

Schroader, Kathy



From: Orjiako, Oliver
Sent: Monday, September 14, 2015 10:19 AM
To: Euler, Gordon; Alvarez, Jose
Cc: Schroader, Kathy
Subject: FW: Lewis County Supreme Court Decision - For the Public Record and the DSEIS review

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FYI, and for the record. Thanks.

From: Carol Levanen [mailto:cnldental@yahoo.com]
Sent: Saturday, September 12, 2015 9:29 PM
To: Stewart, Jeanne; Mielke, Tom; Madore, David; Orjiako, Oliver; Carol Levanen
Subject: Lewis County Supreme Court Decision - For the Public Record and the DSEIS review

(25) In conclusion...we reverse the Boards decision that Lewis County may not designate agriculture lands based on local farm industry farm needs. If the State wants to conserve all alnd that is capable of being farmed, without regard to it's commercial viability, it may buy the lands.

157 Wn. 2d. 488; Aug. 2006 Lewis County v. W. Wash. Growth Mgmt. Hearings Bd.

[No. 76553-7. En Banc.]

Argued November 10, 2005. Decided August 10, 2006.

LEWIS COUNTY, *Appellant*, v.
THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD ET AL., *Respondents*.

[1] Counties - Land Use Controls - Growth Management Act - Administrative Review - Growth Management Hearings Board - Local Compliance With Act - Clearly Erroneous Test. A growth management hearings board may invalidate a local comprehensive plan provision or development regulation under the clearly erroneous standard of RCW 36.70A.320 (3) if, after reviewing the entire record and considering the goals and requirements of the Growth Management Act (chapter 36.70A RCW), the board has a firm and definite conviction that a mistake was made.

[2] Counties - Land Use Controls - Growth Management Act - Hearings Board Decision - Judicial Review - Appellate Review - Board Record. When reviewing a growth management hearings board decision, an appellate court sits in the same position as the superior court and applies the review standards of RCW 34.05.570 (3) directly to the record created before the board.

Aug. 2006 Lewis County v. W. Wash. Growth Mgmt. Hearings Bd. 489

157 Wn. 2d. 488

[3] Counties - Land Use Controls - Growth Management Act - Construction - Deference to Hearings Board. While a growth management hearings board is required by RCW 36.70A.320 to defer to a county's or city's planning choices that are consistent with the Growth Management Act (chapter 36.70A RCW), the board itself is entitled to deference in determining what the Growth Management Act requires; i.e., a court must give "substantial weight" to the board's interpretation of the act.

[4] Administrative Law - Judicial Review - Standard of Review - In General. Under RCW 34.05.570 (3), a court shall grant relief from an agency's adjudicative order if the order fails to meet any of the nine standards delineated in the statute.

[5] Counties - Land Use Controls - Growth Management Act - Hearings Board Decision - Judicial Review - Burden of Proof. The burden of demonstrating that a growth management hearings board erroneously applied the law or failed to follow prescribed procedures is on the party asserting error.

[6] Administrative Law - Judicial Review - Question of Law - Standard of Review. An issue of law in an administrative adjudication is reviewed by a court de novo under the error of law standard of RCW 34.05.570 (3)(d).

[7] Administrative Law - Judicial Review - Mixed Question of Law and Fact - Standard of Review. A court reviews a mixed question of law and fact in an agency adjudication by independently determining the law and then applying the law to the facts as found by the agency.

[8] Counties - Land Use Controls - Growth Management Act - Agricultural Land - Designation - Factors - Development Prospects. Under RCW 36.70A.170 (1)(a), which requires counties to designate as agricultural land those lands not already characterized by urban

growth and having long-term significance for the commercial production of food or other agricultural products, and under RCW 36.70A.030 (10), which defines "long-term commercial significance" to include the growing capacity, productivity, and soil composition of land for long-term commercial production in consideration with its proximity to population areas and the possibility of more intense uses thereof, counties must do more than simply catalogue lands that are physically suited to farming. They must consider development