

FILED
Court of Appeals
Division II
State of Washington
6/13/2018 3:17 PM

Case No. 51458-3-II

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

FUTUREWISE and PILCHUCK AUDUBON SOCIETY,

Petitioners,

v.

SNOHOMISH COUNTY and
THE GROWTH MANAGEMENT HEARINGS BOARD,

Respondents.

REPLY BRIEF OF PETITIONERS
FUTUREWISE AND PILCHUCK AUDUBON SOCIETY

Tim Trohimovich, WSBA No. 22367
Futurewise
816 Second Avenue, Suite 200
Seattle, Washington, 98104
Telephone: 206-343-0681 Ext. 118
Email: tim@futurewise.org
Attorney for Futurewise & the Pilchuck
Audubon Society

TABLE OF CONTENTS

| <u>Topic</u> | <u>Page Number</u> |
|--|--------------------|
| Table of Authorities | ii |
| I. Introduction | 1 |
| II. Argument..... | 1 |
| A. Issue 1: Did the Board violate RCW 36.70A.290(1) and RCW 34.05.570(3)(f) by failing to decide Futurewise’s motion to supplement the record? (Assignment of Error 1.) | 1 |
| B. Issue 2: Is the Board finding of fact that there was no dispute that the County designated landslide hazard areas inconsistent with the GMA, not supported by substantial evidence, or an erroneous interpretation or application of the GMA? (Assignment of Error 2.) | 3 |
| C. Issue 3: Is the Board’s finding of fact or conclusion of law that landslide hazards include buffers not supported by substantial evidence or an erroneous interpretation of the GMA? (Assignment of Error 3.) ... | 4 |
| D. Issue 4: Are the Board’s conclusions that “the GMA does not include a mandate to protect people and development from critical areas” and that “[p]ublic health and safety concerns lie within the purview of the County’s legislative authority” an erroneous interpretation or application of the GMA or not support by substantial evidence? (Assignment of Error 4.) | 5 |
| E. Issue 5: Did the Board erroneously interpret or apply the GMA, the Board’s rules of practice and procedure, and the APA when it failed to decide Issue C-1 and concluded that Futurewise did not meet its burden of proof and are the Board’s conclusions not supported by substantial evidence? (Assignment of Error 5.) | 14 |
| F. Issue 6: Is the Board’s conclusion that the amended SCC provisions complied with the GMA requirements to designate and protect geologically hazardous areas not supported by substantial evidence or an erroneous interpretation or application of the GMA? (Assignment of Error 6.) | 16 |
| 1. SCC 30.62A.130 and SCC 30.62B.130 violate the GMA..... | 16 |
| 2. SCC 30.62B.140, SCC 30.62B.160, SCC 30.62B.340, and SCC 30.91L.040 violate the GMA..... | 18 |
| 3. SCC 30.62B.390 violates the GMA. | 23 |
| G. Issue 7: Is the Board’s conclusion that the CARA regulations comply with the GMA an erroneous interpretation or application or not support by substantial evidence? (Assignment of Error 7.) | 23 |
| III. Conclusion | 25 |
| Certificate of Service | 1 |

TABLE OF AUTHORITIES

| <u>Authority</u> | <u>Page Number</u> |
|---|--------------------|
| Cases | |
| <i>City of Seattle v. Yes for Seattle</i> , 122 Wn. App. 382, 93 P.3d 176 (2004) | 10 |
| <i>City of Seattle v. Yes for Seattle</i> , 153 Wn.2d 1020, 108 P.3d 1228 (2005) | 10 |
| <i>Ferry Cty. v. Concerned Friends of Ferry Cty.</i> , 155 Wn.2d 824, 123 P.3d 102 (2005) | 21 |
| <i>Honesty in Env'tl. Analysis & Legislation (HEAL) v. Cent. Puget Sound Growth Mgmt. Hearings Board</i> , 96 Wn. App. 522, 979 P.2d 864 (1999) | 10, 12 |
| <i>Kittitas County v. Eastern Washington Growth Management Hearings Bd.</i> , 172 Wn.2d 144, 256 P.3d 1193 (2011) | 24 |
| <i>LaPlante v. State</i> , 85 Wn.2d 154, 531 P.2d 299 (1975) | 3 |
| <i>Low Income Hous. Inst. v. City of Lakewood</i> , 119 Wn. App. 110, 77 P.3d 653 (2003) | 3, 16 |
| <i>Olympic Stewardship Found. v. W. Washington Growth Mgmt. Hearings Bd.</i> , 166 Wn. App. 172, 274 P.3d 1040 (2012) | 12 |
| <i>Qwest Corp. v. Washington Utilities & Transp. Comm'n</i> , 140 Wn. App. 255, 166 P.3d 732 (2007) | 2, 16 |
| <i>Swinomish Indian Tribal Cmty. v. Western Washington Growth Mgmt. Hearings Bd.</i> , 161 Wn.2d 415, 166 P.3d 1198 (2007) | 8, 18, 21 |
| <i>US W. Commc'ns, Inc. v. Washington Utilities & Transp. Comm'n</i> , 134 Wn.2d 74, 949 P.2d 1337 (1997), <i>as corrected</i> (Mar. 3, 1998) | 3 |
| <i>Whatcom Cty. v. Hirst</i> , 186 Wn.2d 648, 381 P.3d 1 (2016) | 24 |
| <i>Wood v. Mut. of Enumclaw Ins. Co.</i> , 97 Wn. App. 721, 986 P.2d 833 (1999) | 3 |
| Statutes | |
| Chapter 19.27 RCW | 10 |
| Laws of 2018, ch. 1 | 24 |
| RCW 19.27.020 | 10 |
| RCW 19.27.031 | 10 |
| RCW 36.70A.020(10) | 24 |
| RCW 36.70A.030(10) | 4, 6, 8, 14 |
| RCW 36.70A.060 | passim |
| RCW 36.70A.170 | 6, 14, 23 |
| RCW 36.70A.290 | 2, 3 |
| RCW 90.58.100 | 22 |

