



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

March 17, 2015

Re: Court Briefs and Discussions in WWGMHB Case # 95-2-0067 (For the Public Record)

The following information is excerpts of Petitioners Briefs and Hearing Board discussions in Case # 95-2-0067. This information fills in gaps that may be missing in the resulting court orders and decisions.

Before the Western Washington Growth Management Hearings Board State of Washington - Clark County Citizens United, Inc. v Clark County Case No. 95-2-0010 Petitioners Brief VIII - Conclusion -

"If there is a record supporting many of the County's actions concerning resource and rural lands, the Index fails to disclose it. If there is no record, the County must now show how its decisions were reached and how land was chosen to be designated as resource land.

Where no evidence exists in the record - e.g.(1) concerning the impact of the increased agriculture resource designation and (2) considering the commercial viability of agricultural uses - testimony on these issues should be allowed. **Glenn Amster - April 17, 1995.**

Achen et al v Clark County et. al - Case No. 95-2-0067 - Clark County Motion for Reconsideration - 2-5-98 Compliance Order and Order of Invalidity - Clark County Prosecuting Attorney

Before the Western Washington Growth Planning Gearings Board State of Washington - Clark County Citizens Untied, Inc v Clark County - Motion and Memorandum in Support of Clark County Citizens United, Inc. Motion to clarify and supplement the Record, Permit Discovery and to allow additional evidence -

"Clark County Citizens United seeks clarification and supplementation of the Record because (1) the County has failed to index and produce all material relied upon in the comprehensive plan process; (2) CCCU challenges the County's classification of resource lands and thus should be allowed to present evidence regarding the long term commercial significance of agricultural and forest lands in Clark County; (3) CCCU challenges the adequacy of the environmental impact statement and just be allowed to present evidence about environmental impacts; and (4) the information presented by the County fails to describe accurately its public participation procedures, which were inadequate and flawed. The Index in the Record fails to comply with the requirement of WAC 242.02.820 because (1) it does not identify documents with sufficient specificity to enable time to be found, (2) the index has undergone several revisions and even at the time of CCCU's appointments at the GMA library, the available record did not include certain transcripts and staff memoranda listed in the Index; and (3) some documents are not only not available, but have not been identified or indexed.. CCCU is thus unable to determine what material might have been relied upon by the County in reaching certain decisions, and must request relief from the Board.....This material should include; (a) A full description of each Map identified in the Index at X.N. (b)A full and accurate description of all correspondence bearing upon the question of the Agricultureland classifications, including site-specific change requests. (c) Draft maps identified by date and title. (d) Memoranda, staff reports or notes concerning rural and

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resource lands prepared between December 5, 1993, and September 22, 1994. (e) Aerial photos of all areas that indicate designated resource lands, (f) Any staff or consultant studies or reports or other documents on the commercial significance of resource lands. (g) A description of the data base and criteria used in generating the GIS maps. (h) Any documentation of the work done by the consulting firm of Daggert and Simpson.

(2) CCCU should be permitted to depose all County Employees and/or officials who have knowledge of the process used to create the Rural and Resource designations and to determine what lands are subject to them, so that all materials, meetings, hearings and conversations leading to the designations can be identified.

Page 7 - Finding virtually no pertinent material in the Index, Ms. Straatman asked Jerri Bohard of the Planning Department where the basis for the Agri-Forest decision could be found. Ms. Bohard replied there were three sources; The work of the focus groups, maps compiled from the GIS data base and aerial photos. The Index specifically lists six items that seem to refer to the materials Ms. Bohard described: Farm Focus Group Final Report; Forest Focus Final Report; the Agricultural Capability map; the Forest Capability map; Notebook of Agriculture Candidate Areas - Evaluation Forms; and Working Maps. The two listed Focus Group reports are dated 1993 and contain nothing about the Agri-Forest designation. No notes minutes, studies or additional reports are listed on the Index. Nor do there appear to be any transcripts, minutes, agendas or recording memorializing the work of the groups. Page 8 - The aerial photographs which apparently provided the only basis for determining whether a parcel had "agriculture cover" are not listed at all. The County's astonishing rationale for this serious gap in the available information is that the cost of reproduction, if possible, would be \$2,000. Page 9 - Copies of these photos must be provided; they provide the only evidence of what was actually on the ground on these now severely restricted parcels.Insofar as the County attempted to rely on aerial photographs or maps, these must be specifically identified and produced. Under the circumstances present here, the burden to identify evidence must be with the County. Page 11 - Serious questions have been raised about the long-term commercial significance of agriculture in Clark County. The Agricultural Focus group was unable to reach consensus on this issue. There is nothing in the record to support the County's determination of long term commercial significance of vast areas of land identified as agricultural resource land, a critical element of resource land designation under the GMA. Lane Powell Spears Lubersky - Glenn J. Amster WSBA No. 8372.

Western Washington Growth Management Hearings Board - No. 95-2-0067 Final Decision and Order- September 20, 1995-

....As of 1990, only 30% of the population lived within the incorporated cities of Clark County (Ex.77).....unprecedented volume of petition began arriving at our officeEighty five different petitioners filed 61 separate petition that challenged Clark County's comprehensive plan (CP) and development regulations (DRs) adopted December 29, 1994.....

Forty-four parties were granted intervener status in various petitions. Of the original 85 petitions, approximately one half involved property specific challenges while the remainder set forth more generalized issues....Over 20 attorneys represented different parties....Of the original 62

petition, 23 were consolidated for purposes of argument...

A number of petitions raised SEPA challenges..... Petitioners contended that the adopted CP dramatically limited the amount of land available for residential use and instead designated it to resource activities. Therefore, the FSEIS did not adequately discuss any "probable negative

environmental impacts" from more intensive agricultural practices relating to water quantity, irrigation or water quality, increased use of fertilizers and pesticides.

Long Term Commercial Significancefrom a report (Ex.181) issued by the Farm focus Group.....It used a report that agreed with the criteria used for initial agriculture land designation. However, a majority of the committee conclude that the commercially significant criterion could not be met in Clark County.....The report acknowledged that different and in some instances smaller scale, agricultural activities would continue.....

Page 20 - Various Petitioners also attacked the use of aerial photographs by the County to specifically locate agriculture, forest, and agri-forest designations....Only a part of the designation state (mapping) did the County use aerial photographs. Their use was to implement the classification criteria.


Buffers RCW 36.70A 060 requires a county to adopt development regulations that "assure that the use of lands adjacent to agriculture, forest or mineral resource land shall not interfere: with the continued use of such agricultural, forest and mineral lands...This statutory provision forms the basis for a mandate to provide adequate buffering between resource lands and incompatible uses.

Page 31 - The FSEIS alternative A involved a 2 1/2 minimum lot size. Much public comment recommended 1 acre minimums.....Many of the petitions had expressed frustration at the County process. They felt that their individual complaints and concerns were lost..

Vacant Lands Analysis - Many petitioners challenged the Vacant Lands Analysis (VLA) prepared by Clark County....

September 20, 1995 - William H. Neilsen, Les Eldridge, Nan A. Henriksen

This information fills in many gaps regarding the creation of the 1994 and current Clark County Comprehensive Plan, and begs the question, isn't it time to do it right?

Sincerely, 

Carol Levanen, Ex. Secretary
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