

E-FILED

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**Scott G. Weber, Clerk
Clark County**

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR CLARK COUNTY**

CLARK COUNTY CITIZENS UNITED, INC.,
FRIENDS OF CLARK COUNTY AND
FUTUREWISE,

Petitioners,

v.

CLARK COUNTY,

Respondent,

3B NORTHWEST LLC, CITY OF LA CENTER,
CITY OF BATTLE GROUND, CITY OF
RIDGEFIELD, LAGLER REAL PROPERTY LLC
and ACKERLAND LLC,

Intervenors,

RDGB ROYAL FARMS LLC, AND RDGK REST
VIEW ESTATES LLC, AND RDGM RAWHIDE
ESTATES LLC, AND RDGF RIVER VIEW
ESTATES LLC, AND RDGS REAL VIEW LLC,

Intervenors-Petitioners.

Case No. 17-2-05133-4

GMHB Case No.: 16-2-0005c

INTERVENORS-PETITIONERS RDGB
ROYAL FARMS LLC, RDGK REST
VIEW ESTATES LLC, RDGM RAWHIDE
ESTATES LLC, RDGF RIVER VIEW
ESTATES LLC, AND RDGS REAL VIEW
LLC'S PETITION FOR JUDICIAL
REVIEW OF FINAL DECISION AND
ORDER OF THE WESTERN
WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD IN
CASE NO. 16-2-0005C

Intervenors-Petitioners RDGB ROYAL FARMS LLC, RDGK REST VIEW ESTATES
LLC, RDGM RAWHIDE ESTATES LLC, RDGF RIVER VIEW ESTATES LLC, AND RDGS
REAL VIEW LLC hereby file this appeal from the Final Decision and Order ("FDO") of the

1 Western Washington Growth Management Hearings Board ("GMHB") issued on March 23,
2 2017, in Western Washington GMHB Case No. 16-2-0005c, pursuant to RCW 36.70A.300(5)
3 and the Administrative Procedure Act, RCW 34.05.510 to 34.05.598.

4 This court has jurisdiction under RCW 34.05.514 and RCW 36.70A.300(5) and venue is
5 proper under RCW 34.05.514(1).

6 Pursuant to RCW 34.05.546:

7 1) Intervenor-Petitioner: The name and mailing address of the Intervenor-
8 Petitioners is:

9 RDGB ROYAL FARMS LLC; RDGK REST VIEW ESTATES LLC; RDGM
10 RAWHIDE ESTATES LLC; RDGF RIVER VIEW ESTATES LLC; AND RDGS
11 REAL VIEW LLC
8320 NE Highway 99
Vancouver, WA 98665

12 2) Intervenors-Petitioners RDGB ROYAL FARMS LLC, RDGK REST VIEW
13 ESTATES LLC, RDGM RAWHIDE ESTATES LLC, RDGF RIVER VIEW
ESTATES LLC, AND RDGS REAL VIEW LLCs: Represented by:

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17 Vancouver WA 98683
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18 3) The Agency: The agency whose FDO is challenged in this appeal is:

19 Western Washington Growth Management Hearings Board
20 1111 Israel Road SW, Ste. 301
21 Tumwater, WA 98501
22 PO Box 40953
Olympia WA 98504
Telephone: (360) 664-9170

23 4) Agency Action Challenged in this Appeal: The agency action challenged in this
24 appeal is an FDO by the GMHB in Case No. 16-2-0005c. A copy of the FDO is attached as
25 Exhibit A.

1 The FDO was issued in a consolidated appeal by petitioners CLARK COUNTY
2 CITIZENS UNITED, INC.; FRIENDS OF CLARK COUNTY; and FUTUREWISE pursuant to
3 RCW 36.70A.280, that challenged Clark County's Comprehensive Plan Update as adopted by
4 Clark County Ordinance 2016-06-12.

5 In its FDO, the GMHB concluded Clark County did not err on its public participation
6 process, private property rights procedures, population projections, remainder parcels claims,
7 transportation or capital facilities, or environmental claims. However, the Board found that
8 Clark County did not meet RCW 36.70A requirements on urban growth expansions, buildable
9 lands, urban reserve overlays, agricultural land de-designations, up-zoning agriculture and forest
10 resource lands, variety of rural densities, and industrial land banks. The Board remanded those
11 issues to Clark County and imposed invalidity on Clark County's action to expand urban growth
12 area boundaries of Battle Ground, La Center, and Ridgefield.

13 5) Parties to the Administrative Proceeding and their Attorneys of Record: The
14 parties to the adjudicative proceedings that led to the agency action are:

15 • Petitioners:

16 Clark County Citizens United, Inc., Friends of Clark County, and Futurewise

17 • Respondents:

18 Clark County

19 • Intervenors:

20 3B Northwest, LLC, City of La Center, RDGB Royal Farms LLC, RDGK Rest
21 View Estates LLC, RDGM Rawhide Estates LLC, RDGF River View Estates
22 LLC, and RDGS Real View LLC, City of Battle Ground, City of Ridgefield,
23 Lagler Real Property LLC and Ackerland LLC
24
25

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6) Intervenors-Petitioners' Standing: Intervenors-Petitioners have standing for
judicial review because they own real property affected by Clark County Ordinance 2016-06-12,

1 they participated orally and in writing in Clark County's legislative process consistent with the
2 public participation procedures in the Growth Management Act ("GMA"), and they supported
3 Clark County's decision as Intervenor in the proceedings before the GMHB. The GMHB
4 granted their Motion to Intervene on the side of Respondent Clark County in the subsequent
5 administrative appeal filed by Friends of Clark County and Futurewise. They filed a prehearing
6 brief defending Clark County's decision and provided argument at the February 8, 2017 hearing
7 before the GMHB.

