

**BEFORE THE WESTERN WASHINGTON GROWTH  
MANAGEMENT HEARINGS BOARD**

IN THE MATTER OF THE PETITION OF	)	
THE CITY OF BURLINGTON FOR A	)	No. 97-2-0020
DECLARATORY RULING	)	
	)	ORDER RE:
	)	PETITION FOR
	)	DECLARATORY
	)	RULING
	)	
	)	
_____	)	

On June 11, 1997, we received a petition for declaratory ruling from the City of Burlington (City). We received a response from Skagit County on June 26, 1997. No other interested persons submitted materials. We have reviewed the materials and decline to issue a declaratory ruling for the reasons set forth below.

The City asked for a ruling in the following matters:

1. Is the inclusion of Gages Slough in the City's Urban Growth Area (UGA) consistent with the Growth Management Act?
  
2. Is it possible to have a permanent greenbelt of agricultural land for which the City and County could jointly share authority?
  
3. Are counties the best administrators of resource lands abutting cities and towns?

In its petition the City noted that it was disappointed that the comprehensive plan (CP) was significantly different from the verbal agreement reached with the County over a year ago. It declared that it did not intend to file an appeal because of cost considerations and because it was the City's assumption that an appeal of the UGA boundary location could not be won.

The County asserted that there is no actual controversy which would justify a declaratory ruling, a requirement of WAC 242-02-910 (1)(b). It further contended that the City's request for a ruling "from the perspective of the Board whether the City's proposals have merit" is actually one for an advisory opinion, prohibited also under Section 910 (1)(b). Additionally, the County pointed out that the 60-day window of opportunity for the filing of petitions regarding its CP has yet to expire. It speculated that rulings by this Board on questions asked by the City prior to expiration of the 60-day petition filing period might well preclude consideration of similar concerns raised by other petitions. The County argued that those potential parties would lose the benefit of the ample record provided by the CP in making their case.

### CONCLUSION

The City has requested us to rule regarding whether or not a particular natural resource should be included in its UGA, whether counties are the best administrators of resource lands of abutting cities and towns, and whether cities and counties can share joint authority within an UGA over agricultural land or greenbelts. The City failed to show actual controversy arising from these questions, or that the adverse effect of uncertainty outweighed adverse effects on others likely arising from the order requested. If we were to issue a declaratory ruling in these matters, it would constitute a formal opinion on a question not presented in an adversary proceeding. Such advisory opinions are expressly prohibited by WAC 242-02-910 (1)(b). These questions are more appropriately addressed in a petition for review regarding Skagit County's CP.

We decline to rule in response to the City's request.

So ORDERED this 29th day of July, 1997.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Les Eldridge  
Board Member

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William H. Nielsen  
Board Member

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Nan A. Henriksen  
Board Member