

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

SAUNDRA WILMA and ALAN D. WILMA

Petitioner,

v.

CITY OF COLVILLE,

Respondent.

Case No. 02-1-0007

MOTIONS ORDER

I. BACKGROUND

On March 29, 2002, SAUNDRA WILMA and ALAN D. WILMA, filed a Petition for Review.

On April 29, 2002, the Board held a Prehearing conference.

On May 10, 2002, the Board issued its Prehearing Order.

On May 17, 2002, Respondent filed Respondent's Motion to Dismiss and/or for Summary Judgment.

On May 20, 2002, Petitioner's filed their Motion and Memorandum to Supplement the Record Obtain Official Notice and Request for Tapes and/or Transcripts.

On June 3, 2002, the City filed their Response to Petitioner's Motions to Supplement the Record Obtain Official Notice, and Request for Tapes and/or Transcripts. Petitioners filed their Response to Respondent's Motion to Dismiss and/or Summary Judgment.

On June 10, 2002, Petitioners filed their Rebuttal to City's Response to Petitioners' Motions.

On June 17, 2002, the Board held a telephonic Motion Hearing. Present were Dennis A.

Dellwo, Presiding Officer, and Board Members D.E. "Skip" Chilberg and Judy Wall. Present for Petitioners were Sandra and Alan Wilma. Present for Respondent was Patricia J. St. Clair, Colville City Attorney.

Discussion:

The City contends that except for the Petitioner's letter, the other documents requested were already part of the record. Also, upon proper request, the Petitioners can obtain tapes of the hearings requested. However the City contends the letter of the Petitioners was filed after the record was closed and objects to its inclusion in the record.

The Petitioners contend the closure of the record was not properly made and further contend a letter from Wal-Mart was accepted by the City as part of the record even though it was submitted after the claimed closure date.

It was determined further that if this letter were part of the Record it would provide standing for the Petitioners in all or part of the issues raised. If it were not admitted as part of the Record, the Petitioners might not have standing herein.

Both parties made motions for summary judgment or dismissal. The Board seldom grants motions for summary judgment unless it is clear that there are no genuine issues of material fact. Here there are numerous allegations and complex factual situations that are better resolved at a full hearing.

ORDER

Upon review of the party's briefing and record, the Eastern Washington Growth Management Hearings Board defers ruling on the admission of the Petitioner's 3/27/01 letter to the Record. The inclusion of this letter within the Record will be decided prior to the Hearing on the Merits and if denied might result in the dismissal of all or part of the Petitioner's petition.

Upon consideration of the motions of the parties to dismiss or grant a summary judgment, this Board finds that there are genuine issues of material fact that require a full hearing to resolve. These motions are dismissed.

SO ORDERED this 19th day of June 2002.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD

Dennis Dellwo, Board Member

D.E. "Skip" Chilberg, Board Member

Judy Wall, Board Member