.* In essence, FEARN's theory of the case is couched as a failure to act challenge.

MBA's PFR alleges that "On December 1, 2003, the City Council ruled that it would not take action to correct Bothell's failure to attain the minimum standard for urban density of 4 dwelling units per net acre, established by the Growth Management Act, as interpreted by the [CPSGMHB]." PFR, at 4. MBA's challenge also appears to be stated in terms of the City's failure to act, or failure to carry out an ongoing duty and update its regulations.

On December 1, 2003, the action that Bothell's City Council took was to "reject the Planning Commission recommendation and end all discussion on the item." *See* Attachment to MBA PFR, City Council Minutes of December 1, 2003, at 6. The rejected recommendation of the Planning Commission was to "approve an ordinance [amending the Bothell Municipal Code] concerning clustered subdivisions." *See* Attachment to PFR, Planning Commission Findings, Conclusions and Recommendation for Flexible Lot and Infrastructure Standards", at 14. No ordinance or resolution was adopted by the City.

The Position of the Parties:

In brief, the "Respondent City of Bothell's Motion to Dismiss Petitions for Review" (**Bothell Motion**) asserts that: 1) it has taken the required actions pursuant to the GMA's statutory deadlines that have passed; 2) the PFRs were brought long after adopting action was taken and are untimely; 3) a failure to act challenge cannot be brought prior to a statutory deadline occurring; 4) the decision of the City Council on December 1, 2003 is not an action that is subject to Board review; and 5) the issues presented are not ripe for review. Bothell Motion, at 1-29.

In the "Master Builders and BORGR's Response to the City of Bothell's Motion to Dismiss" (**MBA Response**), Petitioners respond that: 1) the City of Bothell has an ongoing duty to comply with the requirements of the Act even after statutory deadlines pass; 2) the City has an affirmative duty to amend its development regulations to implement its plan; 3) if the Board does not review the issues in this case the City will maintain the status quo – noncompliant development regulations⁶ – indefinitely; and 4) the December 1, 2004 deadline is irrelevant to MBA's claims; 5) the Board need not wait for the next statutory deadline [December 1, 2004] to review the issues presented; and 6) MBA's petition is timely, and its claims ripe. MBA Response, at 1-13.

⁶ To support its allegation that the City's development regulations are noncompliant with the Act MBA alludes to the Planning Commission Recommendation attached to its PFR.

In the “FEARN/MTB’s Reply Brief to Respondent’s Motion to Dismiss” (**FEARN Response**), Petitioners assert that: 1) a failure to act challenge can be brought at any time; 2) FEARN’s issues are ripe for review; 3) the City has refused to take action [December 1, 2003 rejection] to bring its noncompliant development regulations into compliance with the Act; 4) the City has indicated it will not, and need not, meet the December 1, 2004 review and revision deadline; and 5) the City has an affirmative duty to review its plan and regulations and adopt necessary revisions by December 1, 2004. FEARN Response, at 1-26.

In the “1000 Friends of Washington’s Response to the City of Bothell’s Motion to Dismiss” (**Amicus Response**), *Amicus* contends that: 1) the City has a duty to review its comprehensive plan and development regulations and adopt any necessary amendments to ensure compliance with the GMA by December 1, 2004; and 2) the Board has jurisdiction to review whether the City has adopted reasonable measures required by RCW 36.70A.215. *Amicus* Response, at 1-10.

In the “Respondent City of Bothell’s Consolidated Reply to Petitioners’ & Amicus Responses to the City’s Motion to Dismiss” (**City Reply**), the City asserts that: 1) Petitioners have abandoned issues [from the PHO] in their response brief; 2) the Board’s *Tupper* decision supports the City’s contention that the Board lacks jurisdiction and the issues are not ripe for review; 3) RCW 36.70A.130 only requires a review, and if necessary, amendment to its GMA plan and regulations by December 1, 2004 and an ongoing process is not required; 4) the Board will not have jurisdiction to review Petitioners’ challenges until after December 1, 2004; 5) the duty to adopt reasonable measures [RCW 36.70A.215(4)] has not yet risen; 6) the City has adopted the required documents within the statutory deadlines and Petitioners’ challenges are untimely. City Reply, at 1-22.