Regulations

| | |
|----------------------|----|
| WAC 173-500-990..... | 25 |
| WAC 173-503-010..... | 25 |
| WAC 173-503-040..... | 24 |
| WAC 173-505-050..... | 25 |
| WAC 173-505-060..... | 25 |
| WAC 173-505-070..... | 25 |
| WAC 173-505-090..... | 25 |
| WAC 173-507-020..... | 25 |
| WAC 173-507-030..... | 25 |
| WAC 242-03-565..... | 1 |
| WAC 365-190-120..... | 11 |

Growth Management Hearings Board Decisions

| | |
|---|-------------|
| <i>Blair v. City of Monroe</i> , CPSRGMHB Case No. 14-3-0006c, Order Finding Continuing Non-Compliance (April 1, 2016), 2015 WL 10684571 | 12 |
| <i>Friends of Pierce County v. Pierce County</i> , CPSRGMHB Case No. 12-3-0002c, Final Decision and Order (July 9, 2012), 2012 WL 3060647... 11 | |
| <i>Friends of the San Juans v. San Juan County</i> , WWRGMHB Case No. 13-2-0012c, Final Decision and Order (Sept. 6, 2013), 2013 WL 5212385 | 12 |
| <i>Pilchuck, et al. v. Snohomish County (Pilchuck II)</i> , CPSGMHB Case No. 95-3-0047c, Order Partially Granting Motions for Reconsideration and Clarification (Jan. 25, 1996), 1996 WL 650336 | 14 |
| <i>Seattle Audubon v. City of Seattle</i> , CPSGMHB Case No. 06-3-0024 Final Decision and Order (Dec. 11, 2006), 2006 WL 3791721 | 11 |
| <i>Sno-King Environmental Alliance v. Snohomish County (Sno-King)</i> , CPSGMHB Case No. 06-3-0005, Final Decision and Order (July 24, 2006) | 9, 10 |
| <i>T.S. Holdings, LLC v. Pierce County</i> , CPSGMHB Case No. 08-3-0001, Final Decision and Order (Sept. 2, 2008), 2008 WL 4215868 | 15 |
| <i>Tahoma Audubon Society v. Pierce County (Tahoma-Puget Sound)</i> , CPSGMHB Case No. 05-3-0004c, Final Decision and Order (July 12, 2005), 2005 WL 2227915 | 6, 7, 8, 13 |
| <i>Washington State Dept. of Ecology and Washington State Dept. of Community, Trade and Economic Development v. City of Kent (DOE/CTED)</i> , CPSGMHB Case No. 05-3-0034, Final Decision and Order, (April 19, 2006), 2006 WL 1111353 | 13 |

Snohomish County Code

SCC 30.91C.112 17
SCC 30.91D.240 17
SCC 30.91P.350..... 17

I. INTRODUCTION

Futurewise and the Pilchuck Audubon Society (Futurewise) address Snohomish County's arguments in this reply. This reply will show the County's arguments fail.

II. ARGUMENT

A. Issue 1: Did the Board violate RCW 36.70A.290(1) and RCW 34.05.570(3)(f) by failing to decide Futurewise's motion to supplement the record? (Assignment of Error 1.)

As the Brief of Petitioners Futurewise and Pilchuck Audubon Society (Futurewise's Brief of Petitioners), documented, the Board failed to decide Futurewise's motion to supplement the record.¹ Contrary to the County's arguments, the Board's rules of practice and procedure do not prohibit supplementing the record with documents that postdate the local government decision. The first, un-lettered, paragraph of WAC 242-03-565 provides that "[g]enerally, the board will review only documents and exhibits taken from the record developed by the city, county, or state in taking the action that is the subject of review by the board" The use of the term "generally" allows the Board to make exceptions to the general rules in WAC 242-03-565. The Growth Management Act (GMA) also

¹ Administrative Record page number (AR) 000350, *Futurewise, Pilchuck Audubon Society, and the Tulalip Tribes v. Snohomish County*, Central Puget Sound Region Growth Management Hearings Board (CPSRGMHB) Case No. 15-3-0012c, Deferring Decision on Motion for Supplementation (Jan. 27, 2016), at 2 of 2, hereinafter Order Deferring Decision.

allows post decision documents to be admitted “if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.”²

The County argues that since Futurewise cannot show substantial prejudice by the Board’s failure to decide the motion to supplement, this Court cannot grant relief. But the Board may well have decided this case differently if it knew how common long runout landslides are in Snohomish County as the scientific article which is subject of the motion to supplement documents. A party is substantially prejudiced if an error “affects the case outcome.”³ The Board’s failure to consider this recent scientific evidence affected the case outcome.

The County also argues that the Board in effect denied the motion. But neither Order Deferring Decision or the Final Decision and Order say that.⁴ Rather, the Board first deferred the decision on the motion⁵ and then failed to decide the motion.⁶ In addition, the County does not point to anywhere in the Board’s orders where the Board “articulat[ed] the basis

² RCW 36.70A.290(4).

³ *Qwest Corp. v. Washington Utilities & Transp. Comm'n*, 140 Wn. App. 255, 260, 166 P.3d 732, 735 (2007).

⁴ AR 000350, Order Deferring Decision, at 2 of 2; AR 001797 – 1834, *Futurewise, Pilchuck Audubon Society, and the Tulalip Tribes v. Snohomish County*, CPSRGMHB Case No. 15-3-0012c, Final Decision and Order (Feb. 17, 2017), at 1 – 38 of 38, hereinafter FDO.

⁵ AR 000350, Order Deferring Decision, at 2 of 2.

⁶ AR 001797 – 1834, FDO, at 1 – 38 of 38.

for its holdings” on the motion to supplement as RCW 36.70A.290(1) requires.⁷ Like the board in *LIHI*, this Board “failed to decide all issues requiring resolution as required by RCW 36.70A.290(1) and ... RCW 34.05.570 (3)(f).”⁸

The County then argues that Futurewise did not cite any authority applying RCW 36.70A.290(1) to procedural motions. But RCW 36.70A.290(1) requires in relevant part that “[t]he board shall render written decisions articulating the basis for its holdings.” A holding can be procedural or substantive.⁹ A decision on a motion can also be a holding.¹⁰ Futurewise also argued that not deciding the motion was a violation RCW 34.05.570(3)(f) and the Washington State Supreme Court applied this statute to the procedural question of whether the Utilities & Transportation Commission had to admit depreciation evidence in a rate proceeding.¹¹

B. Issue 2: Is the Board finding of fact that there was no dispute that the County designated landslide hazard areas inconsistent with the GMA, not supported by substantial evidence, or an erroneous interpretation or application of the GMA? (Assignment of Error 2.)

