

**EASTERN WASHINGTON GROWTH MANAGEMENT
HEARING BOARD DECISION COMPLIANCE**

WRITTEN TESTIMONY

By

Jimmie R. Applegate

Wednesday, October 29, 2008

**Mr. Chairman McClain
Commissioner Crankovich
Commissioner Huber**

I am Jimmie R. Applegate. I reside at 1511 Kittitas Highway, Ellensburg. I am speaking for myself.

The Past: Factions and Tyrannies

As locally elected, and in Commissioner Huber's case, appointed representatives of the citizens of Kittitas County you have had to navigate the rough waters of an old and on-going political dilemma. You have been confronted with decisions that require you to represent one of two factions, or "tyrannies", as seen through the eyes of the beholder; i.e., a tyranny of the majority or a tyranny of the minority.

If you support, as I believe you and the majority of citizens of Kittitas County do, local property rights guided by the decisions made by locally elected representatives of the people; i.e., the Board of County Commissioners, then you are apt to argue that a "tyranny of the minority" represented by the members of three local groups, Aqua Permanente, Kittitas County Conservation Coalition and Ridge has questioned, harassed, hindered, delayed, blocked, sued and appealed to get their way because tyranny is always better organized than freedom. I did not name the Westside group that is in all likelihood the source of most of their financial and legal assistance. Futurewise is an "out of county" group involved in actions at the local level around the state and in court interpretations of the provisions of the Growth Management Act (GMA). Likewise, the members of Aqua Permanente, Kittitas County Conservation Coalition and Ridge might tend to see you, the Board of County Commissioners who are the elected representatives of the majority, as a "tyranny of the majority".

Exhibit # 11
Date: Oct. 29, 2008
Submitted by:

Taking this concept of tyranny one step further, it is possible that you as Commissioners feel like you are in the minority and subject to a “tyranny of the majority” when you are subjected to the dictates of the GMA passed by the state legislature, an even larger representative body, as interpreted by the appointed three member Eastern Washington Growth Management Hearing Board. In other words, I am sure that you as County Commissioners feel at times as if you are between the anvil and the hammer.

Your consternation with a perceived tyranny of the minority is understandable when one reads what Darryl Piercy, former Director of Kittitas County Community Development Services, was quoted in the May 7, 2007 issue of the Daily Record as saying “...people don’t realize that over 96 percent of the entire county is zoned in such a way that requires one home for every 20 acres or more. That’s a pretty significant statement.” He went on to say that “it was his perception that of the people who testified, about 10 percent didn’t want the three-acre zoning allowed and 90 percent wanted it retained in some way...”.

Or when one reviews the official distribution list of the recent EWGMHB decision for Case No. 07-1-0004c. The Petitioners were Kittitas County Conservation, Ridge, Futurewise and the Washington State Department of Community, Trade and Economic Development (CTED) who sued Respondent Kittitas County. The distribution list included two Futurewise representatives, two CTED representatives and three Kittitas County representatives. No representatives of the local Petitioners Kittitas County Conservation and Ridge were so identified on the distribution list.

Or when one reviews Futurewise’s description of their benefits to communities to wit”

1. “Investing in attractive, livable communities where there are parks and libraries that children and seniors can safely walk and bicycle to, where there is a range of housing options for people of all ages, where people know and enjoy their neighbors, and where people don’t spend their lives in cars.”
2. “Futurewise’s work helps create communities where mass transit, bicycling and walking are real options for people.”
3. “Channeling growth into urban areas encourages job creation in places where most low income people and people of color live. It reduces the burden on lower-income tax payers to subsidize the extension of public services like sewers and roads to new, higher income developments in rural areas.”
4. Since “urban sprawl consumes thousands of acres of Washington’s prime farmland every year it makes our food system less sustainable.”
5. And Futurewise promotes “decisions that encourage sensible development and redevelopment and increased densities in urban centers while fostering distinctive, attractive communities with a strong sense of place.”

Or when one reads Futurewise's report of the declaration of the court's decision in Thurston County, "This is indeed another victory for Thurston County residents who want to focus growth in compact urban areas in order to protect rural character, water quality and quantity, and the remaining farmland of Thurston County."