Applicable Law – Relevant GMA Deadlines:

The Board’s Rules of Practice and Procedure provide, in relevant part:

1. A petition relating to whether or not an adopted comprehensive plan, development regulation, . . . is in compliance with the goals and requirements of the act. . . shall be filed with a board within sixty days from the date of publication by the legislative body of the county or the city as specified by RCW 36.70A.290(2).
- . . .
5. A petition relating to the *failure* of a state agency, city or county *to take an action by a deadline specified in the act* may be brought at any time after the deadline for action has passed.

WAC 242-02-220(1) and (5), (emphasis supplied).

RCW 36.70A.040(3), among other things, required the City of Bothell to “adopt a comprehensive plan under this chapter and development regulations that are consistent

with and implement the comprehensive plan on or before July 1, 1994.” However, an additional six-months [*i.e.*, January 1, 1995] was authorized for the adoption of development regulations that were consistent with and implemented the plan, if a letter was sent to the Department of Community, Trade and Economic Development requesting the additional time.

RCW 36.70A.130(1)(a): provides in relevant part:

Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or the city that adopted them. A county or *city shall take legislative action to review, and if needed, revise* its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter [RCW 36.70A RCW – the GMA] *according to the time periods specified in subsection (4) of this section.*

(Emphasis supplied.) Thus, the City of Bothell, among other CPS jurisdictions, must review its plan and development regulations, and adopt any needed plan or development regulations revisions that ensure compliance with the goals and requirements of the Act, according to the statutory specified time periods.

RCW 36.70A.130(4)(a), provides in relevant part:

The department shall establish a schedule for counties and cities *to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure that the plan and regulations comply with the requirements of this chapter* [Chapter 36.70A RCW – the GMA]. The schedule established by the department shall provide for the reviews and evaluations *to be completed* as follows:

- a. *On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston and Whatcom counties and the cities within those counties.*

(Emphasis supplied.) This section of the GMA establishes the time period *for completion* of the City of Bothell’s [*i.e.*, a city within both King and Snohomish Counties] review and revision process as December 1, 2004.

Additionally, RCW 36.70A.130(3) authorizes, “The review required by this subsection *may be combined* with the review and evaluation required by RCW 36.70A.215.” (Emphasis supplied.)

The Buildable Lands review and evaluation program established in RCW 36.70A.215, requires that “*The first evaluation shall be completed* not later than September 1, 2002.” Bothell’s participation in the Buildable Lands program review and evaluation was to be

done in conjunction with King and/or Snohomish Counties, pursuant to the relevant County-wide Planning Policies [CPPs] to address the Buildable Lands program. *See also*, RCW 36.70A.210.

RCW 36.70A.215(1)(b) indicates that one of the purposes of the review and evaluation program is to “*Identify* reasonable measures, other than adjusting urban growth areas, that *will be taken* to comply with the requirements of this chapter.” (Emphasis supplied.) The September 1, 2002 evaluation was to identify measures to be taken to avoid adjusting the UGA.

RCW 36.70A.215(4) provides in relevant part:

“If the evaluation [completed by 9/1/02] demonstrates an inconsistency between what has occurred since the adoption of the [CPP] and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period.”

(Emphasis supplied.) Thus, if the buildable lands review and evaluation that is completed by September 1, 2002 demonstrates the inconsistencies as noted, *then* the City must adopt and implement measures [reasonable measures] to increase consistency.

