

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2 DENNIS HADALLER,

3  
4 Petitioners,

5 v.

6 LEWIS COUNTY,

7  
8 Respondent,

9 And,

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11 EUGENE BUTLER,

12  
13 Intervenor.  
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Case No. 09-2-0017

**ORDER DENYING MOTION FOR  
STAY OF PROCEEDINGS**

15 This matter comes before the Board on Petitioner's Motion for a Stay of Proceedings.<sup>1</sup>  
16 Petitioner requests that this appeal be stayed until such time as the Board enters its  
17 decision on the Lewis County Compliance matters (Nos. 99-2-0027c, 00-2-0031c, and 08-2-  
18 0004c) heard on October 16, 2009. Petitioner argues that it is likely that the Board's ruling  
19 in that compliance proceeding will affect some aspects of Petitioner's issues in the present  
20 appeal and that if this matter proceeds on the schedule set forth in the Board's Preliminary  
21 Schedule the parties and the Board may have needlessly spent time on issues that become  
22 moot after the compliance decision.<sup>2</sup> Petitioner suggests that the stay become effective  
23 immediately with a revised schedule to be issued following the issuance of the compliance  
24 order in Case Nos. 99-2-0027c, 00-2-0031c, and 08-2-0004c.<sup>3</sup>  
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31 <sup>1</sup> Petitioners' Motion for Stay, filed November 12, 2009.

32 <sup>2</sup> Id. at 1.

<sup>3</sup> Id. at 2.

1 In response, the County objects to the Motion as there is no statutory basis for granting a  
2 stay absent a stipulation to settle the case.<sup>4</sup> Further, the County points out that there is no  
3 stipulation that settlement negotiations are ongoing so as to qualify for an extension of the  
4 time to issue a order, as provided for by RCW 36.70A.300(b).<sup>5</sup>

## 6 I. DISCUSSION

7 There is no provision in the GMA or Boards' Rules of Practice and Procedure (Ch. 242-02  
8 WAC) for the issuance of stays prior to the issuance of a Final Decision and Order. In fact,  
9 RCW 36.70A.300(2)(a) provides:

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11 2) (a) Except as provided in (b) of this subsection, **the final order shall be**  
12 **issued within one hundred eighty days of receipt of the petition for review,**  
13 or, if multiple petitions are filed, within one hundred eighty days of receipt of the  
14 last petition that is consolidated. (emphasis added)

15 The only exception, as noted by the statute, is provided in subsection (b):

16 (b) **The board may extend the period of time for issuing a decision to**  
17 **enable the parties to settle the dispute if additional time is necessary to**  
18 **achieve a settlement, and (i) an extension is requested by all parties, or**  
19 **(ii) an extension is requested by the petitioner and respondent** and the  
20 board determines that a negotiated settlement between the remaining parties  
21 could resolve significant issues in dispute. The request must be filed with the  
22 board not later than seven days before the date scheduled for the hearing on  
23 the merits of the petition. The board may authorize one or more extensions for  
24 up to ninety days each, subject to the requirements of this section. (emphasis  
25 added).

26 Here, there is no indication that Lewis County has joined Petitioner in his request for a  
27 stay, nor is there any indication that settlement discussions are ongoing. Accordingly,  
28 there is no basis for a stay nor an extension of the time for issuing a decision in this  
29 case.

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32 <sup>4</sup> Lewis County's Response to Motion for Stay, at 1, filed November 16, 2009.

<sup>5</sup> Id. at 1.

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**II. ORDER**

The Board denies Petitioner's Motion for a Stay.

Dated this 25th day of November, 2009.

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James McNamara, Board Member

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Nina Carter, Board Member

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William P. Roehl, Board Member