

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

F. ROBERT STRAHM,)	Case No. 05-3-0042
)	
Petitioners)	
)	(Strahm)
v.)	
)	
CITY OF EVERETT,)	ORDER FINDING
)	COMPLIANCE
Respondent.)	
)	

I. BACKGROUND

On September 15, 2006, the Board issued its Final Decision and Order (**FDO**) in CPSGMHB Case No. 05-3-0042. The FDO provided in relevant part:

VI. ORDER

Based upon review of the Petition for Review, the briefs and exhibits submitted by the parties, having reviewed the Plan Update and the record provided, considered the arguments of the parties, and having deliberated on the matter the Board **ORDERS**:

1. The provisions of RCW 36.70A.215 are not *directly* applicable to Everett’s Plan Update, and Petitioner’s Legal Issue G is **dismissed with prejudice**.
2. Pertaining to RCW 36.70A.110(2), .130(3), and 115 , Legal Issues A, C, D and E, as set forth *supra*, the Board finds and concludes as follows:
 - The City’s action was **clearly erroneous** and the challenged portions of the City of Everett’s Plan Update **does not comply** with RCW 36.70A.110(2), .130(3) and .115 – the City has not shown its work to discharge its GMA duty or support its conclusion that it can accommodate the projected 2025 growth. The Board will **remand** the Plan Update with direction to the City to quantify its holding capacity within its city limits and reconcile its entire planning area and target population for 2025 with Snohomish County, or take other legislative action to increase density in order to accommodate the projected 2025 growth. Following the reconciliation process, but within the remand period, the City shall take any necessary legislative actions to revise the Plan Update to include areas and densities to accommodate the projected 2025 population.

3. Regarding internal consistency as addressed in RCW 36.70A.070, Petitioner has **not carried the burden of proof** in demonstrating noncompliance. Therefore, Petitioner's challenge to RCW 36.70A.070, Legal Issue B, is **dismissed with prejudice**.
4. Petitioner has **failed to carry the burden of proof** in demonstrating noncompliance with RCW 36.70A.210 pertaining to Snohomish County CPPs UG-1j, UG-2, UG-7, UG-8, UG-10, UG-13 and UG-14. Legal Issue F is **dismissed with prejudice**.

The Board has found and concluded that certain aspects of the City of Everett's adoption of its Plan Update were **clearly erroneous** and **do not comply** with the requirements of RCW 36.70A.110(2), .130(3) and .115. Therefore the Board **remands** the Plan Update to City of Everett with direction to take the City to the necessary legislative actions to comply with the requirements of the GMA as set forth and interpreted in this Order – Legal Issues A, C, D and E.

- The Board establishes **March 14, 2007**, as the deadline for the City of Everett to take appropriate legislative action.
- By no later than **March 28, 2007**, the City of Everett shall file with the Board an original and four copies of the legislative enactment described above, along with a statement of how the enactment complies with this Order (**Statement of Actions Taken to Comply - SATC**). The City shall simultaneously serve a copy of the legislative enactment(s) and compliance statement, with attachments, on Petitioners. By this same date, the City shall also file a "**Compliance Index**," listing the procedures (meetings, hearings etc.) occurring during the compliance period and materials (documents, reports, analysis, testimony, etc.) considered during the compliance period in taking the compliance action.
- By no later than **April 11, 2007**, the Petitioners may file with the Board an original and four copies of Response to the City's SATC. Petitioners shall simultaneously serve a copy of their Response to the City's SATC on the City.
- Pursuant to RCW 36.70A.330(1), the Board hereby schedules the Compliance Hearing in this matter for **10:00 a.m. April 26,¹ 2007**, at the Board's offices. If the parties so stipulate, the Board will consider conducting the Compliance Hearing telephonically. If the City of Everett takes the required legislative action prior to the **March 14, 2007**, deadline set forth in this Order, the City may file a motion with the Board requesting an adjustment to this compliance schedule.

FDO, at 33-35.

¹ On January 17, 2007, the Board issued an "Order Amending Schedule" that changed the compliance hearing date from April 26, 2007 to April 30, 2007.

