

ROBERT BOURGAIZE, EPSILON
ECONOMIC, INC. and U.S. LAND
DEVELOPMENT, LLC,

Petitioner,

v.

THE CITY OF FIRCREST,

Respondent.

On January 23, 2009, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Robert Bourgaize, Epsilon Economic Inc., and U.S. Land Development, LLC. (**Petitioner** or **Bourgaize**). The matter was assigned Case No. 09-3-0002, and is hereafter referred to as *Bourgaize v. City of Fircrest*. Board member David O. Earling is the Presiding Officer (**PO**) for this matter. Petitioner challenges the City of Fircrest's (**Respondent** or **City**) adoption of Ordinance No.1460 and 1461. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA** or **Act**).

No dispositive motions or motions to supplement the record were submitted by either party during the time allotted for motions in this matter.

On October 1, 2009, the Board received from the Petitioner a Motion to Dismiss, notifying the Board that the City has taken formal action resulting in adoption of Ordinance No. 1481, which addressed Petitioners' primary concerns.

WAC 242-02-720 provides:

Dismissal of Action.

Any action may be dismissed by a board:

(2) Upon motion of the petitioner or respondent prior to the respondent's case.

III. ORDER

Based upon review of the GMA, Board's Rules of Practice and Procedure, briefing and exhibits submitted by the parties, case law and prior decisions of this Board, and having deliberated on the matter, the Board enters the following ORDER:

1. The Petitioner's Motion to Dismiss in the matter is **granted**.
2. The matter of *Bourgaize v. City of Fircrest*, CPSGMHB Case No. 09-3-0002, is **closed**.

So ORDERED this 6th day of October, 2009.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

David O. Earling
Board Member

Margaret A. Pageler
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.¹

¹ Pursuant to RCW 36.70A.300 this is a final order of the Board.

Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the date of mailing of this Order to file a motion for reconsideration. The original and three copies of a motion for reconsideration, together with any argument in support thereof, should be filed with the Board by mailing, faxing or otherwise delivering the original and three copies of the motion for reconsideration directly to the Board, with a copy served on all other parties of record. Filing means actual receipt of the document at the Board office. RCW 34.05.010(6), WAC 242-02-240, WAC 242-020-330. The filing of a motion for reconsideration is not a prerequisite for filing a petition for judicial review.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior Court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior Court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate Court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail, but service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order. A petition for judicial review may not be served on the Board by fax or by electronic mail.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19)