Board Discussion:

RCW 36.70A.040(3) deadlines – July 1, 1994 and January 1, 1995:

The Board’s rules indicate that it will entertain a petition for review that alleges a “failure to act” when a jurisdiction *fails to take action by a deadline specified in the GMA*. WAC 242-02-220(5). This rule also allows such a petition to be filed at any time after the deadline has passed. *Id.*

Neither FEARN, nor MBA, nor *Amicus*, disputes that the City of Bothell adopted its *first* GMA comprehensive plan [*Imagine Bothell*] on June 20, 1994 [Ordinance No.1557]. Neither FEARN, nor MBA, nor *Amicus*, disputes that the City of Bothell adopted its *first* GMA-based development regulations to implement its Plan on March 21, 1996 [Ordinance Nos. 1628-1636]. *See* Bothell Motion, at 2; FEARN Response, at 1-26; MBA Response, at 1-6, MBA PFR attachment – PC Recommendation, at 1; and *Amicus* Response, at 1-10. These actions are presumed valid upon adoption, and if a timely challenge is not filed with the Board within the specified filing period, this presumption of validity holds and the Board has no jurisdiction to review that action. Consequently, the Board cannot conclude that the City has failed to act pursuant to the statutory time period established in RCW 36.70A.040(3), since the City did adopt its GMA comprehensive plan and development regulations in a timely manner. The time for

challenging these actions is long past and clearly untimely pursuant to RCW 36.70A.290(2).

The City also indicates that since its initial Plan adoption it has amended its Plan on 11 occasions, most recently on October 6, 2003; and since its initial adoption of its development regulations it has amended the regulations on at least 45 occasions. Again, neither FEARN, MBA nor *Amicus* dispute those amendments have not occurred in the timeframes asserted. See Bothell Motion, at 2; FEARN Response, at 1-26; MBA Response, at 1-6, MBA PFR attachment – PC Recommendation, at 1; and *Amicus* Response, at 1-10. In light of these amendments, it appears that the City has an ongoing process for review and evaluation of its Plan and regulations. Again, each of these amendatory actions is presumed valid and unless a timely challenge is filed, the presumption holds and the action is beyond the Board’s ability to review. The Board notes that any of these amendatory actions could have been challenged by filing a PFR within sixty-days of publication [RCW 36.70A.290(2)], but apparently were not.⁷ Consequently, the Board concludes that a challenge now to these prior amendments is untimely.

RCW 36.70A.215 deadlines – September 1, 2002:

Has the City failed to act pursuant to September 1, 2002 deadline set forth in RCW 36.70A.215? The assertion pertaining to .215 is that the City has not adopted required reasonable measures by September 1, 2002. See FEARN Response, at 2; *Amicus* Response, at 2-5; and PHO, Legal Issue 4.

As discussed *infra*, one of the purposes of the review and evaluation program of RCW 36.70A.215(1)(b) is to “*Identify* reasonable measures, other than adjusting urban growth areas, that *will be taken* to comply with the requirements of this chapter.” The September 1, 2002 evaluation was to identify measures that will be taken in lieu of adjusting the UGA. Note also that counties, not cities, designate and adjust UGAs. See RCW 36.70A.110. Those buildable lands reports that have been brought to the Board for review have been cooperatively undertaken by the County and its cities.

Nonetheless, if the buildable lands review and evaluation that is completed by September 1, 2002 demonstrates inconsistencies as noted in RCW 36.70A.215(3), *then* jurisdictions must adopt and implement the identified measures [reasonable measures] to increase consistency. A duty to act is stated, but September 1, 2002 is not necessarily the action deadline. This interpretation is supported by RCW 36.70A.130(3), which provides, “The review required by this subsection [December 1, 2004] may be combined with the review

⁷ A quick review of the Board’s prior cases indicates that prior to the present case, the City of Bothell’s actions were challenged on two occasions: See *Aagaard v. City of Bothell (Aagaard)*, CPSGMHB Case No. 94-3-0011c, Final Decision and Order, (Feb. 21, 1995), which resulted in the Plan being remanded to the City; *Aagaard*, CPSGMHB Case No. 94-3-0011c, Finding of Compliance, (Aug. 29, 1995), where the City acted pursuant to the remand and was determined to have complied with the GMA; and See also, *Aagaard v. City of Bothell (Aagaard II)*, CPSGMHB Case No. 02-3-0012, Order of Dismissal, (Dec. 12, 2003), where the Petitioner failed to pursue a challenge to an amendment to the City’s critical areas policies.