8 7) The City of Ridgefield has annexed Intervenor-Petitioners' property after it was
9 included in Ridgefield's UGA by County Ordinance No. 16-06-12. Intervenor-Petitioners have
10 participated in the County's legislative process leading to the adopted ordinance and supported
11 the County's decision as an intervenor in the proceedings before the GMHB. Intervenor-
12 Petitioners participated in setting forth in the record facts refuting information and assumptions
13 in the vacant buildable lands model and showing that the model over-calculated the amount of
14 land available for residential lots in Ridgefield. Further, Intervenor-Petitioners provided
15 information in the record to establish that the 111 acres of property proposed to be added to the
16 Ridgefield urban growth area boundary was not agricultural land under the standards set forth by
17 the courts. The County was entitled to rely on this information in reaching its decision to de-
18 designate this property from agricultural land and include this property within the Ridgefield
19 UGA. As a result, Clark County did not commit any error when it expanded the Ridgefield
20 UGA under Ordinance 16-06-12. Thereafter, the City of Ridgefield passed Ordinance No. 1216
21 that annexed Intervenor-Petitioners' property within the UGA into the City of Ridgefield. No
22 action was commenced to stay the effectiveness of either the County's or the City's ordinance.
23 Therefore, the County no longer has planning jurisdiction over the property annexed into the
24 City.

25 8) The GMHB's FDO reverses the Clark County decision that expanded the City of

1 Ridgefield urban growth boundary to include their property. Intervenor-Petitioners are
2 adversely affected and aggrieved by the GMHB's decision as the decision purportedly declares
3 invalid the expansion of the City of Ridgefield urban growth boundary that included their
4 property. Because Intervenor-Petitioners participated orally and in writing in the administrative
5 proceeding leading to the final administrative order challenged in this appeal, exhausted all
6 available administrative remedies and is aggrieved by the decision, they have standing to bring
7 this action.

8 9) The reasons why relief should be granted: Intervenor-Petitioners assert seven
9 assignments of error:

10 (a) The GMHB misapplied and misinterpreted RCW 36.70A.050, RCW
11 36.70A.060 and WAC 365-190-050 when it then decided that Clark County had improperly "de-
12 designated" 111 acres in Ridgefield (Intervenor-Petitioners' real property) to a non-agricultural
13 designation and included them in Ridgefield's UGA.

14 (b) The GMHB exceeded its statutory authority, failed to apply correctly its
15 review standard, and rendered a decision that was arbitrary and capricious by reweighing and
16 reevaluating the evidence in the record and independently determining that the 111 acres in
17 Ridgefield were agricultural lands of long term commercial significance and that an area wide
18 analysis had not been conducted. The GMHB failed to give proper deference to the decisions of
19 the Clark County Board of County Councilors as required by RCW 36.70A.320(3).

20 (c) The GMHB misapplied and misinterpreted RCW 36.70A.110, RCW
21 36.70A.115 and RCW 36.70A.215 when it decided that Ridgefield had 280 acres of surplus
22 residential land, that Clark County had failed to adopt reasonable density measures, and that the
23 County improperly expanded Ridgefield's urban growth area to include the 111 acres in
24 Ridgefield.

25 (d) The GMHB exceeded its statutory authority, failed to apply the correct

1 review standard, and rendered a decision that was arbitrary and capricious by reweighing and
2 reevaluating the evidence in the record and independently determining that Ridgefield had 280
3 acres of surplus residential land, and that Clark County had failed to adopt reasonable density
4 measures and improperly expanded Ridgefield's urban growth area. The GMHB failed to give
5 proper deference to the decisions of the Clark County Board of County Councilors as required by
6 RCW 36.70A.320(3).

7 (e) The GMHB erred in entering an order of invalidity with respect to the
8 Ridgefield UGA expansion.

9 (f) The GMHB's order that the Ridgefield UGA expansion is invalid and its
10 findings of fact in support of that order are not supported by substantial evidence in light of the
11 whole record.

12 (g) The GMHB erroneously interpreted and applied the law by failing to find
13 the City of Ridgefield's annexation of the property included in the UGA removed the property
14 from the County's jurisdiction and rendered the issue moot.

15 10) Request for Relief: Intervenors-Petitioners ask the Superior Court to reverse and
16 set aside the FDO, particularly as it applies to those portions of Clark County Ordinance 2016-
17 06-12 affecting the 111 acres in the City of Ridgefield, including the GMHB's order of invalidity
18 as to those portions.

19 Dated this 21 day of April, 2017.

20 JORDAN RAMIS PC
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22 Royal Farms LLC, RDGK Rest View
23 Estates LLC, RDGM Rawhide Estates LLC,
RDGF River View Estates LLC, and RDGS
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24 By: 
25 James D. Howsley, WSBA #32442

1 **DECLARATION OF SERVICE**

2 I hereby certify that on the date shown below, I served a true and correct copy of the
3 foregoing **INTERVENORS-PETITIONERS RDGB ROYAL FARMS LLC, RDGK REST**
4 **VIEW ESTATES LLC, RDGM RAWHIDE ESTATES LLC, RDGF RIVER VIEW**
5 **ESTATES LLC, AND RDGS REAL VIEW LLC'S PETITION FOR JUDICIAL REVIEW**
6 **OF FINAL DECISION AND ORDER OF THE WESTERN WASHINGTON GROWTH**
7 **MANAGEMENT HEARINGS BOARD IN CASE NO. 16-2-0005C** on:

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DATED: April 21st, 2017.


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