

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

VINCE PANESKO, EUGENE BUTLER, et al.,)	
)	No. 00-2-0031c and
Petitioners,)	Lewis County 99-2-
)	0027c (Compliance
v.)	Order 3-5-01, 4-18-
)	01)
)	
LEWIS COUNTY,)	CERTIFICATE OF
)	APPEALABILITY
Respondent,)	
)	
and)	
)	
LEWIS COUNTY ECONOMIC DEVELOPMENT)	
COUNCIL, INDUSTRIAL LANDS ADVISORY TASK,)	
CITY OF CENTRALIA, et al)	
Intervenors,)	
)	

On June 8, 2001, we received a request for certificate of appealability as to cases #98-2-0011c (*Smith*), #99-2-0027c (*Butler*), and 00-2-0031c (*Panesko*). On June 19, 2001, we received separate memoranda as to the three cases from the Petitioner Panesko.

The test for a Growth Management Hearings Board issuance of a Certificate of Appealability is found in RCW 34.05.518(3)(b). That section states in part that the Board **may** issue a certificate if it finds that:

“[D]elay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

- (i) Fundamental and urgent statewide or regional issues are raised; or
- (ii) The proceeding is likely to have significant precedential value.”

The Lewis County Superior Court has recently affirmed our orders in *Smith*, and the final decision and

order (FDO) in *Butler*. Having gone through Superior Court review, those cases are not eligible for direct review to the Court of Appeals.

Many, if not all, of the arguments presented in the *Panesko* FDO and *Butler* Compliance Order (CO) of March 5, 2001, as amended by the Reconsideration Order of April 18, 2001, are the same.

We find that delay in obtaining a final and prompt determination of those issues will be detrimental to all parties as an appeal of the Lewis County Superior Court decision in the *Smith* and *Butler* FDO cases have been filed. None of the parties would benefit from having separate appellate review of all these cases.

We further find that these cases are likely to have significant precedential value because of the variety of issues presented by them and the absence of appellate decisions involving RCW 36.70A.070(5).

Having found that the criteria established in RCW 34.05.518(3) has been satisfied as to the *Panesko* FDO and the *Butler* CO dated March 5, 2001, as amended by the Reconsideration Order dated April 18, 2001, we issue the Certificate of Appealability as to those orders.

So ORDERED this 28th day of June, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Nan A. Henriksen
Board Member

Les Eldridge
Board Member