⁷ Brief of Respondent Snohomish County pp. 11 – 13 hereinafter County’s Brief of Respondent.

⁸ *Low Income Hous. Inst. v. City of Lakewood (LIHI)*, 119 Wn. App. 110, 119, 77 P.3d 653, 657 (2003).

⁹ *Wood v. Mut. of Enumclaw Ins. Co.*, 97 Wn. App. 721, 724 – 25, 986 P.2d 833, 834 – 35 (1999).

¹⁰ *LaPlante v. State*, 85 Wn.2d 154, 157 – 58, 531 P.2d 299, 301 (1975).

¹¹ *US W. Commc'ns, Inc. v. Washington Utilities & Transp. Comm'n*, 134 Wn.2d 74, 102 – 05, 949 P.2d 1337, 1352 – 53 (1997), *as corrected* (Mar. 3, 1998).

The County argues Futurewise did not contest the designation of landslide hazard areas. Futurewise did.¹² The Board even wrote that “Futurewise-Pilchuck argues that the discretion granted to the Director [in Snohomish County Code (SCC) 30.628.390] somehow conflicts with the County’s RCW 36.70A.170(1) requirement to ‘designate’ critical areas.”¹³ Substantial evidence does not support the Board’s finding of fact that there is no disagreement on the designation of geologically hazardous areas at AR 001818, FDO, at 22 of 38 fn. 85. This Court should reverse this finding.

C. Issue 3: Is the Board’s finding of fact or conclusion of law that landslide hazards include buffers not supported by substantial evidence or an erroneous interpretation of the GMA? (Assignment of Error 3.)

As Futurewise’s Brief of Petitioners argued, the GMA defines “[g]eologically hazardous areas” as “areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.”¹⁴ As the Oso landslide so tragically shows, areas on the top and side can fail

¹² AR 000863 & AR 000866 – 68, Futurewise Petitioners’ Prehearing Brief p. 30 & pp. 33 – 35.

¹³ AR 001826, FDO, at 30 of 38.

¹⁴ RCW 36.70A.030(10).

damaging land and anything on it.¹⁵ The landslide runout areas are also not suited to siting development consistent with public health or safety concerns due to the earth sliding over land, homes, and other buildings. At Oso the landslide ran out for over a mile, sliding through and over homes, buildings, and a highway.¹⁶ The areas at the top, toe, and sides of the slope are geological hazards.

The Snohomish County critical areas regulations in SCC 30.91L.040 provides that “the landslide hazard area also includes lands within a distance from the top of the slope equal to the height of the slope or within a distance of the toe of the slope equal to two times the height of the slope.¹⁷ County staff agrees they are critical areas.¹⁸ The Board erred in concluding that the top and side of the slope and runout areas beyond the toe of slope were buffers rather than geologically hazardous areas.¹⁹

D. Issue 4: Are the Board’s conclusions that “the GMA does not include a mandate to protect people and development from critical areas” and that “[p]ublic health and safety concerns lie within the purview of the County’s legislative authority” an erroneous interpretation or application of the GMA or not support by substantial evidence? (Assignment of Error 4.)

¹⁵ AR 001177, *The 22 March 2014 Oso Landslide, Snohomish County, Washington* p. 68 (Geotechnical Extreme Events Reconnaissance (GEER-036): July 22, 2014) hereinafter *GEER-036*, cited excerpts are in Appendix B of Futurewise’s Petitioners’ Brief.

¹⁶ AR 001162 – 62, AR 001180, *GEER-036* pp. 1 – 2, p. 144.

¹⁷ AR 000071, Ord. No. 15-034 p. 63.

¹⁸ AR 001373.

¹⁹ AR 001818, FDO, at 22 of 38.

Futurewise’s Brief of Petitioners, on pages 16 to 24, showed that the plan language of the GMA requires that the designation and protection of geologically hazardous areas must address “public health or safety concerns.”²⁰ The Brief of Respondent Snohomish County (County’s Brief of Respondent), on pages 17 to 24, argues that this Court should follow a series of Board decisions that write “public health or safety concerns” out of the GMA.²¹ A close reading of those decisions show they are either based on only some of the GMA provisions or ignore GMA requirements.

The County’s Brief of Respondent first cites to the parts of the *Tahoma-Puget Sound* decision that addressed volcanic hazards.²² The court should not follow this decision as to landslide hazards for two reasons. First, apparently unlike volcanic hazards, there are scientifically documented functions and values for landslides.²³ In analyzing the volcanic hazards the Board concluded that the definition of geologically hazardous areas, standing alone, did not impose any duties on Pierce County.²⁴ So the Board looked to the substantive GMA requirements to determine, in the Board’s words, the “affirmative mandate associated with

²⁰ RCW 36.70A.030(10); RCW 36.70A.170; RCW 36.70A.060(2).

²¹ RCW 36.70A.030(10); RCW 36.70A.170; RCW 36.70A.060(2).

²² *Tahoma Audubon Society v. Pierce County (Tahoma-Puget Sound)*, Central Puget Sound Growth Management Hearings Board (CPSGMHB) Case No. 05-3-0004c, Final Decision and Order (July 12, 2005), at 25 of 62, 2005 WL 2227915, at *21.

²³ *Id.*; AR 001741; AR 001029 – 31 & AR 001745 – 46.

²⁴ *Tahoma-Puget Sound*, CPSGMHB Case No. 05-3-0004c, Final Decision and Order, at 25 of 62, 2005 WL 2227915, at *21.

this definition ...”²⁵ Tahoma Audubon, the party challenging the volcanic hazard regulations, had argued RCW 36.70A.172(1)’s best available science requirement. As the Board wrote: “RCW 36.70A.172(1) requires ‘best available science’ to be included in protection of ‘the *functions and values* of critical areas,’ with special reference to ‘preservation and enhancement of anadromous fisheries.”²⁶ Then the Board wrote:

The GMA *defines* geologically hazardous areas as areas that “are not suited to siting of ... development consistent with public health or safety concerns,” [RCW 36.70A.030(9){now (10)}], but there is *no affirmative mandate* associated with this definition except “protect the functions and values.” Petitioners have not persuaded the Board that the requirement to protect the functions and values of critical areas has any meaning with respect to volcanic hazard areas or that the GMA contains any independent life safety mandate.²⁷

There are scientifically documented functions and values for landslides and including contributing woody debris, spawning gravel, and nutrients to riparian and instream habitat on which salmon and steelhead rely.²⁸ Snohomish County agrees that landslide hazard areas “have independent “functions and values” that can be protected ...”²⁹ So this is an important factual difference.

