
HOUSE BILL 2217

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Quall, Bray, Moak, Appelwick and Wolfe

Read first time 01/11/94. Referred to Committee on Local Government.

1 AN ACT Relating to affordable housing appeals; amending RCW
2 36.70A.250 and 36.70A.280; and adding new sections to chapter 36.70A
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.250 and 1991 sp.s. c 32 s 5 are each amended to
6 read as follows:

7 (1) There are hereby created three growth planning hearings boards
8 for the state of Washington. The boards shall be established as
9 follows:

10 (a) An Eastern Washington board with jurisdictional boundaries
11 including all counties that are required to or choose to plan under RCW
12 36.70A.040 and are located east of the crest of the Cascade mountains;

13 (b) A Central Puget Sound board with jurisdictional boundaries
14 including King, Pierce, Snohomish, and Kitsap counties; and

15 (c) A Western Washington board with jurisdictional boundaries
16 including all counties that are required or choose to plan under RCW
17 36.70A.040 and are located west of the crest of the Cascade mountains
18 and are not included in the Central Puget Sound board jurisdictional
19 boundaries. Skamania county, should it be required or choose to plan

1 under RCW 36.70A.040, may elect to be included within the
2 jurisdictional boundaries of either the Western or Eastern board.

3 (2) Except as provided in subsection (3) of this section, each
4 board shall only hear matters pertaining to the cities and counties
5 located within its jurisdictional boundaries.

6 (3) Each board shall also hear affordable housing appeals filed
7 under section 3 of this act, in any city or county within its
8 jurisdictional boundaries or beyond its jurisdictional boundaries but
9 within its potential geographic boundaries.

10 **Sec. 2.** RCW 36.70A.280 and 1991 sp.s. c 32 s 9 are each amended to
11 read as follows:

12 (1) A growth planning hearings board shall hear and determine only
13 those petitions alleging either: (a) That a state agency, county, or
14 city is not in compliance with the requirements of this chapter, or
15 chapter 43.21C RCW as it relates to plans, regulations, and amendments
16 thereto, adopted under RCW 36.70A.040; (~~(or)~~) (b) that the twenty-year
17 growth management planning population projections adopted by the office
18 of financial management pursuant to RCW 43.62.035 should be adjusted;
19 or (c) that a county or city has denied or placed excessive
20 requirements on an application for the development of affordable
21 housing, as defined in section 3 of this act.

22 (2) Except as provided in section 3 of this act, a petition may be
23 filed only by the state, a county or city that plans under this
24 chapter, a person who has either appeared before the county or city
25 regarding the matter on which a review is being requested or is
26 certified by the governor within sixty days of filing the request with
27 the board, or a person qualified pursuant to RCW 34.05.530.

28 (3) For purposes of this section "person" means any individual,
29 partnership, corporation, association, governmental subdivision or unit
30 thereof, or public or private organization or entity of any character.

31 (4) When considering a possible adjustment to a growth management
32 planning population projection prepared by the office of financial
33 management, a board shall consider the implications of any such
34 adjustment to the population forecast for the entire state.

35 The rationale for any adjustment that is adopted by a board must be
36 documented and filed with the office of financial management within ten
37 working days after adoption.

1 If adjusted by a board, a county growth management planning
2 population projection shall only be used for the planning purposes set
3 forth in this chapter and shall be known as a "board adjusted
4 population projection". None of these changes shall affect the
5 official state and county population forecasts prepared by the office
6 of financial management, which shall continue to be used for state
7 budget and planning purposes.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW
9 to read as follows:

10 (1) Whenever an application for any permit or approval relating to
11 affordable housing filed under the provisions of chapters 35.63,
12 35A.63, 36.70, and 58.17 RCW is denied, or is granted with such
13 conditions and requirements as to make the building or operation of the
14 housing infeasible, the applicant shall have the right to petition the
15 appropriate growth planning hearings board for review of the decision.

