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CTED, Ecology ask Supreme Court to reconsider land use decision

OLYMPIA – The Washington state departments of Community, Trade and Economic Development (CTED) and Ecology have asked the state Supreme Court to reconsider its recent decision in the *Futurewise v. Anacortes* case.

On July 31, 2008, the Court reinstated a 2005 Western Washington Growth Management Hearings Board decision interpreting a 2003 law that amended both the state Shoreline Management Act and Growth Management Act.

The Western Board hears disputes arising from the adoption of local plans and regulations under both Acts in cities and counties west of the Cascades outside King, Kitsap, Pierce and Snohomish counties.

The state agencies had joined Futurewise, Evergreen Islands and Skagit Valley Audubon Society in the appeal on the basis that the hearings board decision:

- Conflicted with the 2003 statute's plain language.
- Potentially created significant gaps in regulation that protects human health and safety and environmental resources in shoreline areas.
- Created significant procedural and workload problems for local governments and Ecology.

“The Court’s decision conflicts with the statute, puts Ecology into a role never envisioned by the Legislature and will result in delay, unpredictability and higher costs for project proponents and less environmental protection,” said Ecology Director Jay Manning. “I’m hopeful that the Court will take our motion seriously.”

Critical area ordinances satisfy Growth Management Act requirements administered by local governments, and the GMA specifies that they take effect when adopted. Under the Court’s decision, some of these ordinances don’t take effect until Ecology formally approves them. The local rules are designed to protect environmentally sensitive areas within their jurisdiction such as steep slopes, wetlands, critical fish and wildlife habitat, and frequently flooded areas.

“We talked to local government officials across Washington and found the decision has created a great deal of confusion about what rules apply on the shoreline,” said CTED Director Juli Wilkerson. “We are requesting that the Supreme Court reconsider its ruling because the hearings board and Court’s decision seem to be in conflict.”

Some groups have asserted the *Futurewise v. Anacortes* decision strips away modern environmental protections that local critical area rules provide within shoreline areas, leaving only regulations adopted as long ago as the 1970s and 1980s.

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“If the decision is not modified by the Court or corrected through legislation,” Manning said, “its lack of clarity and inconsistencies will likely reverberate for years. Without clearer direction, citizens and government agencies cannot be sure our shorelines will be adequately protected.”

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Media Contacts: Tim Gates, CTED Senior Planner, 360-725-3058; cell, 360 561-3786
(tgates@cted.wa.gov)
Curt Hart, Ecology media relations, 360-407-6990; cell, 360-480-7908
(char461@ecy.wa.gov)

To view a copy of the state’s motion:

<http://www.ecy.wa.gov/programs/sea/sma/news/reconsider.html>

For more information: <http://www.ecy.wa.gov/programs/sea/sma/index.html> and
<http://www.cted.wa.gov/site/375/default.aspx>

Ecology’s Web site: <http://www.ecy.wa.gov>

CTED’s Web site: <http://www.cted.wa.gov/site/21/default.aspx>

Broadcast version

The Washington departments of Community, Trade and Economic Development (CTED) and Ecology have asked the state Supreme Court to reconsider a July Thirty-First, Two Thousand Eight, ruling reinstating a growth management hearings board decision.

Both state agencies believe the Court’s ruling in the Futurewise v Anacortes decision conflicts with plain language in a 2003 law that amended the state Shoreline Management and Growth Management Acts.

The state also is concerned the decision may create gaps in regulations protecting human health and safety, lower environmental protection of shoreline areas, and increase workload problems for local governments and state agencies.

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