²⁵ *Id.*

²⁶ *Id.* at 23 of 62, 2005 WL 2227915, at *19.

²⁷ *Id.* at 25 of 62, 2005 WL 2227915, at *21.

²⁸ AR 001741; AR 001029 – 31 & AR 001745 – 46.

²⁹ Brief of Respondent Snohomish County p. 37.

Second, Tahoma Audubon did not argue violations of RCW 36.70A.060(2) as this case does.³⁰ If they had argued a violation of RCW 36.70A.060(2) then when the Board looked to the substantive requirements “associated with ...” the definition of geologically hazardous areas the Board should have applied the broader requirement in RCW 36.70A.060(2) to “protect critical areas ...” and not limited its review to protecting functions and values. The Board may then have correctly found a life safety mandate by reading the definition of geologically hazardous areas in RCW 36.70A.030(10) and RCW 36.70A.060(2) together. This is a significant legal difference.³¹

The *Sno-King Environmental Alliance v. Snohomish County* decision is also should not be followed because of legal and factual differences. That case involved an appeal of “an amendment to the County’s Building Code provisions addressing the construction of certain structures in

³⁰ *Tahoma-Puget Sound*, CPSGMHB Case No. 05-3-0004c, Final Decision and Order, at 12 – 29 of 62, 2005 WL 2227915, at *10 – 27.

³¹ In the *Swinomish Indian Tribal Community* decision, the Washington State Supreme Court recognized that RCW 36.70A.172 and RCW 36.70A.060(2) were independent requirements. In that decision the supreme court concluded that Skagit County justifiably departed from best available science. But the court also found the county’s critical areas regulations violated 36.70A.060(2) because the county had not established appropriate benchmarks for its regulations to protect salmon habitats. *Swinomish Indian Tribal Cmty. v. W. Washington Growth Mgmt. Hearings Bd.*, 161 Wn. 2d 415, 424 – 26, 431, & 434, 166 P.3d 1198, 1203 – 04 & 1206 – 07, 1208 (2007), as corrected (Nov. 28, 2007) & (Apr. 3, 2008).

geological hazard areas; not its critical area regulation update.³² This appeal involves the County’s critical areas regulation update, not an amendment to the county building code. In the *Sno-King* decision the Board was unpersuaded “that the requirement to use BAS to protect the functions and values of critical areas has any meaning with respect to known or inferred seismic faults.”³³ But here we have science-based functions and values for landslides.³⁴ Further, the Board in *Sno-King* did not recognize that the *Tahoma-Puget Sound* decision that it cited did not consider RCW 36.70A.060, with its broader reach than RCW 36.70A.172.³⁵ The Board also concluded that the “IBC [International Building Code], as well as the County’s Building Code, include provisions and requirements for earthquake resistant design and construction.”³⁶ But there is no landside resistant design and construction for many kinds of landslides, only avoidance.³⁷ As Snohomish County shows the IBC requires setbacks from landslide hazards, setbacks that are not based on

³² *Sno-King Environmental Alliance v. Snohomish County (Sno-King)*, CPSGMHB Case No. 06-3-0005, Final Decision and Order (July 24, 2006), at 14 of 24 underlining added. This decision is Appendix A to the Brief of Respondent Snohomish County.

³³ *Sno-King*, CPSGMHB Case No. 06-3-0005, Final Decision and Order, at 15 of 24.

³⁴ AR 001741; AR 001029 – 31 & AR 001745 – 46.

³⁵ *Sno-King*, CPSGMHB Case No. 06-3-0005, Final Decision and Order, at 15 – 16 of 24.

³⁶ *Id.* at 15 of 24.

³⁷ AR 001726 – 36, *The Landslide Handbook—A Guide to Understanding Landslides* pp. 14 – 24 (U.S. Geological Survey Circular 1325, Reston, Virginia: 2008) cited pages from this document are in Appendix A of Futurewise’s Brief of Petitioners.

best available science (BAS) as the *HEAL* holding requires.³⁸ In *Sno-King* there was apparently no evidence that the 50 foot setback from active faults was inadequate,³⁹ here Futurewise’s Brief of Petitioners, on pages 26 to 40, documented that the County’s landslide requirements will not protect landslide functions and values. The Board’s conclusion that building codes rather than critical areas protect people and property from geologically hazardous areas is contrary to the RCW 36.70A.060(2) requirement that “[e]ach county and city shall adopt development regulations that protect critical areas”⁴⁰ Building codes are required by Chapter 19.27 RCW and are not development regulations because they regulate how buildings are constructed and are not controls placed on development or land use activities.⁴¹

The *Seattle Audubon v. City of Seattle* decision provides the County with even less support. There the Board wrote that “additional ‘protection’ of critical area functions and values is not yet relevant to these more

³⁸ AR 000721, *Draft Summary Snohomish County 2015 Best Available Science Review for Critical Area Regulation Update* p. 9; AR 001294 – 96, Snohomish County’s Prehearing Brief pp. 43 – 45; *Honesty in Env’tl. Analysis & Legislation (HEAL) v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 96 Wn. App. 522, 527 – 28, 979 P.2d 864, 867 – 68 (1999), as amended on reconsideration in part (Aug. 25, 1999).

³⁹ *Sno-King*, CPSCMHB Case No. 06-3-0005, Final Decision and Order, at 16 of 24.

⁴⁰ *Id.* at 15 of 24.

⁴¹ RCW 19.27.020; RCW 19.27.031; *City of Seattle v. Yes for Seattle*, 122 Wn. App. 382, 390, 93 P.3d 176, 180 (2004) review denied *City of Seattle v. Yes for Seattle*, 153 Wn.2d 1020, 108 P.3d 1228 (2005).

remote but potentially catastrophic geological hazards.”⁴² Board concluded that “the City’s critical areas ordinance should indicate, at a minimum, that when information allows more specific designation of fault lines, the City will reassess and update its development standards.”⁴³ This conclusion was not limited to building codes contrary to the County’s argument.⁴⁴ With the Oso landslide and the new science it has brought to light, the time to reassess and update development standards is now.

