

**Leslie Clark**

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**Subject:** Compliance to the Superior Court Rulings are distin



**From:** susan.rasmussen

**Sent:** Thursday, May 26, 2016 12:29 PM

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**Subject:** Compliance to the Superior Court Rulings are distinct issues

These are quotes, direct from the Court Of Appeals of the State of Washington Division II, No. 22164-1-II, March 12, 1999.

PUBLISHED OPINION

Page 7:

*Although a court will defer to an agency's interpretation when that will help The court achieve a proper understanding of the statute, (26) "it is ultimately For the court to determine the purpose and meaning of statues, even when the Court's interpretation is contrary to that of the agency charged with carrying Out the law." Here, in our view, the Board misread the statute and exceeded Its authority. If we were to defer it its ruling, we would perpetuate, not correct, Its error. Under these circumstances, we hold that deference is not due.*

This discussion concerns the Poyfair Decision and the wrongly assumed authoritative powers of the Hearings Board. The Poyfair Decision says the Board overstepped their legal jurisdiction in taking a formulaic view of planning, devising an unlawful formula to advance that view, and forcing the county to use it. The formula puts a ceiling on rural growth. The Superior Court said that action was wrong, and the *use of the formula is in direct contradiction of the terms of the GMA*. However, the county still perpetuates the illegal formula since it has failed to make corrections. This is in error.

The county may think it compliant to the Hearings Board due to granting deference to the Board's erroneous Formula. This is not compliant to the Court Orders since the Court has ruled this formula illegal. The Court of Appeals clearly grants deference to the Superior Court, over the Hearings Board. There needs to be a distinction between the two.

The Poyfair Decision addresses non-urban densities. For the most part, the county hasn't addressed rural and resource issues until this update.

The language quoted from the Court of Appeals, PUBLISHED OPINION, is important to recognize. The Court has ruled that if deference is not granted to the Superior Court Orders, and corrections made to reconcile the issues, then the erroneous formula is allowed to maintain. Perpetuating the unlawful formula, as is being proposed in this comprehensive plan update, does not correct the problem and advances it another 20 years.

Best,  
Susan Rasmussen for

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