KITTITAS COUNTY BOARD OF COMMISSIONERS

IN RE SEGREGATION APPEALS: ANSELMO LAND ORPHAN GIRL NEVERSWEAT LAND.	)	NO. SG-12-00002 SG-12-00003 SG-12-00004
	)	**FINAL ORDER**

I. INTRODUCTION

Plum Creek Timber Company submitted an appeal of the administrative voiding of three of its administrative segregation applications. The administrative appeal was conducted according to the County's administrative appeal process as outlined in Ch. 15A.07 KCC. In that appeal, Plum Creek asserted four arguments for the reversal of voiding of its three administrative segregation applications. The Board of County Commissioners, after reviewing the administrative record and briefs deliberated and decided upon those four arguments as contained herein.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plum Creek first argued that its applications were subject to vested rights and so not subject to the County's newer regulation. The Board of County Commissioners finds that, because the required document submittals and review processes are so different between an administrative segregation and the "divisions of land" described in RCW 58.17.020, that an administrative segregation is not a "division of land, as defined in RCW 58.17.020" and so is not subject to

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vested rights pursuant to RCW 58.17.033. Because there is no local regulation creating vested rights for administrative segregation application, and because these applications, as just explained, are not subject to vested rights under state law, this argument by Plum Creek fails.

Plum Creek next argues that its applications must be processed under the regulation in place at the time of application submittal and so are not subject to the current regulation's sunset provisions. This is another argument dependent upon the applications being subject to vested rights, which, as explained above, the Board of County Commissioners has already determined that these applications are not so subject. The Board of County Commissioners finds that the County's sunset provisions in the current code, because they regulate time limits upon permit processing and do not regulate what can or cannot be done upon land, are not "land use controls." Because the current sunset regulation is not a "land use control," even if these applications were subject to vested rights, which, as explained above, they are not, they would remain subject to these current sunset regulations. One only vests to "land use controls" under RCW 58.17.030(1), and sunset provisions are not "land use controls" and so are not something that one vests to or vests to the absence of. This argument by Plum Creek fails.

Plum Creek next argues that the County improperly ceased processing its applications. The Board of County Commissioners finds that the exemption from the statutory notice provisions in KCC 15A.03.080(1) does not exempt administrative segregations from other statutory processing provisions and deadlines found in both the KCC and RCW. The Board of County Commissioners finds that, though the applications were never given a determination of completeness, by operation of RCW 36.70B.070 and KCC 15A.03.040, they were "deemed complete" 28 days after submission. The Board of County Commissioners finds that RCW 36.70B.080 and KCC 15A.03.090(7) provide for issuance of a decision 120 days after completion of applications. Such decision did not issue, instead the County actually ceased processing the applications. The Petitioner argued that "The Board should reverse the

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Administrative Decision and instruct County Staff to complete processing of the applications." The Board of County Commissioners finds (1) no explanation why the applications' processing was ceased and a decision not rendered within the statutory timeframe, and (2) that the appropriate remedy is as argued by Plum Creek-that the administrative decision voiding the applications be reversed and that the County staff be directed to continue processing the applications.

Plum Creek finally argued that the County's regulation was vague and not applicable to its applications. Because of the resolution of the third argument, the Board of County Commissioners did not reach this issue and made no decision thereon.

III. ORDER

The Board of County Commissioners hereby reverses the administrative decision voiding the applications that are the subject of this appeal and hereby directs staff to both consider them "deemed complete" and to continue processing them subject to the County's current regulation.

DATED this _____ day of _____, 2013 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

_____
Obie O'Brien, Chairman

_____
Paul Jewell, Vice- Chairman

_____
Gary Berndt, Commissioner

ATTEST:
CLERK OF THE BOARD

_____
Julie A. Kjorsvik

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