In *Friends of Pierce County*, the Board cited to WAC 365-190-120 for the proposition that “*when technology cannot reduce risks to acceptable levels, building in geologically hazardous areas must be avoided*.”⁴⁵ For the liquefaction and lahar hazards at issue in that case, the Board concluded that this standard was met.⁴⁶

In *Friends of the San Juan* the Board upheld a critical areas regulation update where the BAS concluded that “buffers and other protections applicable to critical areas should be sufficient and that avoidance is not

⁴² *Seattle Audubon v. City of Seattle*, CPSGMHB Case No. 06-3-0024 Final Decision and Order (Dec. 11, 2006), at 19 of 51, 2006 WL 3791721, at *16.

⁴³ *Id.* at 20 of 51, 2006 WL 3791721, at *17 underlining added.

⁴⁴ *Id.*, 2006 WL 3791721, at *17; County’s Response Brief p. 21.

⁴⁵ *Friends of Pierce County v. Pierce County*, CPSRGMHB Case No. 12-3-0002c, Final Decision and Order (July 9, 2012), at 99 of 138, 2012 WL 3060647, at *53 emphasis in the original.

⁴⁶ *Id.* at 99–104 of 138, 2012 WL 3060647, at *54–56. A lahar, or volcanic mudflow, is a type of debris flow consisting of water, earth, gravel, and other material that originates on the slopes of volcanoes. AR 001730.

always an option.”⁴⁷ But here the BAS does not support the conclusion that Snohomish County’s regulations are adequate.⁴⁸

Blair v. City of Monroe is the first of the cited decisions to mention the “risk to life and property in geologically hazardous areas is a policy decision reserved to the elected officials”⁴⁹ in the context of landslide hazards. But *Blair* did not address the adequacy critical areas regulations, it reviewed a supplemental environmental impact statement.⁵⁰ In contrast with these Board decisions are the court of appeals’ *HEAL* and *Olympic Stewardship Foundation* decisions which recognized the Board’s duty to review local government critical areas regulations applicable to the geologically hazardous areas for compliance with the GMA.⁵¹

In sum, the Board decisions cited by Snohomish County misinterpret and misapply the GMA and often have significant factual differences with this appeal. This Court should follow the plain language of the GMA, not those Board decisions.

⁴⁷ *Friends of the San Juans v. San Juan County*, Western Washington Region Growth Management Hearings Board (WWRGMHB) Case No. 13-2-0012c, Final Decision and Order (Sept. 6, 2013), at 38 of 109, 2013 WL 5212385, at *22.

⁴⁸ Futurewise’s Brief of Petitioners pp. 26 – 40.

⁴⁹ *Blair v. City of Monroe*, CPSRGMHB Case No. 14-3-0006c, Order Finding Continuing Non-Compliance (April 1, 2016), at 50, 2015 WL 10684571, *29.

⁵⁰ *Id.*

⁵¹ *Honesty in Env’tl. Analysis & Legislation (HEAL) v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 96 Wn. App. 522, 527 – 28, 979 P.2d 864, 867 – 68 (1999); *Olympic Stewardship Found. v. W. Washington Growth Mgmt. Hearings Bd.*, 166 Wn. App. 172, 186 – 87, 274 P.3d 1040, 1047 (2012).

The County’s Brief of Respondent, on page 21 and 22, state that Futurewise’s reliance on *City of Kent* decision is misplaced because that decision did not address the definition of geologically hazardous areas. In the *City of Kent*, the Board wrote: “In this case, the enforceable obligation is the duty to designate and protect critical areas, which include wetlands. RCW 36.70A.170; .030(5). The definition in the Act has substance since it defines what wetlands are critical areas that must be designated and protected – it is not a suggestion.”⁵² The Board used the same method of interpretation in the *Tahoma-Puget Sound* decision looking to the substantive GMA requirements to determine the “affirmative mandate associated with this definition . . .,” the definition of geologically hazardous areas.⁵³ The methodology of *City of Kent* is sound and this Court should follow it.

The County’s Brief of Respondent, on pages 14 and 15, argues that if this Court applies the plain meaning of the GMA it will lead to absurd results. But protecting people and property from geological hazards is not absurd and will not require prohibiting all development in Western Washington. As Snohomish County’s Response Brief on the Merits in

⁵² *Washington State Dept. of Ecology and Washington State Dept. of Community, Trade and Economic Development v. City of Kent (DOE/CTED)*, CPSGMHB Case No. 05-3-0034, Final Decision and Order, (April 19, 2006), at 26 of 65, 2006 WL 1111353, at *21.

⁵³ *Tahoma-Puget Sound*, CPSGMHB Case No. 05-3-0004c, Final Decision and Order, at 25 of 62, 2005 WL 2227915, at *21.

superior court conceded, the County critical areas regulations allow development on landslide hazards in certain situations.⁵⁴

In sum, reading RCW 36.70A.030(10), RCW 36.70A.170, and RCW 36.70A.060(2) together shows that critical areas regulations are required to consider the public health and safety when designating and protecting geologically hazardous areas. The Board improperly interpreted and applied the GMA in concluding there is no GMA mandate to protect people and property from geologically hazardous areas and that health and safety concerns are the exclusive purview of the county legislative authority.

E. Issue 5: Did the Board erroneously interpret or apply the GMA, the Board’s rules of practice and procedure, and the APA when it failed to decide Issue C-1 and concluded that Futurewise did not meet its burden of proof and are the Board’s conclusions not supported by substantial evidence? (Assignment of Error 5.)

Futurewise’s Brief of Petitioners documented how Futurewise used the *Pilchuck, et al. v. Snohomish County* Order Partially Granting Motions for Reconsideration and Clarification and other authority to argue that the County’s geological hazard regulations violated the GMA.⁵⁵ The County’s

⁵⁴ Snohomish County’s Response Brief on the Merits, *Futurewise and Pilchuck Audubon Society v. Snohomish County and the Growth Management Hearings Board*, Thurston County Superior Court Case No. 17-2-01367-34 p. 15.

