

IV. BURDEN OF PROOF

For purposes of board review of the comprehensive plans and development regulations adopted by local government, the GMA establishes three major precepts: a presumption of validity; a “clearly erroneous” standard of review; and a requirement of deference to the decisions of local government.

Pursuant to RCW 36.70A.320(1), comprehensive plans, development regulations and amendments to them are presumed valid upon adoption: Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption. RCW 36.70A.320(1).

This same presumption of validity applies when a local jurisdiction takes legislative action in response to a noncompliance finding, that legislative action is presumed valid.

The statute further provides that the standard of review shall be whether the challenged enactments are clearly erroneous: The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter. RCW 36.70A.320(3)

In order to find the County’s action clearly erroneous, the Board must be “left with the firm and definite conviction that a mistake has been made.” Department of Ecology v. PUD1, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

Within the framework of state goals and requirements, the boards must grant deference to local government in how they plan for growth: In recognition of the broad range of discretion that may be exercised by counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter, the legislature intends for the boards to grant deference to the counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter.

Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances.

The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county’s or city’s future rests with that community. RCW 36.70A.3201 (in part).

In sum, the burden is on the Petitioner to overcome the presumption of validity and demonstrate that any action taken by the County is clearly erroneous in light of the goals and requirements of Ch. 36.70A RCW (the Growth Management Act). RCW 36.70A.320(2). Where not clearly erroneous and thus within the framework of state

goals and requirements, the planning choices of local government must be granted deference.

The above information is taken from pages 9 and 10 from

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Western Washington Growth Management Hearings Board
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