



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

May 24, 2012

Mr. Jeff Slothower
P.O. Box 1088
201 West Seventh Avenue,
Ellensburg, WA 98926

RE: Sharon Leishman BLA/Exempt Segregation

Mr. Slothower;

Thank you for your letter dated May 10, 2012 regarding the administrative segregations of Sharon Leishman processed in 2004. There are several issues that you have brought out in the letter that I wish to address regarding this case. First, I want you to know that I have already reviewed all of the materials that you provided me for reference in your letter. These items comprised the bulk of the proposal, and actually provide the basis of my decision not to approve the Leishman administrative segregation.

In February of this year, I was approached by Mr. Roger Weaver about this issue. I explained to Mr. Weaver that the application as presented could not be approved since the current ordinance, Title 16.06 of the Kittitas County Code, indicated the permit expired. No survey was conducted until last year and it had not been filed or presented to the County for approval before the regulations were amended. I explained that current Code allowed up to 10 of these lots to be approved and that none of them less than 20 acres could be approved since they did not meet minimum lot size of the existing Code. I further explained that the survey work that had been completed for Ms. Leishman could be useful for future land division activity, but that a new application would have to be filed. Division can occur either through:

- Existing administrative segregation procedure, which now permits division up to 10 lots with no lots less than 20 acres, or
- Long or short plat which would permit more than 10 lots as long as they are over 20 acres in size.

This is the position I take as the Planning Official in implementing the County Code.

In your letter you indicate that the real estate broker and Ms. Leishman told Mr. Wheatly, the purchaser of the property, that the administrative segregation "was in place." While survey had been conducted and filed with Auditor on May 4, 2011, it was not presented to me until this year and could only be approved as tax parcels. The proposal was not "in place" as indicated, and the County is not responsible for Ms. Leishman's and the real estate broker's incorrect statements to Mr. Wheatly.

What is central around your letter is that the application that was presented in 2004 "vests" and should be considered because of Washington State's vesting law. My position is that segregation is not an action that "vests" according to Washington law. I am familiar with RCW 58.17 because as a professional planner, I have been responsible for administration of and

seeking approval for short and long subdivisions throughout the State. Throughout all of RCW 58.17, the word "segregation" is not used, and therefore your reference to that law is not relevant to this issue.

Segregation, as you well know as a land use attorney, was developed so that land owners could divide land for taxing purposes, and not for lease, sale or transfer of land as defined in RCW 58.17. Therefore, the action has to be administered by the law existing at the time of application. The completed applications for administrative segregation requested in 2004 are subject to the current subdivision laws of Kittitas County and Washington State. Administrative segregation applications are not vested since they are only requests for segregation. Based upon the laws of the State of Washington, ordinances of Kittitas County and past court decisions, only conditional use permits, grading permits, fire safety regulations, permits required by the Shorelines Management Act, local building permits, long and short plats and binding site plans can be considered vesting land use activities. The court decisions you cite in your letter related to vesting activities correlate to the subdivision laws of RCW 58.17 and other land use activities mentioned above. Therefore, this Department will not approve this action.

If you have other questions, I may be reached at 962-7506 or at doc.hansen@co.kittitas.wa.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Doc Hansen", with a long horizontal flourish extending to the right.

Robert "Doc" Hansen
County Planning Official

cc. Chuck Cruse, Professional Land Surveyors, 217 East Fourth St., Ellensburg, WA 98926
Roger Weaver, 2109 W. Dolarway Rd., Ste. 2; Ellensburg, WA 98926
Alan Crankovich, Kittitas County Commissioner
Neil Caulkins, Deputy Prosecuting Attorney, Kittitas County