⁵⁵ AR 000863 – 67, Futurewise Petitioners’ Prehearing Brief pp. 30 – 34 citing *Pilchuck, et al. v. Snohomish County (Pilchuck II)*, CPSGMHB Case No. 95-3-0047c, Order Partially Granting Motions for Reconsideration and Clarification (Jan. 25, 1996), at *7 – 8, 1996 WL 650336 pp. *5 – 7.

Brief of Respondent claims Futurewise did not provide a link between the issue statement and the legal argument. But Futurewise's brief did provide this link and evidence too.⁵⁶

The County's Brief of Respondent cites to the *T.S. Holdings* Board decision. There the Board wrote that "[a]n issue is briefed when legal argument is provided; it is not sufficient for a petitioner to make conclusory statements, without explaining how, as the law applies to the facts before the Board, a local government has failed to comply with the Act."⁵⁷ Futurewise met this standard. Futurewise's Prehearing Brief cited the GMA provisions in the issue statement and Board decisions to establish the applicable legal principles, explained how certain amendments adopted by Amended Ordinance No. 15-034 violated these standards, and cited to facts in evidence to prove these violations.⁵⁸

The County's Brief of Respondent claims the Board effectively addressed the concerns from Issue C-1 in the FDO when the FDO addressed Issue B-1. But the Board did not. Part B-1 of the FDO did not address Futurewise's arguments as to SCC 30.62B.160, SCC 30.62B.320, SCC 30.62B.340, and SCC 30.91L.040 which were made under Issue C-

⁵⁶ AR 000863 – 68, Futurewise Petitioners' Prehearing Brief pp. 30 – 35.

⁵⁷ *T.S. Holdings, LLC v. Pierce County*, CPSGMHB Case No. 08-3-0001, Final Decision and Order (Sept. 2, 2008), at 6 of 43, 2008 WL 4215868, at *5.

⁵⁸ AR 000863 – 68, Futurewise Petitioners' Prehearing Brief pp. 30 – 35.

1.⁵⁹ A party is substantially prejudiced if an error “affects the case outcome.”⁶⁰ Here the Board erred in failing to decide Issue C-1.

Futurewise was substantially prejudiced because the Board failed to decide the issue, so the Board never decided whether the challenged code provisions complied with the GMA requirements to designate and protect geological hazards using BAS. Like the *LIHI* decision, this Court should remand Issue “C-1” back to the Board for a decision.⁶¹

F. Issue 6: Is the Board’s conclusion that the amended SCC provisions complied with the GMA requirements to designate and protect geologically hazardous areas not supported by substantial evidence or an erroneous interpretation or application of the GMA? (Assignment of Error 6.)

1. SCC 30.62A.130 and SCC 30.62B.130 violate the GMA.⁶²

Futurewise’s Brief of Petitioners, on pages 28 to 33, documented that even after the 2006 Oso landslide, the County did not even consider landslide hazards when issuing building permits at Oso because the building sites were more than 300 feet from the toe of the slope.⁶³

Futurewise’s Brief of Petitioners documented that by limiting consideration of geological hazards to those within 300 feet of the site as

⁵⁹ *Id.*; AR 001817 – 20, FDO, at 21 – 24 of 38 Issue B-1; AR 001825 – 26, FDO 29 – 30 of 38 Issue C-1.

⁶⁰ *Qwest Corp. v. Washington Utilities & Transp. Comm’n*, 140 Wn. App. 255, 260, 166 P.3d 732, 735 (2007).

⁶¹ *Low Income Hous. Inst.*, 119 Wn. App. at 119, 77 P.3d at 657.

⁶² AR 001817 – 20 & AR 001825 – 26, FDO, at 21 – 24 & 29 – 30 of 38. This is a subset of Issues “B-1” and “C-1” from the FDO.

⁶³ AR 001174, *GEER-036* p. 56.

SCC 30.62A.130(1) and SCC 30.62B.130(7) do, the County will not consider geological hazards with the potential, like the Oso landslide, of destroying people and property when issuing building and other permits.⁶⁴ The County's Brief of Respondent claims this demonstrates confusion, that the "setbacks" from landslide hazards are elsewhere. However, if the applicant and the County only consider geological hazards within 300 feet of a building site, they will repeat the mistakes of Oso and will not apply the landslide hazard regulations in many landslide runout areas. This violates the GMA.

Futurewise's Brief of Petitioner, on pages 26 to 28 argued that SCC 30.62A.130 and SCC 30.62B.130 violated the GMA because they do not regulate discharging storm water onto a landslide hazards.⁶⁵ "Slope saturation by water is a primary cause of landslides."⁶⁶ Owners or occupants of existing homes or other facilities could divert downspouts or runoff onto slopes, triggering a landslide. These activities are not regulated by SCC 30.62A.130 and SCC 30.62B.130 because they are not included in the definitions of clearing or development activity and do not require a "project permit."⁶⁷ The County argues that diverting water onto slopes is

⁶⁴ AR 000028, Ord. No. 15-034 p. 20; AR 000056, Ord. No. 15-034 p. 48.

⁶⁵ AR 001248, SCC 30.91D.240; AR 001249, SCC 30.91P.350.

⁶⁶ AR 000908.

⁶⁷ AR 001247, SCC 30.91C.112; AR 001248, SCC 30.91D.240; AR 001249, SCC 30.91P.350.

speculative. It is not, water saturation is a common landslide trigger. Lawn watering can also cause landslides.⁶⁸ Therefore, SCC 30.62A.130 and SCC 30.62B.130 fail to protect geologically hazardous areas because they do not maintain the existing conditions of these critical areas as RCW 36.70A.060(2) and RCW 36.70A.172(1) require.⁶⁹

The County's Brief of Respondent argues that limiting reviews to uses and activities that require permits is consistent the State of Washington Department of Ecology's guidance for wetland management. But Ecology recommends that "[t]he standards for when a permit would be required should be the same as the provisions for the development-related permits including zero thresholds for actions such as grading, clearing of vegetation, or other physical alterations."⁷⁰ Ecology recommends that if permits are used to regulate impacts to wetlands, the permits must apply to all physical alternations.⁷¹ Since water can physically alter slopes triggering landslides, to be consistent with Ecology's recommendations, the County's permits would have apply to all water discharges.

