

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

TOWN OF FRIDAY HARBOR, FRED R. KLEIN, JOHN M. CAMPBELL, LYNN BAHRYCH, et al.,)	No. 99-2-0010c
)	
Petitioners,)	ORDER CLARIFYING
)	INVALIDITY
v.)	
)	
)	
SAN JUAN COUNTY,)	
)	
Respondent,)	
)	
and)	
)	
JOE SYMONS, FRIENDS OF THE SAN JUANS, and KAREN J. KEY SPECK, et al.,)	
)	
Intervenors.)	
)	

On November 30, 2000, we entered an order in this case regarding the County’s motion for rescission of invalidity and compliance, and the new requests for invalidity from petitioners and intervenors. As part of that order we determined that “allowance of new guest house construction in rural and resource lands is determined to be invalid.”

On January 16, 2001, San Juan County filed a “petition for declaratory ruling.” In that petition the County pointed out that it had received building permit applications for single-family residences on lots that already contained an existing guest house. In its request for relief the County posed the question of whether the order of invalidity “prohibits the issuance of a building permit to construct the main house when the property owners have previously constructed a guest house on the property.”

On January 24, 2001, we issued an order regarding the petition for declaratory ruling. In that order we determined that under the provisions of RCW 36.70A.302(6) a county may request a

“clarification” of the previously issued determination of invalidity. We established the use of that process rather than a declaratory ruling, and scheduled argument for March 6, 2001, a time when other matters concerning this and other San Juan cases were already scheduled. Deadlines for filing of written materials in opposition or in support of the clarification request were established. We directed that the County send a copy of the January 24, 2001, order to “known” affected property owners. The order required that motions for intervention must be filed by February 9, 2001, in order to be considered.

A significant number of people filed a motion to intervene on this clarification issue, many more people than had been noted in the County’s petition for declaratory ruling. We granted all of the requests for intervention by order dated February 21, 2001. We conditioned the intervention participation to written responses dealing with the specific question for clarification.

At the hearing on March 6, 2001, the County and petitioners presented oral statements in addition to the written briefing that had previously been filed.

The gravamen of the November 30, 2000, order concerning this issue was the lack of adequate analysis by the County as to the impact of allowing an additional “guest house” for every single-family residence allowed in San Juan County. As succinctly set forth in RCW 36.70A.302(2) a determination of invalidity is prospective only and does not affect any vested permits. In the November 30, 2000, order it was our intention to prohibit vesting of a second “guest house” on a lot until the County completed a proper analysis of allowing such a blanket density. It was never our intention to prohibit a single-family residence from being built when an existing guest house that meets the guest house definition contained in SCC 18.40.240 was already permitted or already built.

Therefore, we answer the County’s question of whether the determination of invalidity “also prohibits the issuance of a building permit for the construction of a principle residence if the property owners have previously constructed a guest house on the property” in the negative. However, the previously constructed or permit-vested “guest house” must meet the definition of SCC 18.40.240. Otherwise the second residence would fall within the determination of invalidity issued on November 30, 2000.

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 6th day of April, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Les Eldridge
Board Member