16 (2) The petition shall be made within twenty days after the date of
17 the city or county's notice of final decision by filing with the growth
18 planning hearings board a statement of the prior proceedings and the
19 reasons upon which the petition is based. The growth planning hearings
20 board shall immediately notify the city or county that a petition for
21 review has been filed. The city or county shall, within ten days of
22 the receipt of the growth planning hearings board's notification,
23 transmit a copy of its decision and the reasons to the growth planning
24 hearings board.

25 (3) The petition shall be heard by the growth planning hearings
26 board within twenty days after receipt of the applicant's statement.
27 The growth planning hearings board shall provide a written final order,
28 based upon a majority vote, stating its findings of fact, and its
29 conclusions and recommendations, within thirty days after the
30 termination of the hearing, unless the time has been extended by mutual
31 agreement between the growth planning hearings board and the applicant.
32 The growth planning hearings board's final order may be appealed in the
33 state supreme court.

34 (4) The provisions of this section apply to any housing subsidized
35 by the federal, state, or local government under a program designed to
36 assist in the construction or rehabilitation of affordable housing that
37 is built or operated by any organization eligible to receive assistance

1 through the Washington housing trust fund created in chapter 43.185 RCW
2 or any private developer.

3 (5) As used in this section and section 4 of this act, "affordable
4 housing" means residential housing that is rented or owned by a person
5 who qualifies as a very low-income, low-income, or moderate-income
6 household and special needs population, as defined in applicable
7 federal or state statutes, and whose monthly housing costs, including
8 utilities other than telephone, do not exceed thirty percent of the
9 household's monthly income.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
11 to read as follows:

12 (1) In hearing a petition filed under section 3 of this act, the
13 growth planning hearings board shall determine if: (a) In the case of
14 the denial of an application, the decision of the city or county was
15 reasonable and consistent with local needs, or (b) in the case of an
16 application with conditions and requirements imposed, if those
17 conditions and requirements make construction or operation of the
18 affordable housing infeasible and if they are consistent with local
19 needs.

20 (2) The standards for reviewing the petition shall include, but are
21 not limited to:

22 (a) The consistency of the decision to deny or condition the permit
23 with the city or county's comprehensive plan;

24 (b) The extent to which the city or county meets or plans to meet
25 the goal of (i) twenty percent of all dwelling units in the city or
26 county as affordable housing, and (ii) ten percent of all dwelling
27 units in recognized neighborhoods as affordable housing;

28 (c) The consideration of the health and safety of existing
29 residents;

30 (d) The extent to which the city or county applies local zoning
31 ordinances and conditional use permits evenly on applications to
32 develop subsidized and unsubsidized housing.

33 (3) If the growth planning hearings board finds, in the case of a
34 denial, that the decision of the city or county was unreasonable and
35 not consistent with local needs, it shall vacate the decision and shall
36 issue a decision and final order approving the application. If the
37 growth planning hearings board finds, in the case of an approval with
38 conditions and requirements imposed, that the decision of the city or

1 county makes the building or operation of the affordable housing
2 infeasible, and is not consistent with local needs, it shall issue a
3 decision and final order, modifying or removing any condition or
4 requirement so as to make the proposal feasible, and approving the
5 application. The growth planning hearings board shall not issue any
6 decision and final order that would permit the building or operation of
7 the housing that does not meet applicable federal, state, and local
8 building and site plan requirements.

9 (4) Decisions or conditions and requirements made or imposed by a
10 city or county that are consistent with local needs shall not be
11 vacated, modified, or removed by the growth planning hearings board
12 even if the decision or conditions and requirements have the effect of
13 denying or making the applicant's proposal infeasible.

14 (5) The applicant shall have the power to enforce the final order
15 of the growth planning hearings board by an action brought in the
16 superior court of the county where the proposed affordable housing
17 development is located. The city or county shall carry out the
18 decision and final order of the growth planning hearings board within
19 thirty days of its entry and, upon failure to do so, the decision and
20 final order of the growth planning hearings board shall be deemed to be
21 the action of the city or county, unless the applicant consents to a
22 different decision and final order by the city or county.

23 (6) The decision and final order of the growth planning hearings
24 board shall be binding on the city or county, which shall immediately
25 issue any and all necessary permits and approvals to allow the
26 construction and operation of the affordable housing as approved by the
27 growth planning hearings board.

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