2. SCC 30.62B.140, SCC 30.62B.160, SCC 30.62B.340, and SCC 30.91L.040 violate the GMA.⁷²

⁶⁸ AR 000912.

⁶⁹ *Swinomish Indian Tribal Cmty.*, 161 Wn.2d at 430, 166 P.3d at 1206.

⁷⁰ AR 001581, *Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands* p. 8-10 (April 2005).

⁷¹ *Id.*

⁷² AR 001825 – 26, FDO, at 29 – 30 of 38. This is "Issue C-1" from the FDO.

Futurewise's Brief of Petitioners, on pages 35 through 39, showed that SCC 30.91L.040's limitations on landslide hazards to areas at the top of the slope equal to the height of the slope and areas at the bottom of the slope equal to two times the height of the slope are not supported by scientific evidence. The County's Brief of Respondent cited to AR 1426 for the proposition that that height is a good predictor of horizontal run out distances for landslides triggered by earthquakes. While the Yang article did find that landslide run-out is positively correlated with mountain height, to improve the accuracy of the prediction model it incorporates the volume of the sliding mass, the height of the mountain, the peak ground acceleration (PGA), the magnitude of the earthquake, the epicentral distance, the slope angle, and other terms.⁷³ The Yang article does not recommend calculating the distance of landslide runouts based on just on the slope height as SCC 30.91L.040 does and certainly does not recommend that it be capped at twice the slope height.⁷⁴

The County's Brief of Respondent cites to an ordinance finding and a memo referencing a review of local landslides, but that review is not in the record. So, we do not know if the claim that designating as a landslide hazard area an area at the toe of the slope twice the height of the slope will

⁷³ AR 001425 – 26.

⁷⁴ AR 001425 – 28.

capture the majority of the landslides is accurate. The scientific evidence in the record is that height alone will not accurately predict landslide runout and no science supports limiting the runout to twice the height of the slope.

Contrary to the County's Brief of Respondent on page 35, the Legros article does not support the use of slope height to determine landslide runout distance.⁷⁵ The Legros article's reference to a "strong positive correlation between H_{\max} and L_{\max} ..." is part of an explanation of why the distance a landslide runs out depends on volume and not on slope height.⁷⁶ Legros concludes that "[t]he ratio [of height to length] H/L may therefore be physically meaningless."⁷⁷ "[H]azard zonation for landslide events should rely on their area-volume relationship, as recently proposed for debris flows (Iverson *et al.*, 1998)"⁷⁸ The Yang article includes a statistical analysis of the location on the slope where a landslide will start,⁷⁹ addressing the County's concerns, on page 35, about how to determine where on the slope the slip will likely occur.

Contrary to the County's Brief of Respondent, Futurewise is not arguing its science is better. As both Futurewise's Brief of Petitioners and

⁷⁵ AR 000983; AR 001001 – 02.

⁷⁶ AR 000983.

⁷⁷ AR 001001.

⁷⁸ AR 001001 – 02.

⁷⁹ AR 001427.

this reply show, there is no scientific evidence that supports limiting landslide runout areas to twice the slope height.

Contrary to the claim in the County's Brief of Respondent on page 36, the *Concerned Friends* decision does not support the County's argument.

As the supreme court wrote:

Furthermore, the steps taken in analyzing the information do not constitute a reasoned process. The county directs us to no evidence of it evaluating the science produced by Dr. McKnight. Nor is there sufficient evidence of the county comparing science provided by Dr. McKnight to any other resources, such as science available from state or federal agencies or the Colville Tribe. As the Western Washington Growth Management Hearings Board correctly stated, a “[c]ounty cannot choose its own science over all other science and cannot use outdated science to support its choice.”⁸⁰

The only documents that support the County's use of twice the height of the slope to determine the landside runout is Ordinance No. 15-034's finding that the amendments “will capture the vast majority of landslide events, but likely not every extreme event[.]” and the same statement from the Sleight Memorandum.⁸¹ But the information on the landslides on which this claim is based is not in the record, best available science must be included in the record.⁸² There is no evaluation of that information in

⁸⁰ *Ferry Cty. v. Concerned Friends of Ferry Cty.*, 155 Wn.2d 824, 837 – 38, 123 P.3d 102, 108 – 09 (2005).

⁸¹ AR 000023, Ord. No. 15-034 p. 15; AR 001373.

⁸² *Swinomish Indian Tribal Cmty.*, 161 Wn.2d at 430 – 31, 166 P.3d at 1206.

the record and there is no evidence the County compared that information to the science in the record. For example, the two papers cited by the Sleight Memorandum do not support limiting the runout area to twice the height of the slope as SCC 30.91L.040 does.⁸³ The County's amendments were not the product of a reasoned process.

The County argues that the British Columbia paper is not applicable to Snohomish County, but Oso has similar soils to those in BC "that have been prone to abrupt failure and landsliding ..."⁸⁴ The BC study included landslides with those soils although the study was not able to determine a height to length ratio for those landslides although some ran out for a long distance.⁸⁵

The County's Brief of Respondent, on pages 36 to 37, argues that Ecology's comments on the County regulations is evidence they comply with BAS. But BAS is a GMA requirement, not a requirement of the Shoreline Management Act (SMA).⁸⁶ Ecology's statement is not evidence that the regulations incorporate BAS. And as the above discussion documents, no science, let alone any BAS, supports basing the designation of landslide runouts only on slope height.

⁸³ AR 001373; AR 001447 – 57, AR 001456 Iverson; AR 001427 Yang.

⁸⁴ AR 001449.

⁸⁵ AR 001205 – 06.

⁸⁶ RCW 36.70A.172(1) GMA BAS requirement; RCW 90.58.100 SMA requirements for shoreline master programs.

The County’s Brief of Respondent, on page 37, argues it would be arbitrary to impose a setback of 9.3 times the height of the slope for every landside. That is not what Futurewise is arguing. Futurewise is arguing for using scientific methods to tailor the runout distance to the landslide, not to base the runout distance on a scientifically unsupported and arbitrary height to length ratio as SCC 30.91L.040 does. The SR 530 Landslide Commission had a similar recommendation.⁸⁷

3. SCC 30.62B.390 violates the GMA.⁸⁸

Futurewise’s Brief of Petitioners, on pages 39 and 40, documents that SCC 30.62B.390 violates the GMA. The County argues that it exceeds the International Building Code requirements. But that is not the standard, the regulations must comply with the GMA.⁸⁹

G. Issue 7: Is the Board’s conclusion that the CARA regulations comply with the GMA an erroneous interpretation or application or not support by substantial evidence? (Assignment of Error 7.)⁹⁰

Futurewise’s Brief of Petitioners, on pages 40 to 43, demonstrated that SCC 30.62C.140(3)(f)(iv) failed to protect water quality and quantity for critical aquifer recharge areas (CARAs) as the GMA requires.

