



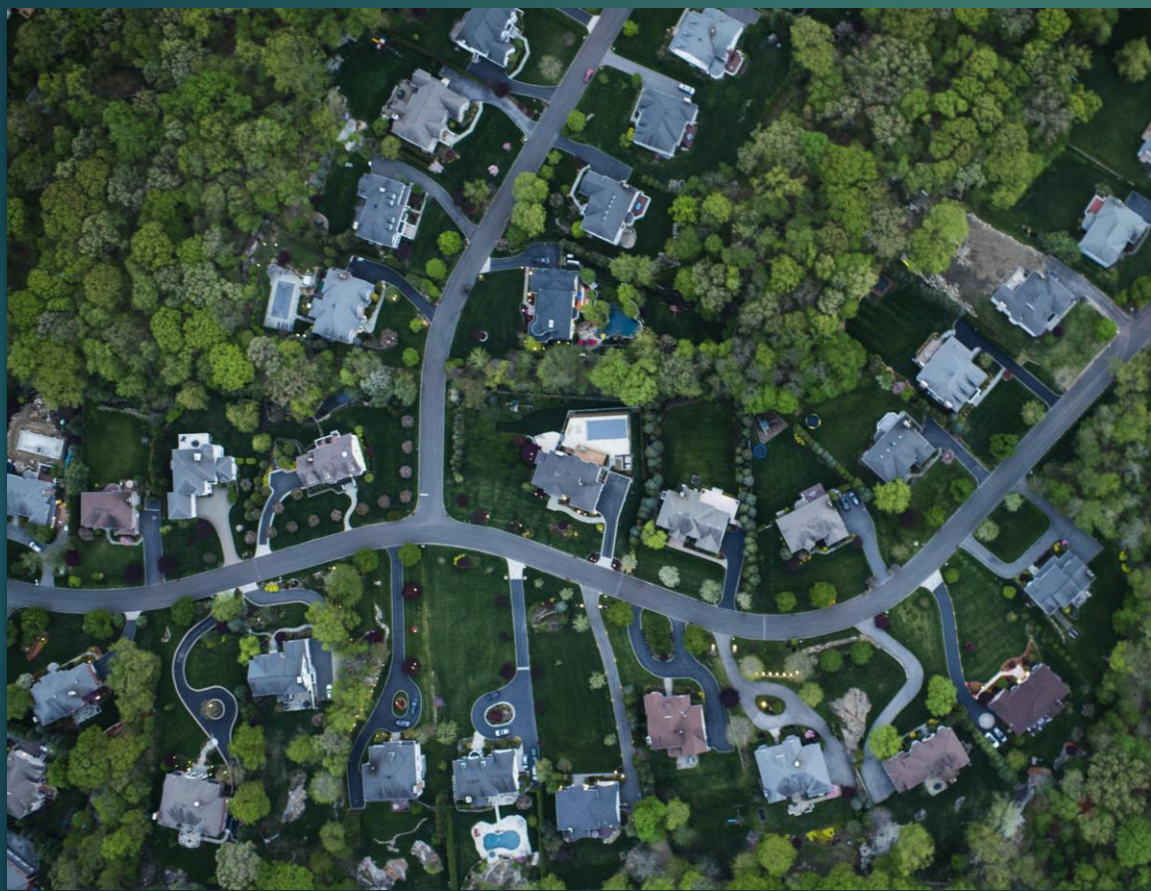
THE STATE OF WASHINGTON
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

Growth Management Hearings Board Update

Growth Management Hearings Board

- ▶ Five members representing three regions: two Eastern members representing counties and cities east of the Cascade Mountains; two Central Puget Sound members representing the four Central Puget Sound counties and the cities within these counties; and one Western member representing all other counties and cities west of the Cascade Mountains.
- ▶ Appointed by the Governor for staggered six-year terms.
- ▶ Political diversity (no more than 3 members can be member of any political party).
- ▶ Must include former local elected officials and attorneys.
- ▶ Currently have one vacancy from Eastern.

GMHB Areas of Jurisdiction



- ▶ Growth Management Act (RCW 36.70A)
- ▶ State Environmental Policy Act (RCW 43.21C)
- ▶ Shoreline Management Act (RCW 90.58)
 - ▶ RCW 90.58.190 - Appeal of department's decision to adopt or amend a master program.



