

HOUSE BILL REPORT

HB 2217

As Reported By House Committee On:
Local Government

Title: An act relating to affordable housing appeals.

Brief Description: Providing a procedure for affordable housing appeals.

Sponsors: Representatives Quall, Bray, Moak, Appelwick and Wolfe.

Brief History:

Reported by House Committee on:
Local Government, February 4, 1994, DPS.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives H. Myers, Chair; Springer, Vice Chair; Dunshee; R. Fisher; Moak; Rayburn and Zellinsky.

Minority Report: Do not pass. Signed by 4 members: Representatives Edmondson, Ranking Minority Member; Reams, Assistant Ranking Minority Member; Horn and Van Luven.

Staff: Bill Lynch (786-7092).

Background: In 1991, the Legislature modified the Growth Management Act (GMA) to include the creation of three growth planning hearings boards to resolve disputes arising under the GMA. The GMA applies to counties, and the cities contained within those counties, that are required or choose to plan under the GMA. One board was established for eastern Washington, one board for the Central Puget Sound area (Snohomish, King, Pierce, and Kitsap Counties), and one for the other western Washington counties.

The hearings boards are authorized to hear and determine only those petitions that allege either: (1) that a state agency, county, city is not in compliance with the requirements of the GMA or the State Environmental Protection Act (SEPA) as it relates to plans, regulations, and amendments adopted pursuant to the GMA; or (2) that the 20-year urban growth management planning population

projections adopted by the Office of Financial Management should be adjusted.

A petition may only be submitted to a hearings board by: (1) the state, or a county or city that plans under the GMA; (2) a person who has either appeared before the county or city regarding the matter on which a review is requested; (3) a person who qualifies as an aggrieved party; or a person who is certified by the Governor.

Some states allow appeals to be made to a state housing appeals board if a city or county has denied or placed excessive requirements on an application for the development of affordable housing.

Summary of Substitute Bill: The growth planning hearings boards are authorized to receive petitions when a city or county has denied or placed excessive requirements on an application for affordable housing so that it is infeasible.

"Affordable housing" is defined as residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household, or is a member of a special needs population, and whose monthly housing costs do not exceed 30 percent of the household's monthly income.

A petition for an affordable housing appeal must be filed within 20 days after the county or city's final decision. The petition must include a statement of the local government's proceedings and the reasons upon which the petition is based. The board must immediately notify the city or county that a petition has been filed. The city or county has 10 days to provide a copy of the decision and reasons for the decision to the board.

The petition must be heard by the board within 45 days after receipt of the petition. The board must provide a final written order within 45 days after the conclusion of the hearing, unless the time has been extended by mutual agreement. The final decision of the board may be appealed to the Washington State Supreme Court.

In making its decision, the board must determine if: (a) in the case of a denial, the city or county's decision was reasonable and consistent with local needs, or (b) in the case of an application's approval with conditions and requirements, whether the conditions and requirements make the construction or operation of the affordable housing infeasible and if they are consistent with local needs.

The board is required to consider when reviewing the petition:

- The consistency of the decision to deny or condition the permit with the comprehensive plan;
- The consideration of the health and safety of existing residents; and
- The extent to which the city or county applies local zoning ordinances and conditional use permits evenly on applications to develop subsidized and unsubsidized housing.

If the board finds that a denial was unreasonable and inconsistent with local needs, it shall vacate the decision and issue a decision and final order approving the application. If the board finds that requirements and conditions make the affordable housing project infeasible and this is inconsistent with local needs, it shall issue a decision and order modifying or removing any condition or requirement in order to make the project feasible and approve the application.

A board cannot issue a decision that would permit the building or operation of housing that does not meet applicable federal, state, and local building and site plan requirements. Decisions, conditions, or requirements imposed by cities or counties that are consistent with local needs cannot be vacated or changed by the board even if it denies an applicant's project or makes it infeasible.

The city or county must carry out the decision of the board within 30 days of its entry. If the city or county fails to carry out the decision, the decision of the board becomes the action of the city or county unless the applicant agrees to a different decision and final order by the city or county. The applicant may enforce the final decision of the board by bringing an action in superior court. The city or county must issue all necessary permits and approvals to allow the construction and operation of the affordable housing as approved by the board.

Substitute Bill Compared to Original Bill: The growth planning hearings board may only hear affordable housing appeals from cities and counties that plan under the Growth Management Act. References to fair share housing are deleted. A July 1, 1995, effective date is added. The timelines for when the growth planning hearings boards must hear and decide housing appeals is extended. The definition of affordable housing is clarified.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect July 1, 1995.

Testimony For: Local governments are currently not meeting the needs of affordable housing. Too many conditions being imposed delay the projects and increase their costs. If action isn't taken soon, affordable housing will be locked out for years. Other states have similar programs.

Testimony Against: Allowing these hearings boards to hear individual permit appeals is a big change in philosophy. The role of the boards is currently under examination. Let the growth management process work.

Witnesses: (pro:) Representative Quall, prime sponsor; Ron Hess and Nancy Irving, Manufactured Housing Communities of Washington; Mike Ryherd, Housing Congress; Carol Izutsu, Black and Latino Adolescent Alcohol Drug Endeavor; and John Smith, Housing Authority of Skagit County.

(con:) Dave Williams, Association of Washington Cities; Jan Teague, Building Industry Association of Washington; and Paul Parker, Washington State Association of Counties.