

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

LEO C. BRUTSCHE and)	
WASHINGTON CEDAR & SUPPLY CO.)	Case No. 06-3-0030
)	
Petitioners,)	(Brutsche)
)	
v.)	
)	
CITY of AUBURN,)	ORDER of DISMISSAL
)	
Respondent)	
)	

I. BACKGROUND

On September 12, 2006, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Leo C. Brutsche and Washington Cedar & Supply Co. (**Petitioners** or **Washington Cedar**). The matter was assigned Case No.06-3-0030, and is hereafter referred to as *Brutsche and Washington Cedar & Supply v. City of Auburn*. Board member David O. Earling is the Presiding Officer (**PO**) for this matter. Petitioners challenge the City of Auburn's (**Respondent** or **Auburn**) adoption of Ordinances 6033, 6036, and 6037. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA** or **Act**).

On September 18, 2006, the Board issued its Notice of Hearing (**NOH**) setting a date for a Prehearing Conference of October 16, 2006, identified March 12, 2007 as the deadline for a Final Decision and Order (**FDO**), and proposed a tentative schedule for the conduct of the case that included a hearing on the Merits of the Petition (**HOM**) on January 15, 2007.

On October 16, 2006, the Board received a Joint Motion for Extension of Case Schedule (**Request for Settlement Extension**) from Petitioners and Respondent requesting a ninety day settlement extension, rescheduling of the PHC, and revising the tentative case schedule.

On October 20, 2006, the Board issued an Order Granting Settlement Extension and Amending Case Schedule (**1st Settlement Extension**). The 1st Settlement Extension rescheduled the PHC for January 15, 2007 and identified June 11, 2007 as the deadline for issuance of the FDO.

On January 3, 2007, the Board, via e-mail, received a joint request from the parties requesting that the case schedule be revised. On January 10, 2007, the Board issued an Order Amending Schedule, revising the date for the PHC to January 25, 2007, with the FDO due on June 15, 2007.

On January 25, 2007, Jerald A. Klein, attorney for the Petitioner, appeared before the Board and orally requested a settlement extension. Daniel B. Heid, attorney for the City of Auburn, joined telephonically. The parties were informed that a request for settlement extension must be submitted in writing. The parties submitted their "Joint Motion for Extension of Case Schedule" on January 26, 2007 requesting a 60-day settlement extension.

On January 30, 2007, the Board issued an Order Granting Second Settlement Extension and Amending Case Schedule, with a new date of August 14, 2007, for issuance of its Final Decision and Order.

On February 22, 2007, Jerald A. Klein, attorney for the Petitioner, along with Daniel B. Heid, attorney for the City of Auburn, filed a Stipulation for and Order of Dismissal with the Board. This was followed on March 1, 2007, with a Settlement Status Report filed by Jerald A. Klein, attorney for the Petitioner, stating that "All issues have been settled."

II. ORDER

WAC 242-02-720(1) provides:

Any action may be dismissed by a board: ... (2) Upon motion by the petitioner or respondent prior to the presentation of the respondent's case

Based upon the motion of Petitioners, the GMA and Board rules, the Board **ORDERS:**

1. Leo C. Brutsche and Washington Cedar & Supply Company's Petition for Review is **dismissed**.

2. CPSGMHB Case No. 06-3-0030 is **closed**.

SO ORDERED this 22nd day of March, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Margaret A. Pageler
Presiding Officer

David O. Earling
Boardmember

Edward G. McGuire
Boardmember