

**THE WESTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD**

FRIENDS OF SKAGIT COUNTY,)	
Petitioner,)	No. 97-2-0023
)	
v.)	COMPLIANCE
)	ORDER #2
SKAGIT COUNTY,)	
)	
Respondent.)	
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In the June 17, 1999, compliance order (CO) in this case we found that Skagit County (County) remained in noncompliance with the Growth Management Act (GMA, Act) for not adopting permanent development regulations (DRs).

On July 26, 2000, we received a motion for order of dismissal from the County. The motion stated:

“Skagit County moves this Board for an Order dismissing this ‘failure to adopt’ case. Petitioner in this case sought an order finding Skagit County out of compliance with the Growth Management Act for its failure to have adopted permanent development regulations. The County adopted permanent development regulations in its Unified Development Code through Ordinance No. 17938, adopted July 24, 2000....”

On August 7, 2000, we received Friends of Skagit County’s (FOSC) opposition to the County’s motion stating in part:

“Petitioner Friends of Skagit County (FOSC) opposes Skagit County’s motion to dismiss this ‘failure to adopt’ case. While Skagit County (County) has now adopted some permanent development regulations with Ordinance No. 17938, FOSC believes that the County has not adopted a complete set of permanent development regulations.”

On August 7, 2000, the County replied in part:

“The County has acted by adopting permanent development regulations. If FOSC claims that there are gaps or omissions in Ordinance No. 17938 such that some regulations were inadvertently not adopted that are required by the Growth Management Act, those claims should be addressed through a new petition for review challenging the merits of those development regulations, not by perpetuating this 3-year old failure to act case. This Board has previously ruled that in a failure to act case, the taking of the action by the County renders the Petition moot. Watershed Defense Fund, et al. v. Whatcom County, No. 94-2-0003 (Final Order of Dismissal, July 19, 1994) (CPC 527-28); see similarly, Citizens for Mount Vernon v. Mount Vernon, No. 98-2-0006c (Final Decision and Order, July 23, 1998, p. 5) (CPC 2956).

In this Board’s Compliance Order of June 17, 1999, the County was ordered to “adopt permanent development regulations.” The County has done so. This case should be dismissed.”

On August 17, 2000, we issued a memo stating that an order of dismissal is not the proper action to finalize this case. Since the County was found to be out of compliance in the June 17, 1999, CO a compliance hearing and decision whether or not the County is now in compliance is the appropriate action. We therefore scheduled a telephonic compliance hearing and allowed additional briefing.

At the compliance hearing the parties agreed that FOSC would file a new petition by September 25, 2000, specifying any ongoing failure to act concerns regarding implementing DRs. We noted that after the filing of that petition, an order of compliance would be appropriate.

On September 25, 2000, FOSC filed three petitions for review challenging the completeness of the adopted development regulations and specifying ongoing failure to act concerns. We find Skagit County in compliance with the June 17, 1999, CO and the GMA as relates to the requirement that permanent implementing DRs be adopted. We will address all issues regarding the adequacy or completeness of these DRs when we hear the several petitions filed against Ordinance #17938.

So ORDERED this 26th day of September, 2000.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Nan A. Henriksen
Board Member

Les Eldridge
Board Member

William H. Nielsen
Board Member