BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

CAMANO COMMUNITY COUNCIL,	)	
	)	No. 95-2-0072
Petitioner,	)	
	)	
vs.	)	FINAL DECISION
	)	AND ORDER
ISLAND COUNTY,	)	
	)	
Respondent.	)	
	)	

On June 30, 1995, the Western Washington Growth Management Hearings Board (Board) received a petition for review from the Camano Community Council (CCC) challenging Island County's adoption of Ordinance #C-004-95 (Ordinance). On July 31, 1995, CCC filed an amended petition for review. A prehearing conference was held on August 3, 1995.

On August 18, 1995, Island County filed a motion to dismiss on the ground that this Board lacked subject matter jurisdiction over review of Ordinance #C-004-95 because the Ordinance was adopted pursuant to RCW 36.105, not RCW 36.70A. On August 29, 1995, a motions hearing was held.

On September 6, 1995, we issued an order denying the motion to dismiss. In that order we stated:

> We do not have jurisdiction to determine compliance with RCW 36.105.070. However, we do have jurisdiction to determine if a land use planning legislative action is in violation of the goals and requirements of RCW 36.70A. This is true whether or not the local government has chosen to adopt the legislation pursuant to RCW 36.70A, as long as there is a sufficient nexus between the action and the GMA.
>
> Although this ordinance only sets up a mechanism or framework for planning and in and of itself probably could not violate the Act, we have received no motion to dismiss on those grounds. At the motions hearing, Petitioners argued that they had

not had an opportunity to brief or argue this "non-filed motion." They contended that whether or not the action of Island County violated GMA should be determined at the hearing on the merits. We will provide them with that opportunity.

In its briefing and in its oral arguments at the November 1, 1995, hearing on the merits, we provided CCC with the opportunity to show how Ordinance #C-004-95 on its face violated the Growth Management Act (GMA). We will not deal with each issue separately as CCC failed to show by a preponderance of the evidence that adoption of any of the contested sections of the Ordinance in and of themselves conflicted with the goals and requirements of GMA.

Camano Island is not a municipal corporation. According to GMA, the Board of County Commissioners has the legal responsibility and obligation to adopt an internally consistent Comprehensive Plan for the entire unincorporated area of Island County and to adopt development regulations that are consistent with, and implement, the Comprehensive Plan. The Camano Community Council has no special status under GMA that would alter the County's ultimate responsibility. Therefore, the limitation of the CCC's authority in Ordinance #C-004-95 is not violative of GMA.

Petitioners claimed that even if the ordinance on its face did not violate GMA, implementation of the ordinance would violate GMA. It is possible that implementation of some of the contested sections of the ordinance could result in conflicts with the requirements of GMA. However, no evidence has been presented of such non-compliant action. Some of the sections of Ordinance #C-004-95 may be in violation of RCW 36.105, but that will need to be determined in a different forum.

ORDER

We find that Island County did not violate RCW 36.70A with the adoption of Ordinance #C-004-95.

This is a final order under RCW 36.70A.300 for purposes of appeal.

So ordered this 6th day of December, 1995.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Nan A. Henriksen
Presiding Officer

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Les Eldridge
Board Member

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Wm H. Nielsen
Board Member