



During the remand period, the Coalition participated in the County's public participation process with in the meaning of RCW 36.70A.280(1)(a). WEAN acknowledges that it did not participate in any of the Freeland and Clinton hearings during the remand.

Island County adopted Ordinance #C-119-99 as its action in response to the FDO to comply with the GMA. On November 10, 1999, the County requested that a compliance hearing be set for that issue. Prior to the compliance hearing, on December 8, 1999, WEAN filed its briefing challenging whether compliance had been achieved. Included within that brief was a challenge to the Freeland and Clinton designations and a request for a determination of invalidity of Ordinance #C-119-99. On December 22, 1999, the County filed its response brief and raised the issue of WEAN's standing to challenge Ordinance #C-119-99. On January 13, 2000, the County filed a motion specifically challenging WEAN's standing on the issue. On January 24, 2000, WEAN filed a response regarding that issue. A reply to WEAN's response was filed by the County on January 31, 2000. As part of the compliance hearing on February 9, 2000, we heard oral argument from WEAN and the County concerning WEAN's standing to challenge the Freeland and Clinton compliance actions.

After thoroughly reviewing the briefing and arguments we determine that, under the facts of this case, WEAN does not have standing to contest Ordinance #C-119-99. Thus, we will not consider WEAN's request for invalidity.

The issue of standing in a compliance hearing is determined by the language of RCW 36.70A.330 (2) which states in relevant part:

“...a person with standing to challenge the legislation enacted in response to the board's final order may participate in the [compliance] hearing along with the petitioner and the state agency, county, or city. ...”

For purposes of this motion, two categories of “persons” that have standing to participate in the compliance hearing are: (1) the petitioner or (2) one who has “standing” to challenge the legislation “enacted in response” to the final order. In this case the legislation enacted in response to the final order is Ordinance #C-119-99. The test to determine standing to challenge Ordinance #C-119-99 under category (2) is found in RCW 36.70A.280(2). WEAN acknowledged that it did not qualify under any of those provisions.

The facts here are undisputed that WEAN did not participate. The Coalition did participate extensively. WEAN, however, did not make any claim that its membership within the Coalition entitled it to acquire .280(2) standing. WEAN's sole claim for its standing in this issue was that it qualified as a "petitioner" under the provisions of RCW 36.70A.330(2).

The clear meaning of .330(2) is that standing is acquired by persons who are the original petitioners in the action. *Accord, Project for Informed Citizens v. Columbia County* 92 Wn.App. 290 (1998). It is acknowledged that under the consolidation in this case, pursuant to RCW 36.70A.290(5), WEAN is a party. The determinative question is whether WEAN the party equals WEAN the petitioner. We determine that it does not under the record here.

The major purpose of RCW 36.70A.290(5) is to economize the hearing process and to allow a Growth Management Hearings Board to determine all issues relating to a comprehensive plan (CP) and/or development regulations (DRs) at one time.

In some of our earlier cases we have allowed parties in consolidated actions to argue any or all issues. Those cases involved specific directions from the prehearing order and/or raising of the issues in the PFR. No such factual situation is found in the original proceedings in this case. The prehearing order did not allow the parties the option of arguing other parties' issues. Under the facts here, WEAN's status as a party did not convert its status to a petitioner under the meaning of RCW 36.70A.330(2).

We grant the County's motion and deny WEAN standing to argue any issues relating to the Freeland and Clinton designations. We still have the obligation to independently determine compliance under RCW 36.70A.330(1). We will not consider invalidity at the March 9, 2000, compliance hearing.

This is a Final Order under RCW 36.70A.300(5) for purposes of appeal.

Pursuant to WAC 242-02-832(1), a motion for reconsideration may be filed within ten days of issuance of this final decision.

So ORDERED this 18<sup>th</sup> day of February, 2000.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Nan A. Henriksen  
Board Member

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William H. Nielsen  
Board Member

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Les Eldridge  
Board Member