BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

FRIENDS OF SKAGIT COUNTY,	)	
	)	No. 96-2-0032
Petitioners,	)	
	)	ORDER GRANTING
vs.	)	SKAGIT COUNTY'S
	)	DISPOSITIVE MOTION
SKAGIT COUNTY,	)	DISMISSING ISSUE
	)	3.1 (CPP AMENDMENT)
Respondent.	)	
	)	

INTRODUCTION

On November 4, 1996, Friends of Skagit County (Friends) filed a petition that challenged Resolution 16272 amending Skagit County's county-wide planning policies (Issue 3.1). The petition further alleged that the County had failed to meet the requirements of RCW 36.70A.140, by failing to provide a specific process for public participation applicable to all Growth Management Act (GMA, Act) actions (Issue 3.2).

On January 8, 1997, Skagit County filed a Dispositive Motion to dismiss Issue 3.1. The County maintained that Friends had no standing to challenge the resolution and that the petition was untimely filed.

On January 22, 1997, we received Friends' response to the Dispositive Motion. On February 18, 1997, we received Skagit County's reply memorandum in support of their motion. A hearing was held February 26, 1997, at the Swinomish Tribal Community Center in Skagit County.

DISCUSSION & CONCLUSIONS

The County noted that RCW 36.70A.210 (6) addresses appeals to county-wide planning policies (CPPs). The statute addresses CPPs specifically and directs that only cities and the Governor have the opportunity to mount challenges to CPPs. The County further argued that Section .210 calls for

petitions from cities or the Governor to be filed within sixty days of adoption of amendment of its CPPs. While the County acknowledged that it published notice of the Resolution's adoption, it argued it was under no obligation to do so and so the date of publication did not reset the clock under Section .210.

Friends argued that Resolution 14378, which adopted the county-wide planning policies, July 1, 1992, was a development regulation and that Resolution 16272, which amended the CPPs, was a permanent amendment to a development regulation. Friends argued that because the resolutions in question were development regulations, Section .290 regarding development regulations applied to the timeliness and standing issues. Friends asserted that Section .290, in providing for a sixty-day period following publication, reset the sixty-day adoption clock.

Friends further argued that RCW 36.78.210 (6) "must not be interpreted as the 'only' method to appeal CPPs." Friends maintained that Section .210 (6) must be harmonized with other sections for CPPs that are also development regulations. Friends contended that Section .210 must be interpreted only as providing an appeal period for CPPs that are not also development regulations.

The County responded that nothing in Resolution 16272, nor in Resolution 14378, could be construed to be a development regulation. The County noted that 16272 explicitly stated that it was a resolution amending county-wide planning policies. It contended that a notice of adoption of a resolution amending its CPPs did not have to be published and therefore, the act of publication did not turn the resolution into a development regulation. The County pointed out that development regulations are defined in the Act as controls placed on development or land-use activities by zoning, critical area ordinances, shoreline master plans, official controls, or planned unit development ordinances, subdivision ordinances, or binding site plan ordinances. It noted that RCW 36.70.020 (11) defines official controls as mechanisms dealing with detailed, site-specific matters. RCW 36.70 also requires official controls to be adopted by ordinances. The County contrasted this with a CPP, under the GMA, which is a written policy statement or statements used solely for establishing a county-wide framework; principles which guide a local legislative body. The County asserted that the GMA does not authorize county-wide planning policies to be used as official controls. The County also pointed out that there is nothing in the legal notice of public hearing that indicates either of the resolutions in question would constitute a development regulation. The County noted that Friends failed to contest the County's assertion that, under .210

(6), Friends had no standing nor was the petition timely-filed

CONCLUSION

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We conclude that Resolutions 14378 and 16272 were adopted solely as county-wide planning policies. As stated in 14378, these policies "support GMA goals and guide the development and adoption of comprehensive plans and development regulations of counties and cities planning under the Act." Resolution 14378 further states that CPPs are the policy basis for review for public and private development and that policy implementation will occur through such measures as zoning, land division, and environmentally-sensitive land ordinances.

The Act defines development regulation as "any controls placed on development of land-use activities by a county or city, including, but not limited to, zoning ordinances, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances." RCW 36.70A.030 (8). Friends has failed to show that Resolution 16272 meets the control standard necessary for it to be a development regulation.

The Legislature was very specific in its drafting of Section .210. Only cities and the Governor may challenge CPP adoption. Friends therefore has no standing to challenge Resolution 16272.

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ORDER

The County's motion to dismiss Issue 3.1 on the grounds that the petitioners have no standing, is granted. Issue 3.1 is dismissed.

So ordered this 7th day of March, 1997.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Les Eldridge

Board Member

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Nan A. Henriksen
Board Member

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Wm H. Nielsen
Board Member