and evaluation required by RCW 36.70A.215.” Therefore, the Board concludes that the outside limit for a local government to adopt reasonable measures to avoid the need to adjust the UGA is the December 1, 2004 deadline established in .130(4). Consequently, the Board does not conclude the City has failed to act in relation to the September 1, 2002 deadline established in RCW 36.70A.215. However, any necessary “reasonable measures” must be adopted by the City by December 1, 2004. Any challenge to the City’s compliance with that duty would have to be filed after the City acts, or December 1, 2004, whichever occurs first.

RCW 36.70A.130 deadlines – December 1, 2004 and the City of Bothell’s duty:

The City argued that the Board’s decision in the case of *Tupper v. City of Edmonds*⁸ supports the conclusion that the challenges presented here are not ripe until December 1, 2004. The Board agrees. Quite simply, since this deadline lies over six-months in the future, by the Board’s reasoning, the City cannot yet be challenged for failing to act.

However, as noted *infra* under Applicable Laws .130, on or before December 1, 2004, the City of Bothell is required to: 1) *complete* its Plan and development regulation review to determine whether the Plan and implementing development regulations comply with the goals and requirements of the GMA; 2) *take legislative action indicating its determination regarding whether the Plan and development regulations comply with the Act*; and 3) if necessary, take legislative action to *revise the comprehensive plan and/or development regulations to achieve compliance with the goals and requirements of Chapter 36.70A RCW – the GMA*.

The Board notes that this periodic⁹ comprehensive review deadline was originally set for December 1, 2002. But the Legislature extended the deadline during the 2002 session [See Laws of 2002, Chapter 320] to allow jurisdictions *an additional two years* to complete this review and evaluation and bring any noncompliant plan and/or development regulation provisions into compliance with the goals and requirements of the Act. **Therefore, December 1, 2004 is a critical date for jurisdictions in the Central Puget Sound region. If a jurisdiction does not take action by this date the jurisdiction could be subject to “failure to act” challenge before the Board.** As always, an action taken on or before this date (pursuant to the requirements of .130) could likewise be appealed to the Board for review, if a timely appeal is filed.

Additionally, in light of the PFRs filed in this matter, the City is on notice that there are credible concerns relating to whether or not its development regulations are consistent with, and implement, its Plan. In *Tupper*, the Board commented that the legal staff and planning staff had made the City Council aware that it must address identified potential

⁸ *Tupper v. City of Edmonds*, CPSGMHB Case No. 03-3-0018, Final Decision and Order, (Mar. 22, 2004).

⁹ In *MBA v. Snohomish County [McVittie – Intervenor]*, CPSGMHB Case No. 01-3-0016, Final Decision and Order, (Dec. 13, 2001), the Board discussed continuous reviews and updates [in the context of UGAs] versus periodic reviews and evaluations established through a statutorily created time period. The December 1, 2004 deadline established in RCW 36.70A.130 falls into the latter category – a periodic review.

deficiencies in its Plan and regulations by the December 1, 2004 deadline. Bothell is in a similar circumstance and has the added incentive to consider the concerns raised by the Petitioners in this matter who have already demonstrated a willingness to challenge the City's compliance with the GMA. It behooves the City to conduct an open process, complete its review, make its determinations, and take the necessary actions to ensure compliance with the GMA by December 1, 2004.

The December 1, 2003 decision of the Council:

As correctly asserted by the City, the "rejection" of the City Council of the Planning Commission's recommendation did not adopt or amend a plan or development regulation that is subject to Board review. The action taken on that date was not one which the Board has jurisdiction to review, at this time.