On March 28, 2007, the Board received Everett's "Statement of Actions Taken to Comply and Compliance Index" (SATC and Compliance Index, respectively.) There are two exhibits included with the SATC: Exhibit 1 shows the City's Plan amendments [Documenting and Revising Population and Employment Capacities within the City Limits and Incorporating Snohomish County's Capacities and Targets for Everett's Unincorporated UGA, and 7 attachments]; and Exhibit 2 is a copy of Ordinance No. 2978-07, adopting the Plan Amendments.

The Board did not receive a response to the SATC from Petitioner Strahm. Consequently, the City did not file a reply.

On April 24th 2007, the Board notified the parties that the Compliance Hearing would be held telephonically.

The Board conducted the Compliance Hearing (telephonically) on April 30, 2007, at 2::00 p.m. at the Board's offices Suite 2356, 800 Fifth Avenue, Seattle, Washington. Board member Edward G. McGuire presided. Board member David O. Earling was present at the Board's offices. Board member Margaret A. Pageler participated telephonically. Petitioner Strahm did not participate. Eric S. Laschever represented the Respondent City of Everett. Mary Cunningham and Dave Koenig, from the City of Everett, also participated. The proceeding was recorded. The Compliance Hearing was adjourned at approximately 2:20 p.m. April 26, 2007.

II. DISCUSSION

FDO Context:

The Board's September 15, 2006 FDO found that City of Everett's Plan Update **noncompliant** with RCW 36.70A.110(2), .130(3) and .115. In essence, the Board found that the City has not shown its work to discharge its GMA duty or support its conclusion that it can accommodate the projected 2025 growth. The Board directed Everett *to quantify its holding capacity within its city limits and reconcile its entire planning area and target population for 2025 with Snohomish County*, or take other legislative action to increase density in order to accommodate the projected 2025 growth.

Board Discussion:

As noted in the SATC, the City of Everett completed the reconciliation process with Snohomish County and the population targets for the City's unincorporated UGA were reconciled between the County and the City. The unincorporated Everett UGA target population for 2025 is now 50,210; coupled with its population target within its city-limits of 123,060, the population target for the entire Everett Planning Area is 173,270.

The City also showed its work, to indicate its holding capacity within the city-limits and within the entire Everett Planning Area. This analysis indicates that the City can clearly

accommodate the projected 2025 growth. The City has discharged its duty to verify that it can accommodate the projected 2025 population and employment growth. *See* SATC, Ex. 1, Attachment 1: Introduction, at 14-15, 20; Land Use Element, at 12-15; Housing Element, at 15-16; Attachment 4: Population Calculations for Comprehensive Plan Compliance Analysis, specifically Table 7; *see also*, Ex. 2, Ordinance No. 2978-07 adopting the Plan Amendments.

III. FINDING OF COMPLIANCE

Based upon review of the September 15, 2006 FDO, the SATC and attachments, Ordinance No. 2978-07, the presentation of the City at the compliance hearing, the lack of written objections by Petitioner Strahm, and having deliberated on the matter, the Board, as reflected *supra*, the Board enters a **Finding of Compliance** for the City of Everett. The City has complied with RCW 36.70A.110(2), .130(3) and .115.

IV. ORDER

Based upon review of the GMA, the September 15, 2006 Final Decision and Order in this matter, the Statement of Actions Taken to Comply, briefs and exhibits, and presentations at the Compliance Hearing, the Board ORDERS:

- The City of Everett's adoption of Ordinance No. 2978007, with the supporting holding capacity analysis, has corrected the compliance deficiencies found by the Board. The City of Everett now **complies** with the goals and requirements of the GMA [RCW 36.70A.110(2), .130(3) and .115.] as set forth in the Board's September 15, 2006 Final Decision and Order. The Board therefore enters a **Finding of Compliance** for the City of Everett.
- CPSGMHB Case No. 05-3-0042, *Strahm v. City of Everett*, is **closed**.

So ORDERED this 30th day of April, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

David O. Earling
Board Member

Edward G. McGuire, AICP
Board Member

Margaret A. Pageler
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 WAC 242-02-832.