

CLARK COUNTY



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Long legal fight over growth plan finally over

County decides against appealing most recent court ruling over its plan

By **JAKE THOMAS**
Columbian staff writer

A three-year legal battle over Clark County's comprehensive growth management plan has come to an end.

The county issued a news release Wednesday announcing that the Clark County Council decided against appealing the most recent court ruling over the county's comprehensive growth manage-

ment plan. The plan, required by state law to guide land-use and planning, has been in dispute shortly after being passed in June 2016.

The news release did not say when the council made the decision, but county officials later said it was made during an executive session, a closed-door council meeting, to discuss litigation.

The council's decision means that the county's goal of creating a rural industrial land bank on agricultural land is effectively quashed, annexations by La Center and Ridgefield are final, lot sizes will be larger for some areas and the county is on track to once

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Julie Olson
Clark County councilor

again become eligible for some state grants.

"The council decided last week that the likelihood of prevailing on reconsideration at the Supreme Court on the (rural industrial land bank) was minimal," Clark County Councilor Julie Olson said in a text. She further noted that the council was ready to get the county's comprehensive plan into

compliance and move on.

But the county still has work to do before its comprehensive plan is in the clear.

Recap

Under the state's Growth Management Act, Clark County is required to produce a 20-year comprehensive growth plan. After passing an update to its plan

in 2016, Friends of Clark County and Seattle-based group Futurewise appealed it. The environmental groups alleged that the county's comprehensive plan violated the state Growth Management Act by facilitating sprawl and opening agricultural land up for development.

Property rights group Clark County Citizens United also appealed the comprehensive plan alleging that the county violated public participation requirements and excluded rural landowners. The group also argued that the plan illegally undermined prop-

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erty rights, blocked land available for development and used a faulty population projection.

In 2017, the Growth Management Hearings Board, a quasi-judicial panel, dismissed the appeals made by Clark County Citizens United. The board found that the county met multiple procedural requirements of the Growth Management Act. But it agreed with Friends of Clark County and Futurewise that the smaller lot sizes established by the plan, the creation of the rural industrial land bank and expansion of the urban growth boundary were illegal.

The arguments continued in appellate court. Last month, a state appeals court issued ruling that upheld many of the decisions of the Growth Management Hearings Board but finalized the annexations completed by Ridgefield and La Center which had previously been challenged by Futurewise. The ruling also upheld the board's decision on the rural industrial land bank.

What's next?

In a statement, Tim Trohimovich, Futurewise director of planning and law, said that the county's decision to not further appeal meant that protections for working farms and forests had been strengthened in Clark County.

"Futurewise and the Friends of Clark County are very pleased that Clark County is taking the legally required steps to conserve the 602 acres of working farmland the County had designated as the unneeded industrial land banks," he wrote. "We also appreciate that Clark County has chosen not to appeal this common sense decision pro-

tecting working farms and farmers in Clark County."

The Clark County Council has already taken some steps to come into compliance with the Growth Management Hearings Board.

The council issued a moratorium on development of the rural industrial land bank. It's also voted to change minimum lot sizes for agriculture from 10 to 20 acres and forest from 20 to 40 acres. The council also voted to amend the county's comprehensive plan to provide three rural zoning designation of 5, 10 and 20 acres. In addition to technical changes, the council also removed 17 parcels from Battle Ground's urban growth area.

According to the statement issued by the county, the Clark County Planning Commission will make recommendations this fall on how the county can come into compliance with the Growth Management Hearings Board's decision, which the council will hold a hearing on. After that, the plan will return to the Growth Management Hearings Board for review.

Since the board issued an order of invalidity for the county's comprehensive plan, Clark County has been ineligible for millions of dollars in state funding. The review could mean a lifting of the order just as the county is seeking money for transportation infrastructure upgrades.

"This gets the county a step closer to being in compliance with (state law) and restores the ability for the county to apply for and receive grants and loans from the Washington State Public Works Fund and Transportation Improvement Board," Council Chair Eileen Quiring said in a prepared statement.

Jake Thomas: 360-735-4515; jake.thomas@columbian.com; twitter.com/jakethomas2009