

State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON

CITIES OF EPHRATA, MOSES LAKE)	
ROYAL CITY and WARDEN (“CITIES”))	
)	
Petitioners)	Case No. 96-1-0008
)	
vs.)	ORDER ON RESPONDENT’S
)	MOTION TO CLARIFY AND/
GRANT COUNTY,)	OR AMEND
)	
Respondent)	
_____)	

On September 23, 1996, this Board issued its Final Decision and Order (FDO) on this case. The Board held compliance hearings on October 9 and November 6, 1996 directed at specific issues addressed in the FDO. This motion asks the Board to clarify and/or amend Item #3 of the Board’s Order of Compliance dated December 4, 1996. Item #3 states:

“This Board finds that constructive notice as proposed by Grant County, plus the recording of a “Master Form Instrument” with the County Auditor as proposed by petitioners, including parcel numbers for those parcels with questionable segregation history, mailing notice to the owner of record of the affected properties, publication of notice, including affected parcel numbers, in a newspaper of record within Grant County, constitutes compliance with this Board’s order.”

Respondent contends compliance with the Board’s Order on Item #3 would cause the county to incur unreasonable costs, and would provide only constructive notice to the public. Further, Respondent proposes to mail notices to each owner of the 8,377 parcels which have a questionable segregation history, advising owners of a potential limitation on development of their property, pending legal review.

County representatives would also meet with title companies and real estate offices to notify them of potential development limitations.

Petitioners argue the Board’s compliance order is clear, and should be followed without regard to

costs incurred.

Discussion

The Board's intent with Item #3 was to eliminate the "innocent purchaser" argument which might permit development on parcels that had been illegally segregated. Since the arguments at the compliance hearing on November 6, 1996, new information has been submitted to the Board. The new information addresses unexpected costs of compliance and changes in the development permitting process. Our compliance order attempted to provide "actual" vs. "constructive" notice to the owners and potential purchasers of the questionable parcels.

Grant County has instituted a procedure for legal review as a permit application is processed. They contend just because a parcel segregation established a "lot" does not imply that the lot is legally developable. This procedure meets a major objective of petitioners and this Board, that of preventing development on illegally segregated lots.

Although the Board questions the cost estimates supplied by the County Auditor and Assessor, we agree that those costs, if actually incurred, would be an unreasonable burden on the County. The burden is particularly unreasonable if the objective can be met without incurring those expenses.

The County's proposal to notify by letter each of the owners of the 8,377 parcels in question satisfies the objective of notification to current property owners.

This Board finds Grant County has an obligation to notify the general public as well. Publication in the County's "legal notice of record" serves to accomplish this objective. Such publication will strengthen the County's argument that legal notice has been provided to the public.

After hearing arguments and considering the matter,

1. The Board finds, because the county has implemented a new procedure for processing permit applications, "constructive" notice is sufficient for compliance.
2. The Board finds recording a notice on each questionable parcel places an unreasonable burden on Grant County.
3. The Board finds that Grant County must provide legal notice to landowners of parcels with questionable segregation history that identifies the general question involved.

4. The Board finds Grant County must notify the general public by publication of each parcel number with a questionable segregation history.

Now, therefore, IT IS HEREBY ORDERED that the Board hereby amends its Compliance Order dated December 4, 1996, Remand Issue #3 to read as follows:

Remand Issue # 3: (a) Grant County must mail a notice to each owner of parcels with a questionable segregation history, identifying the question regarding the subject parcel. (b) Grant County must publish in its newspaper of legal record a notice, including each parcel number, identifying the questionable development status of the subject parcels.

SO ORDERED this 16th day of April, 1997.

EASTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS

BOARD

D. E. "Skip" Chilberg, Presiding Officer

Judy Wall, Board Member

Dennis A. Dellwo, Board Member