

10/21 - Rec'd fr. Carol Levanan

CC'd- BACC; Orjiako; O'Donnell; Silli CP#0358

Clark County Board of Commissioners  
P.O. Box 5000  
Vancouver, Washington 98666

October 17, 2014

**Re: Clark County Rural Lands, the Law and the 2016 Comprehensive Plan Review**  
( This information to be places into public record)

In response to an appeal filed against Clark County by Clark County Citizens United, Inc. in Case # 96-2-00080-2, the Honorable Edwin J. Poyfair ruled on April 4, 1997, in the FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER. Included in the Order, he found that Clark County failed to comply with many legal mandates of the Washington State Growth Management Act. In support of that decision, the Court of Appeals of the State of Washington Division II, upheld portions of the Poyfair decision in 1999. When these items were remanded to the county by the Western Washington Growth Management Hearings Boards, the county went through the motions of appearing to be complying with the court rulings, when in fact many of the items were brushed over and under the table, without completing the task. Later, after the WWGMHB continued to rule Clark County's Comprehensive Plan as invalid, the Honorable John F. Nichols placed a stay on the actions in 1997, until Clark County could become compliant.

Since that time, Clark County Citizens United, Inc. has been waiting for the corrections and completion of the court mandates. Every year since the court decisions, the standing board of commissioners have put off completing the task. When CCCU questioned the county as to when the work would be completed, the commissioners claimed that the work was in progress and they would have something soon. Then CCCU was told in 2004 that only urban areas were being considered in the review of the Comprehensive Plan. But, in fact, a moratorium was shockingly placed on the rural lands in the interim. CCCU heartily protested against that action. Commissioners again, asked CCCU to just be patient. In 2007, CCCU was told not to participate in the review of the Comp Plan because, again, the urban lands were the only thing on the table, and the county would get to the rural lands, soon. Even so, CCCU submitted testimony regarding the EIS. A rural lands task force was set up supposedly to aid the process, but failed to accomplish any of the court mandated directives. This task force report is now the excuse to retain large lot rural and resource zoning, instead of forming policy to comply with the court and the law.

Specifically, Item 6. Comprehensive Plan EIS and Item 7. Rural Land Densities, of the court rulings have never been completed. What has been left, is a plan that continues to reflect the illegal activity that occurred in 1994 in the rural and resource lands.

**Item 6. Comprehensive Plan EIS.** *"The County failed to comply with SEPA's requirement for additional environmental review when a proposal changes substantially from the one addressed in the initial EIS. The Board's decision to uphold the adequacy of the EIS absent additional environmental analysis regarding the.....changes to the pattern of rural development was clearly erroneous."*

**7. Rural Land Densities.** *"The County's rural and resource development regulations are inconsistent with the GMA. The GMA requires counties to determine that planning goals are utilized and are a part of the consideration supporting its decisions. One of the planning goals requires a variety of residential densities and housing types, which the Clark County Community Framework Plan met by identifying pre-existing small development patterns in rural areas..."*

*"It is evident that rural land use density regulations were driven in part by earlier Growth Management Hearings Board decisions requiring urban population plus rural populations to equal Office of Financial Management population forecasts.....This formulaic view of the GMA requirement 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 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 Board's errant decision the County violated a GMA planning goal....."*

*The 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."*

#### **ORDER**

***"Based on the foregoing Findings of Fact and Conclusions of Law IT IS HEREBY; ORDERED, ADJUDGED AND DECREED that the Clark County Comprehensive Plan and Development Regulations adopted in Ordinance 1994-12-47 on December, 20, 1994 are remanded.....with direction to enter a decision in accord with this Order mandating County action to correct the violations of the GMA identified herein:..."***

Clark County Citizens United, Inc., representing approximately 6,000 members, expects Clark County to comply with the court rulings in these three areas:

- 1. Resource land zoning and regulations must be designated and applied to reflect the existing parcelization and development There must be compliance with the GMA and the WAC criteria regarding maps, soils and use.**

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**2. Rural lands zoning and regulations must be designated and applied to reflect the existing parcelization and development. There must be compliance with the GMA and the WAC criteria regarding maps and use.**

**3. The 2016 SEIS must adequately reflect these changes to the Rural lands and the Resource lands in the 2016 Clark County Comprehensive Land Use Plan.**

The county has ignored these court mandates for all these years, while continuing to apply an unauthorized formula. With the 20 year 2016 review, the county must finally come into compliance with the law. These court decisions won't go away any time soon, and neither will the rural landowners. Clark County Citizens United, Inc. asks the Clark County Board of Commissioners to be rural land and resource land advocates, to assure that the economic viability of those lands will prosper and grow, well into the future.

Sincerely,

Carol Levanen, Ex. Secretary  
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