Conclusions:

The City has not failed to act pursuant to the statutory time period established in RCW 36.70A.040(3), since the City adopted its GMA comprehensive plan and development regulations in a timely manner. Additionally, any present challenge [*i.e.* in these PFRs] to plan or development regulation amendments adopted previously by the City of Bothell is untimely.

The City has not failed to act in relation to the September 1, 2002 deadline established in RCW 36.70A.215. However, any necessary "reasonable measures" must be adopted by the City no later than December 1, 2004.

The City cannot be challenged for failing to act pursuant to a statutory deadline [December 1, 2004] that has not yet occurred. RCW 36.70A.130.

RCW 36.70A.130 GMA imposes a duty on the City to undertake certain actions by the statutory deadline. On or before December 1, 2004, the City of Bothell is required to: 1) *complete* its Plan and development regulation review to determine whether the Plan and implementing development regulations comply with the goals and requirements of the GMA; 2) *take legislative action indicating its determination regarding whether the Plan and development regulations comply with the Act*; and 3) if necessary, take legislative action to *revise the comprehensive plan and/or development regulations to achieve compliance with the goals and requirements of Chapter 36.70A RCW – the GMA*.

The December 1, 2003 "action" of the Bothell City Council did not adopt or amend a Plan or development regulation that could be subject to Board review.

Based upon the Board's review of this matter, the City's motion to dismiss is **granted**.

C. MBA's Dispositive Motion

Having granted the City's motion to dismiss the petitions for review, the Board need not, and will not, address MBA's Dispositive Motion.

D. FEARN's Motion to Intervene

Having granted the City's motion to dismiss the petition for review, the Board need not, and will not, address FEARN's Motion to Intervene.

E. FEARN's Motion to Supplement

Having granted the City's motion to dismiss the petition for review, the Board need not, and will not address FEARN's Motion to Supplement the Record.

III. ORDER

Based upon review of the Petition for Review, the briefs and materials submitted by the parties, the GMA, the Board's Rules of Practice and Procedure, prior decisions of this Board and other Growth Management Hearings Boards, case law, and having deliberated and considered the matter, the Board enters the following ORDER:

- The City of Bothell's motion to dismiss the petitions for review is **granted**.
- Consolidated CPSGMHB Case No. 04-3-0006c [*FEARN et al., v. City of Bothell*] is **dismissed**, the hearing on the merits is **cancelled** and the briefing and hearing schedule vacated.

So ORDERED this 20th day of May 2004.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Bruce C. Laing, FAICP
Board Member

Note: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to RCW 242-02-832.

APPENDIX A

FEARN/MBA et, al v. City of Bothell

Case No. 04-3-0006c

	Date Filed	<u>P/R/L/B</u>	Document Title	<u>EXHIBITS/ATTACHMENTS</u>
	01/28/04	<u>P</u>	PFR (FEARN)	<u>TAB A</u>
	01/30/04	P	PFR (MBA)	
	2/6/04	B	NOH	
	2/10/04	R	Notice of Appearance and Association of Counsel	n/a
	2/17/04	R	Index to Record	attached
	3/9/04	P	Letter Re: Request for Additional Items in Index	n/a
	3/10/04	R	Letter Re: Consolidated Cases/Additional Info	n/a
	3/10/04	R	Declaration of Bill Wiselogle Certifying Administrative Records	
	3/12/04	P	Revised PFR (FEARN)	
	3/17/04	P	Master Builders and Borger's Re-stated Issues for Review	n/a
	3/18/04	B	Order on Consolidation and Prehearing Order	n/a
	3/19/04	R	Revised Index of Documents	N/a
	3/22/04	R	Respondent City of Bothell's Opposition to Petitioner FEARN's Revised Petition for Review	N/a
	3/25/04	P	Reply to Respondent City of Bothell's Opposition to Petitioner FEARN's Revised Petition for Review	N/a
	3/26/04	B	Amended PHO	
	3/31/04	P	Motion to Supplement the Record and Amend the Index	Tab B
	3/31/04	P	Motion of 1000 Friends for Leave to File Amicus Curiae Brief	N/a
	3/31/04	I	Master Builders and BORGR's Dispositive Motion and Memorandum in Support	N/A
	3/31/04	R	Respondent City of Bothell's Motion to Dismiss Petitions for Review/ Supporting Dec. Bill Wiselogle	N/a
	4/01/04	P	Motion to Intervene	N/a
	4/05/04	R	Response of Master Builders and BORGR to FEARN's Motion to Supplement and Motion to Intervene	N/a
	4/08/04	I	1000 Friends of Washington's Response to the City of Bothell's Motion to Dismiss	N/a
	4/09/04	P	FEARN's/MTB's Reply Brief to Respondent's Motion to Dismiss	Tab C
	4/09/04	R	Respondent City of Bothell's Opposition to 1000 Friends' Motion to File Amicus Curiae Brief/ Respondent City of Bothell's Opposition to FEARN's Motion to Supplement the Record and Amend Index/ Respondent City of Bothell's Opposition to FEARN's Motion to Intervene/Dec. of Bill Wiselogle/Bothell's Opposition to MBA and BORGR's Dispositive Motion	N/a
	4/09/04	I	Master Builders and BORGR's Motion to Strike Declaration of Bill Wiselogle/ Master Builders and	N/a