Or when one reads the City of Kittitas Current Community Vision Statement: "We, the citizens of Kittitas, envision a Community that respects and preserves its historical and cultural resources and provides an effective stewardship of its outstanding scenic and natural features; a community that maintains its historic identity while encouraging a balanced, cohesive yet diverse community as it grows; a Community that utilizes its location where residents' various physical, educational, economic and social activities can be pursued in a safe, attractive and healthy environment; and finally a Community that strives to improve and increase the tax base to provide a high level of service to its residents, and to improve and increase employment opportunities by encouraging new businesses to join the community."

Or when you read Ordinance No. 07-011 An Ordinance of the City of Kittitas, Washington which was approved by the Kittitas City Council July 24, 2007. Ordinance No. 07-011 describes the process the City of Kittitas followed to mend their Comprehensive Plan. It includes the statement

"WHEREAS the City Council finds that the updated comprehensive plan is consistent with the Growth Management Act and the city has completed its obligation." This statement is critical because Kittitas utilized and completed the Comprehensive Plan Checklist; Technical Assistance Tool" provided by the CTED.

Given that background you, as County Commissioners, have fought the good and legitimate battle, or should I say battles. And, in my opinion, you have represented the majority of your constituents well. You have defended the rights of private property owners and supported the importance of local control and decision making. You had no responsible choice but to withdraw your appeal to the court because of an inadvertent omission of notification to one of the Petitioners. As County Commissioners you have fulfilled your obligations as elected representatives to the majority of your constituents.

The Future: Suggestions for Consideration

We are fortunate to live in the greatest representative democracy in the world today. As James Madison said at the Virginia Convention 179 years ago on December 2, 1829, "It is sufficiently obvious, that persons and property are the two great subjects on which governments are to act; and that the rights of persons and the rights of property, are the objects, for the protection of which government was instituted. These rights cannot well be separated."

Now is the time for all citizens of Kittitas County to set aside factional feelings of “minority” or “majority” and work cooperatively to meet court determined mandates of the GMA as interpreted by the EWGMHB. Each of us may not get everything we want, but all of us will be able to get on about our lives if all factions are willing to remove the attorneys and the courts from the central roles they now are playing in the decision-making process. We must work together to protect the rights of people and property and to respect the value of decisions made at the local level to meet the mandates of the GMA.

I suggest that it is time for all factions to realize that even though the desires of each may appear to be on opposite ends of a continuum in fact many are positives each worthy of implementation in its own right. For example, the term “property rights” is a concept that in the abstract would not be challenged by many. The same is true for terms such as, but not limited to, “urban growth areas”, “rural character” and “protecting working farms”. CDS staff began that process in the Staff Narrative, dated October 29, 2008.

Members of all factions must be willing to put aside preconceived definitions of jointly identified terms, put them on the table and work cooperatively to develop acceptable definitions for them. Once agreeable definitions are accepted and all factions remain willing to compromise, progress is assured. Members of all factions, however, must realize and accept that they will not get everything they want but by virtue of compromise each will have more than they now have.

In the old and wild West, factions brought in “hired guns” to resolve disputes permanently by force. Today’s factions bring in “hired guns” at great expense to resolve disputes by the fine art of “persuasive interpretation” leading to decisions determined by “gotcha” and “one-up-manship”. We know that guests, like fish, are less welcome the longer they hang around. I suggest that it is time for the “hired guns” to pack their bags, saddle up and as Horace Greeley may have said, “Go West, Young Man, Go West!”

We in Kittitas County know better what we want than do the “hired guns” who seek “I won” solutions as opposed to “Win-Win” solutions. After all we live here, and in many cases so will our children and grand children. A goal of CTED’s Growth Management Services is to “help local governments achieve success in meeting GMA requirements” by providing technical and financial resources to develop county wide planning, comprehensive plans and development regulations. Grant information is available from GMA Planner Lynn Kohn at lkohn@cedagp.com. Telephone: (360) 725-3042. The members of the Agricultural Land, Forest Lands, Land Use and Open Space Advisory Committees may benefit from such grant assistance.

In sum, it is time to put aside the preconceptions we have of each other and to come together as a body of citizens willing to work hard to resolve the issues that divide us

in a spirit of mutual cooperation and compromise. As John McCain said, "Nothing is inevitable here. We are Americans. We make history."

Let's get on with it.