

Schroader, Kathy



From: Orjiako, Oliver
Sent: Wednesday, October 07, 2015 2:46 PM
To: Alvarez, Jose; Anderson, Colete; Albrecht, Gary; Euler, Gordon; Hermen, Matt; Kamp, Jacqueline; Lebowsky, Laurie; Lumbantobing, Sharon; Wisner, Sonja
Cc: Schroader, Kathy
Subject: FW: Corrections to 10-6-15 CCCU testimony - For the Record

FYI and for the record. Thanks.

From: Carol Levanen [mailto:cnldental@yahoo.com]
Sent: Wednesday, October 07, 2015 11:08 AM
To: Stewart, Jeanne; Mielke, Tom; Madore, David; Orjiako, Oliver; Susan Rasmussen
Subject: Corrections to 10-6-15 CCCU testimony - For the Record

Dear Councilors,

I have made minor corrections for typos and additions to the testimony I presented on 10-6--15 and am forwarding this information to you via this email.

Sincerely, Carol Levanen, Ex. Secretary, CCCU, Inc.

Clark County board of Councilors
P.O. Box 5000
Vancouver, Washington 98666

October 5, 2015

For the Record and review of the 2016 Comprehensive Plan update

The Superior Court of Washington, April 4, 1997, Findings of Fact, Conclusions of Law and Order, Case # 96-2-00080, states, "The (Hearing) Board is not above the law which gave it its existence" "It is evident the rural land use density regulations were driven in part by earlier Growth Management Hearing Board decisions....." "This formulaic view of the GMA requirements is fatally flawed. There is no requirement in the GMA that the OFM projections be used in any manner other than as a measure to ensure urban growth areas are adequately sized and infrastructure in those growth areas is provided for. This (Hearing) Board decision, however, compelled the County to downzone substantial portions of the rural areas in order to meet the Board's apparent requirements. The only requirement for rural areas in the GMA is that growth in rural areas not be urban in character. While the GMA contains no restrictions on rural growth, it does require a variety of residential densities. By trying to comply with the (Hearing) Board's errant decision, the County violated a GMA planning goal. The (Hearing) Board had an end in sight and disregarded the GMA's mandate in applying an unauthorized formula to the review of the Clark County Comprehensive Plans land use densities. The (Hearing) Board's interpretation was erroneous, and the County's decision to follow the Board's lead was unfortunate. The result is a plan that gives little regard for the realities of existing rural development in direct contradiction of the terms of the GMA.

The Court of Appeals, Division II, March, 1999 Published Opinion, Case # 22164-1-II confirms this court decision and states, "Based on the foregoing, we conclude that the GMA does not require counties to use OFM's projections as a cap on non-urban growth. The (Hearing) Board exceeded its authority, and the trial court did not err by reversing the Board's ruling." Neither one of these court decisions were appealed or challenged by any party, to date, and they remain as law.

The Growth Management Act RCW 36.70A.070 Comprehensive plans - Mandatory elements states, Each comprehensive plan shall include a plan, scheme, or design for each of the following: (1) A land use element.....for agriculture, timber production, housing, commerce, industry recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. (2) A housing element ensuring the vitality and character of established residential neighborhoods (3) A capital facilities plan element (4) A utilities element consisting of general location proposed location and capacity... (5) Rural element. ...lands that are not designated for urban growth, agriculture, forest or mineral resources.....Because circumstances vary from county to county....a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals. (6) A transportation element (7) An economic development element

RCW 36.70A.020 Planning goals states, (1) Urban growth. Encourage development in urban areas (2) Reduce sprawl Reduce the inappropriate conversion of undeveloped land into sprawling low density development (3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities... (4) Housing. Encourage the availability of affordable housing to all economic segments of the population ...promote a variety of residential densities and housing types and encourage preservation of existing housing stock. (5) Economic development Encourage economic development throughout....promote economic opportunity for all citizens...promote the retention and expansion of existing business....recognize regional differences.....encourage growth in areas experiencing insufficient economic growth... (6) Property rights. Private property

shall not be taken for public use without just compensation...The property rights of landowners shall be protected from arbitrary and discriminatory actions. (7) Permits. ...processed in a timely and fair manner... (8)Natural resource industries. maintain and enhance natural resource based industries....Encourage the conservation of productive forest and
Page 2 of 2

productive agricultural lands. (9) Open space and recreation. (10) Environment. Protect the environment (11) Citizens Participation and coordination. Encourage the involvement of citizens in the planning process....(12) Public facilities and services. (13) Historic preservation.

If one simply reads the bold print of this report, one can see that the actions of Clark County in the 1994 Comprehensive Plan were adverse and non-compliant to the mandates of the Growth Management Act. The courts have clarified where the problems exist. Those problems have never been corrected, regardless of whether the Hearing Board ever required the county to obey the law. It is essential for Clark County to make these corrections, as was intended by the courts, in the 2016 Comprehensive Plan update.

Sincerely,

Carol Levanen, Ex. Secretary
Clark County Citizens United, Inc.
P.O. Box 2188
Battle Ground, Washington 98604