

**The State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON**

SAUNDRA WILMA and ALAN C.
WILMA, and JAMES L. SULLIVAN,

Petitioners,

LOON LAKE PROPERTY OWNERS
ASSOCIATION and LOON LAKE
DEFENSE FUND

Intervenors

v.

STEVENS COUNTY,

Respondent

Case No. 99-1-
0001c

**ORDER ON THIRD
COMPLIANCE HEARING**

Procedural History

On December 1, 1998, Sandra Wilma and Alan D. Wilma filed a Petition for Review with the Eastern Washington Growth Management Hearings Board (Board).

On December 30, 1998, Petitioners submitted an Amended Petition including James L. Sullivan as a petitioner with the same issues.

On January 7, 1999, Dawud Ahmad filed a petition for review involving the same issues. The matters were consolidated. In March, 1999, Petitioner Ahmad withdrew.

On April 23, 1999, the Board held a Hearing on the Merits in Colville, Washington.

On May 1, 1999, a Final Decision and Order was entered by the Board finding Stevens County out of compliance with the Growth Management Act. The Board did not make a finding of Invalidity pursuant to RCW 36.70A.302.

The Board's Final Decision and Order was appealed to Stevens County Superior Court on a Joint Petition for Review filed by Alan D. Wilma, Sandra Wilma and James S. Sullivan. The Court entered a Decision on Appeal April 7, 2000 and the matter was remanded to the Board.

On April 24, 2000, the Eastern Washington Growth Management Hearings Board issued an Order on Remand finding Stevens County Resolutions 16-1997 and 149-1997 invalid pursuant to Stevens County Superior Court Case 99-1-00269 3. The Board also directed Stevens County to designate its IUGAs by means of development regulations as defined in RCW 36.70A.030(7), pursuant to RCW 36.70A.110(5). Stevens County was directed to take action consistent with the Court's Decision on Appeal and come into compliance on or before July 10, 2000.

On September 6, 2000, Motion to Intervene was filed by Bruce Erickson, counsel, on behalf of Loon Lake Property Owners Association and Loon Lake Defense Fund. On September 27, 2000, after considering the motion and arguments of the intervenors and the other parties having no objections, the Board permitted the intervention with their participation restricted to issues raised by the original petitions.

In response to the Thurston County Superior Court Order in 99-1-00269 3 and this Board's Order on Remand, Stevens County adopted a growth management public participation program, Resolution 91-1999, and adopted Resolutions No. 114-2000 and No. 115-2000 consisting of Title 4, Platting of Short Subdivisions and Title 5, Platting of Long Subdivisions, and Resolution 116-2000, adopting the Interim Urban Growth Areas for

Stevens County.

On November 21, 2000, the Board held a Compliance Hearing at the Stevens County Courthouse in Colville, Washington. That hearing was continued to allow additional time for the County to respond to the Petitioners' and Intervenors' concerns and prepare for the issues covered. The Board said it would resolve the following issues at the Compliance Hearing:

- 1) Whether the County's IUGAs were properly designated by means of adoption of a development regulation as defined in RCW 36.70A.030(7), pursuant to RCW 36.70A.110(5), as ordered by the Stevens County Superior Court (April 7, 2000).
- 2) Whether the County has developed and disseminated a public participation program and adequately included the public in the planning process as required under the Growth Management Act (the GMA);
- 3) Whether the County has amended its land use regulations and permitting procedures to prohibit urban growth beyond the IUGA boundaries as required under the Growth Management Act;
- 4) Whether the County has set densities throughout the County;
- 5) Whether the County has included greenbelts and open spaces within the IUGA boundaries; and
- 6) Whether the County justified the size of the City of Marcus IUGA and demonstrated that it does not encourage sprawl.

On February 27, 2001, the Board held a compliance hearing in Colville, Washington. All parties were present or represented.

On March 14, 2001, the Board issued its Order finding Stevens County in continued noncompliance.

The County was ordered to bring the matters into compliance within 90 days of March 14, 2001.

On October 16, 2001, the Board held a third compliance hearing in the above matter. All parties were present or represented.

Stevens County did file an appeal with the Thurston County Superior Court. To the Board's knowledge, no Stay has been entered by the Court in this matter.

Discussion

As noted above, on March 14, 2001, the Board found Stevens County in continued non-compliance on the following issues:

1. Stevens County continues to be out of compliance with the GMA and the Orders of the Board by its failure to develop and disseminate an adequate public participation program and adequately include the public in the planning process. The actions of the County are clearly erroneous and do not comply with the GMA.
2. Stevens County continues to be out of compliance with the GMA and with the Orders of this Board in their failure to prohibit urban development beyond the IUGAs boundaries. The actions of the County are clearly erroneous and fail to comply with the GMA.

On August 31, 2001, the Board scheduled a briefing schedule and the third compliance hearing was to be held on October 10, 2001 by telephone. Stevens County has not provided the Board with anything they have adopted to come into compliance with the Board's last Order.

Stevens County filed a brief consisting of 3 sentences, none of which addressed the issues found non compliant by the order entered in this case.

The County stated at the compliance hearing that within 2 weeks of the Board's decision on reconsideration in another Stevens County case, 01-1-0002c, they would have a time table in place for coming into compliance on this case.

ORDER

1. Stevens County continues to be out of compliance with the Growth Management Act and the orders of this Board by their failure to develop and disseminate an adequate public participation program and adequately include the public in the planning process.
2. Stevens County continues to be out of compliance with the Growth Management Act and with the Orders of this Board in their failure to prohibit urban development beyond the IUGAs boundaries.

3. Within 2 weeks of service of the decision on reconsideration in Case No. 01-1-0002c, Stevens County shall submit a proposed schedule for coming into compliance.

4. The County has 90 days to come into compliance on the two remaining issues from the order entered on April 24, 2000.

This is a final order for purposes of appeal. [WAC 242-02-898]

A motion for reconsideration may be filed within ten days of service of this final decision and order. [WAC 242-02-832]

SO ORDERED this 19th day of October, 2001.

**EASTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD**

Judy Wall, Presiding Officer

D. E. "Skip" Chilberg, Board Member

Board Member

Dennis A. Dellwo,