

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2  
3 OBCT, et al.,

4  
5 Petitioners,

6 v.

**CASE NO. 04-2-0041c**

7  
8 LEWIS COUNTY,

9  
10 Respondent,

**ORDER (SECOND) FINDING  
COMPLIANCE ON REMAND**

11 And

12  
13 CARDINAL FG COMPANY,

14  
15 Intervenor.

16  
17 THIS Matter comes before the Board upon the motion of Lewis County and Intervenor  
18 Cardinal FG Company (Cardinal)'s renewed motion for a compliance finding on remand.  
19 Lewis County and Cardinal FG Company's Renewed Joint Motion to Find Compliance  
20 Consistent with Court Remand, May 31, 2006. No response was filed to the motion within  
21 the 10 day period allowed for response under WAC 242-02-534, although Petitioner  
22 Panesko advised the Board that he has dismissed his appeal of the Thurston County  
23 Superior Court decision in Case No. 05-2-00957-5, filed March 15, 2006. See also Exhibit  
24 B to the Renewed Joint Motion.  
25

26  
27 The County and Cardinal earlier filed their Joint Motion to Find Compliance Consistent with  
28 Court Remand, and To Strike Date of Compliance Hearing (March 21, 2006). While the  
29 Board granted the motion to strike the compliance hearing date, the Board determined that  
30 it prematurely granted the motion to find compliance when it learned that Petitioner Panesko  
31  
32

1 had appealed the Superior Court decision. Order Granting Reconsideration of the Finding  
2 of Compliance on Remand, April 28, 2006.

3  
4 However, the appeal of the Superior Court decision has now been dismissed. Ruling  
5 Dismissing Appeal, No. 34641-9-II (May 24, 2006). Therefore, the decision of the Superior  
6 Court is binding upon this Board.  
7

8  
9 The decision of the Superior Court affirmed the Board's findings of compliance in this case  
10 but reversed the single finding of noncompliance. Order Granting Cardinal FG Company's  
11 Petition for Review of Agency Action and Lewis County's Petition for Review, and Order  
12 Denying Cross Claims of Vince Panesko and Kathleen Heikkila, et al., Thurston County  
13 Superior Court Cause No. 05-2-00957-5 (March 15, 2006). The Superior Court further  
14 remanded the case to this Board with the direction that a finding of compliance be entered.  
15  
16 Ibid.

17  
18 There being no opposition to entry of the order of compliance and no remaining basis upon  
19 which this Board could evaluate any compliance efforts, there is no need for a compliance  
20 hearing in this case.  
21

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

**ORDER**

Based on the order of the Thurston County Superior Court, the renewed joint motion, and the lack of objection from any Petitioner, the Board hereby GRANTS the joint motion. As directed by the superior court, the challenged enactments in this case are found to be COMPLIANT with the Growth Management Act (Ch.36.70A RCW) and this case is CLOSED.

Entered this 15th day of June 2006.

---

Margery Hite, Board Member

---

Holly Gadbow, Board Member

---

Gayle Rothrock, Board Member