

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

|   |   |                 |
|---|---|-----------------|
| MICHAEL L. ACHEN AND CATHERINE          | ) |                 |
| J. ACHEN,                               | ) | No. 99-2-0020   |
|   | ) |                 |
| Petitioners,                            | ) | ORDER ON        |
|   | ) | RECONSIDERATION |
| v.                                      | ) |                 |
|   | ) |                 |
| CITY OF BATTLE GROUND,                  | ) |                 |
|   | ) |                 |
| Respondent.                             | ) |                 |
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On February 25, 2000, we received Petitioners’ motion for reconsideration of the February 17, 2000, order of dismissal. We provided an opportunity for responses to be filed by March 6, 2000. No responses were received.

Petitioners’ argument for reconsideration is premised upon a complete misunderstanding of the effect of a determination of invalidity under RCW 36.70A.302, on Ordinance #99-030. Petitioners argued that if we make a determination of invalidity as to Ordinance #99-030 “such a result will also revive Ordinance #99-011.” This is simply not true.

A plain reading of RCW 36.70A.302(2) and (3) demonstrates that the only impact of a determination of invalidity is that vesting is suspended once the local government receives notice, until the local government takes action resulting in a rescission of the determination of invalidity by a Growth Management Hearings Board (GMHB). There is no “ordinance revival” issue because Ordinance #99-030 remains in full force and effect, except for the inability of subsequently completed permitted applications to vest until the determination of invalidity has been rescinded.

While the terms validity/invalidity under the GMA may cause some unfortunate confusion with Court determinations of the validity/invalidity of an ordinance or statute where the “revival doctrine” may come into play, it is clear that a GMHB has no authority to alter the legal effect of

the development regulation adopted in this case.

Petitioners' motion for reconsideration is denied.

So ORDERED this 10<sup>th</sup> day of March, 2000.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Nan A. Henriksen  
Board Member

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Les Eldridge  
Board Member

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William H. Nielsen  
Board Member