Growth Management Act 2025/2026 Key Cases in Review

Housing

- ▶ House Bill 1220 passed in 2021 to address the housing and affordability crises.
- ▶ Amendment GMA Goal 4
 - ▶ **Plan for and accommodate** housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
 - ▶ Previously was “encourage.”
- ▶ Updated the GMA to require the housing element of a Comprehensive Plan to “make adequate provisions for existing and projected needs of all economic segments of the community...”
- ▶ Requires cities and counties match zoning to accommodate the full range of incomes.
 - ▶ Jurisdictions must “plan for and accommodate” housing affordable for all economic segments, particularly for housing moderate (>80-120% area median income (AMI)), low (>50-80% AMI), very low (>30-50% AMI), and extremely low (0-30% AMI) households, and provide emergency housing, emergency shelters, and permanent supportive housing.

Futurewise v. Mercer Island, Case No. 25-3-0003 (Aug. 1, 2025)

- ▶ Challenge to Mercer Island Comprehensive Plan update, primarily assertion that City failed to comply
- ▶ The Board found that the City failed to identify sufficient land capacity for permanent housing for extremely low, very low, low, and moderate-income households.
 - ▶ Aggregated its capacity for low, very low, and extremely low income households into a single category of housing. Aggregating the different income levels into a single category concealed housing deficiencies for any particular income level.
 - ▶ City assumed that all or nearly all of the housing units for which capacity exists will be low-income housing units, despite the fact that this assumption requires incentives or a subsidy program which was absent.
- ▶ The Board's interpretation of RCW 36.70A.130(9) explicitly disagreed with the Department of Commerce's interpretation of RCW 36.70A.130(9). Commerce's interpretation that the provision affords a five-year extension of the time to make adequate provision for housing.

Kitsap Alliance of Property Owners v. Kitsap County, Case No. 25-3-0005c (Aug. 8, 2025)

- ▶ Challenge to 2024 periodic update of its Comprehensive Plan and development regulations.
- ▶ County's housing analysis resulted in a deficiency of 1,345 housing
- ▶ Board concluded that because of this deficiency, the County failed to plan for and accommodate its designated growth.
 - ▶ Kitsap County argued that it would supply the missing units at a later date, through development regulations.
 - ▶ The County did not provide the text of those future regulations, nor any analysis to show that the future regulations would be sufficient to provide the missing units.
- ▶ The Board held that the requirement of HB 1220 is to make adequate provision for housing all economic segments now, not come up with a plan to accommodate all economic segments at some later date.

Port of Seattle v. City of Seattle, Case No. 25-3-0009 (Nov.10, 2025)

- ▶ Port and BNSF challenged the City of Seattle's adoption of amendment the City's code to permit new residential development within the City's Stadium Transition Area Overlay District (in an area zoned Urban Industrial).
- ▶ RCW 36.70A.070(2) and RCW 43.21C.495 exempts certain projects from SEPA appeals.
 - ▶ Legislative changes adopted in 2022 to address the State's housing crisis.
 - ▶ “The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C RCW unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.”
 - ▶ Area is within "a City-designated liquefaction-prone critical area.“
- ▶ “[L]egislation which sought to place additional housing, especially in a concentrated area, required further environmental review.”

Futurewise v. Snohomish County, Case No. 25-3-0011 (Feb. 17, 2026)

- ▶ Futurewise challenged County update to its critical areas ordinance.
- ▶ Case centered on the question of Best Available Science (BAS): whether the County included BAS in the record of its decision on the Ordinance, whether the County followed BAS in amending the regulations for critical areas, and whether any deviations from BAS were justified by a reasoned explanation from the County.
- ▶ WDFW May Comment concluded that the County's proposed Ordinance (the version that the County ultimately adopted) both departed from the recommendations of BAS and would fail to protect the ecological functions of regulated critical areas.
- ▶ “The Board finds that WDFW's Phase 2 review satisfied each of the above-cited criteria of best available science. “
- ▶ The Board concludes that the County has violated RCW 36.70A.060(2), the requirement to "protect critical areas," because the County's adopted riparian buffers ... will not "[preserve] the functions and values of the natural environment.”

Questions?