			BORGR's Motion to Intervene in FEARN Issue 4	
	4/09/04	I	Master Builders and BORGR's Response to City of Bothell's Motion to Dismiss	N/a
	4/14/04	P	Reply to Bothell's Opposition to FEARN/MTB's Motion Intervene in MBA/ BOGR Issues	N/A
	4/14/04	P	Reply to Bothell's Opposition to FEARN/MTB's Motion to Supplement the Record and Amend the Index	N/a
	4/14/04	R	City's Consolidated Reply to Petitioners' & Amicus' Response to City's Motion to Dismiss/ City's Motion to Strike Response Brief of 1000 Friends of Washington and for Other Relief/ City's Opposition to MBA/BORGR's Motion to Intervene in FEARN Issue 4/City 's Motion to Strike Wiselogle Declaration/ City's Motion to Strike Exhibits 8-11 to FEARN's Reply Brief/	N/A
	4/14/04	I	Master Builders and BORGR's Motion to Strike Declaration of Bill Wiselogle in Opposition to MBA's and BORGR's Dispositive Motion	N/a
	04/14/04	P	Master Builders and BORGR's Reply in Support of Dispositive Motion	N/a
	04/16/04	P	Master Builders and BORGR's Reply in Support of Motion to Intervene in FEARN Issue 4	N/a
	04/16/04	P	Master Builders and BORGR's Reply in Support of Motion to Strike Declaration of Bill Wiselogle in Support of Bothell's Motion to Dismiss	N/a
	04/19/04	P	1000 Friends of Washington's Response to the City of Bothell's Motion to Strike and Other Relief	N/a
	04/19/04	P	1000 Friends of Washington's Request for Permission to File a Motion and Response to the City of Bothell's Motion to Strike and Motion	N/a
	04/19/04	R	Respondent City of Bothell's Response to MBA's Motion to Strike Declaration of Bill Wiselogle	N/a
	04/19/04	R	Respondent City of Bothell's Motion to Supplement the Record with the Declaration of Bill Wiselogle	N/a
	04/19/04	R	Respondent City of Bothell's Response to MBA's BORGR's Motion to Strike the Declaration of Bill Wiselogle in Opposition to MBA and BORGR's Dispositive Motion	N/a
	4/22/04	I	Letter/ Master Builder's and BORGR's Response to City's Motion to Supplement the Record and Reply in Support of Motion to Strike Wiselogle Declaration/ Stipulated Agreement and Agreed Order on Settlement Extension	N/a
	4/23/04	B	Order Granting Settlement Extension, Order Amending Final Schedule, Order on Motions and Notice Regarding Presiding and Settlement Officers	N/a
	5/10/04	I	Stipulation Regarding Settlement Officer and Settlement Conference	N/a