

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

THE CITY OF DES MOINES, THE CITY)
OF BURIEN, THE CITY OF FEDERAL)
WAY, THE CITY OF NORMANDY)
PARK, THE CITY OF TUKWILA,)
HIGHLINE SCHOOL DISTRICT)
NO. 401, AND THE AIRPORT)
COMMUNITIES COALITION,)

Appellants,)

v.)

THE PUGET SOUND REGIONAL)
COUNCIL, THE EXECUTIVE BOARD)
OF THE PUGET SOUND REGIONAL)
COUNCIL, THE PORT OF SEATTLE,)
AND THE COMMISSIONERS OF THE)
PORT OF SEATTLE,)

Respondents.)

THE CITY OF DES MOINES, THE CITY)
OF BURIEN, THE CITY OF FEDERAL)
WAY, THE CITY OF NORMANDY)
PARK, THE CITY OF TUKWILA,)
HIGHLINE SCHOOL DISTRICT)
NO. 401, AND THE AIRPORT)
COMMUNITIES COALITION,)

Appellants,)

v.)

THE PORT OF SEATTLE, AND THE)
COMMISSIONERS OF THE PORT OF)
SEATTLE,)

Respondents.)

No. 43100-5-1

DIVISION ONE

ORDER GRANTING MOTION
FOR RECONSIDERATION IN PART
AND AMENDING OPINION

CITY OF DES MOINES, a municipal)
corporation,)

Appellant,)

v.)

CENTRAL PUGET SOUND GROWTH)
MANAGEMENT HEARINGS BOARD,)
an agency of the State of Washington,)
and PORT OF SEATTLE, a municipal)
corporation,)

Respondents.)

THE AIRPORT COMMUNITIES)
COALITION, AND THE CITY OF)
BURIEN, THE CITY OF DES MOINES,)
THE CITY OF FEDERAL WAY, THE)
CITY OF NORMANDY PARK, THE)
CITY OF TUKWILA, AND HIGHLINE)
SCHOOL DISTRICT NO. 401,)

Appellants.)

v.)

THE PORT OF SEATTLE, AND GREG)
SMITH, THE HEARING EXAMINER)
FOR THE PORT OF SEATTLE,)

Respondents.)

Respondent, Port of Seattle, having filed a motion for reconsideration of the opinion filed November 15, 1999, and the court having determined that said motion should be granted in part; Now, therefore, it is hereby

ORDERED that the motion for reconsideration is granted in part as follows:

DELETE the first sentence in the second paragraph on page 3 which reads:

In this appeal, which deals solely with the Port's obligations under the GMA and the State Environmental Policy Act (SEPA), the Cities contend that the trial court erred by (1) concluding that neither the GMA nor the Department of Community, Trade and Economic Development regulations obligate the Port to comply with local comprehensive plans that violate the GMA, (2) upholding the Central Puget Sound Growth Management Hearing Board's invalidation of several provisions of the Des Moines county plan based on the conclusion that they preclude the siting of an essential public facility in violation of RCW 36.70A.200(2), and (3) upholding the Port's and the Federal Aviation Administration's (FAA) SEPA studies, which assume that the expansion will result in no additional passengers or operations and fail to analyze the environmental impacts of the expansion beyond the year 2010.

REPLACE that sentence with the following:

In this appeal, which deals solely with the Port's obligations under the GMA and the State Environmental Policy Act (SEPA), the Cities contend that the trial court erred by (1) concluding that neither the GMA nor the Department of Community, Trade and Economic Development regulations require the Port Resolutions to comply with local comprehensive plans, regardless of whether they violate the GMA, (2) upholding the Central Puget Sound Growth Management Hearing Board's invalidation of several provisions of the Des Moines city plan based on the conclusion that they preclude the siting of an essential public facility in violation of RCW 36.70A.200(2), and (3) upholding the Port's and the Federal Aviation Administration's (FAA) SEPA studies, which assume that the expansion will result in no additional passengers or operations and fail to analyze the environmental impacts of the expansion beyond the year 2010.

REPLACE the word "county" with "city" in the fourth line of the first full paragraph on page 6. The sentence should read as follows:

The Cities appealed the Board's and the Examiner's decisions to the King County Superior Court, which determined that neither the GMA nor the Department of Community, Trade and Economic Development regulations require the Port to comply with the Des Moines city plans, upheld the GMA Board's determination that several Des Moines plan policy provisions violated the

GMA, and affirmed the Port's Hearings Examiner's conclusion that the Port's SEPA studies were adequate.

DELETE the second sentence from the end of the first full paragraph on page 7 which reads as follows:

On the contrary, it concluded that if the cities engage in the cooperative planning process required by the GMA and produce plans which reflect this coordinated approach and do not conflict with the RTP, the Port would have an affirmative obligation to comply with the terms of these plans.⁵

REPLACE that sentence with the following sentence:

On the contrary, it concluded that if the cities engage in the cooperative planning process required by the GMA and produce plans which reflect this coordinated approach and do not conflict with the RTP, the Port should, according to the DCTED regulations, have an affirmative obligation to comply with the terms of these plans.⁵

ADD the following footnote immediately after the word "expensive" at the end of the first paragraph on page 8:

As urged by the Port in its motion for reconsideration/clarification, we clarify that these duties are limited to Port proposals for specific projects within local jurisdictions in accordance with state and federal law.

DATED this 23rd day of February 2000.

Columbo, J

Asid, ACJ

Kennedy, C.J

FILED
COURT OF APPEALS
STATE OF OREGON
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