Futurewise’s Brief of Petitioners, on pages 43 to 49, argued that this Court

⁸⁷ AR 000954.

⁸⁸ AR 001826 – 27, FDO, at 30 – 31 of 38. This is “Issue C-2” from the FDO.

⁸⁹ RCW 36.70A.170(1); RCW 36.70A.060(2).

⁹⁰ AR 001824 – 25, FDO, at 28 – 29 of 38. This is a subset of Issue B-3 from the FDO.

should remand Issue 7 back to the Board to reconsider Issue 7 in the light of Laws of 2018, ch. 1.

The County argues that there is no evidence or argument that SCC 30.62C.140(3)(f)(iv) fails to protect CARAs. CARA regulations must protect water quality and water quantity.⁹¹ The County's own BAS documents that "groundwater withdrawals can affect the recharge potential of the CARA" and the "USGS has concluded that the availability and sustainability of groundwater in many principal aquifers is threatened by depletion from both human and climatic stresses (USGS 2009)."⁹² But SCC 30.62C.140(3)(f)(iv) does not require that water supplies must be legally and physically available for new developments that require a water supply allowing unsustainable withdrawals of water.⁹³ SCC 30.62C.140(3)(f)(iv) does not require that ground water sources must comply with the withdrawal limits applicable to permit-exempt wells.⁹⁴ Snohomish County has instream flow rules and closed basins in portions of the Skagit basin,⁹⁵ instream flow rules, closed basins, and limited reservations for domestic uses in portions of the Stillaguamish River

⁹¹ AR 001824, FDO, at 28 of 38; RCW 36.70A.020(10) "Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water."

⁹² AR 000725.

⁹³ *Whatcom Cty. v. Hirst*, 186 Wn.2d 648, 687 – 88, 381 P.3d 1, 18 (2016).

⁹⁴ *Kittitas County v. Eastern Washington Growth Management Hearings Board*, 172 Wn.2d 144, 178 – 81, 256 P.3d 1193, 1209 – 10 (2011).

⁹⁵ WAC 173-503-040.

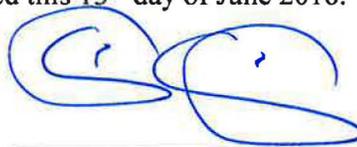
Basin,⁹⁶ and instream flow rules and limitations on surface water use in the Snohomish basin.⁹⁷ The County has failed to incorporate requirements to protect instream flows and ground water quantity into SCC 30.62C.140(3)(f)(iv). This is evidence of harm to CARAs.

Futurewise's Brief of Petitioners wrote that the County has four Water Resource Inventory Areas (WRIAs). This is incorrect, there are five, the brief omitted WRIA 4, the Upper Skagit Watershed.⁹⁸ I regret the error.

III. CONCLUSION

For the reasons set out above, Futurewise respectfully requests that this Court require the Board to decide all of the issues and to reverse the Board on its decisions on geologically hazards and CARAs.

Respectfully submitted this 13th day of June 2018.



Tim Trohimovich, WSBA No. 22367
Attorney for Futurewise & the Pilchuck
Audubon Society

⁹⁶ WAC 173-505-050; WAC 173-505-060; WAC 173-505-070; WAC 173-505-090.

⁹⁷ WAC 173-507-020; WAC 173-507-030.

⁹⁸ WAC 173-500-990; WAC 173-503-010.

CERTIFICATE OF SERVICE

I, Tim Trohimovich, declare under penalty of perjury and the laws of the State of Washington that, on June 13, 2018, I caused a PDF file of the original and true and correct copies of the following document to be served on the persons listed below in the manner shown: **Reply Brief of Petitioners Futurewise & the Pilchuck Audubon Society** in Case No. 51458-3-II.

State of Washington Court of Appeals Division Two
 950 Broadway, Suite 300
 Tacoma, Washington 98402
Electronic Original

Ms. Alethea M. Hart
 Ms. Laura C. Kisielius
 Snohomish County Prosecutor’s Office
 Civil Division
 Robert Drewel Bldg., 8th Floor, M/S 504
 3000 Rockefeller Ave
 Everett, Washington 98201-4060
 Tel: (425) 388-6330
 Attorneys for Snohomish County

- | | |
|---|---|
| | By United States Mail, postage prepaid and properly addressed |
| | By Legal Messenger or Hand Delivery |
| | By Facsimile |
| | By Federal Express or Overnight Mail prepaid |
| X | Efiled |

- | | |
|---|--|
| X | By United States Mail, postage prepaid and properly addressed |
| | By Legal Messenger or Hand Delivery |
| | By Facsimile |
| | By Federal Express or Overnight Mail prepaid |
| X | By Email or through the court’s efilings system: alethea.hart@snoco.org ; laura.kisielius@snoco.org |

Ms. Dionne Padilla-Huddleston
Office of the Attorney General
TB-14
800 Fifth Ave Ste 2000
Seattle, WA 98104-3188
Tel. (206) 389-2127
Attorneys for the Growth
Management Hearings Board

Ms. Lisa Petersen
Assistant Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Tel. (206) 464-7676
Attorneys for the Respondent Growth
Management Hearings Board

| | |
|-------------------------------------|---|
| <input type="checkbox"/> | By United States Mail, postage prepaid and properly addressed |
| <input type="checkbox"/> | By Legal Messenger or Hand Delivery |
| <input type="checkbox"/> | By Facsimile |
| <input type="checkbox"/> | By Federal Express or Overnight Mail prepaid |
| <input checked="" type="checkbox"/> | By Email or through the court's efilng system by request: dionnep@atg.wa.gov ; lalseaef@atg.wa.gov |

| | |
|-------------------------------------|---|
| <input type="checkbox"/> | By United States Mail, postage prepaid and properly addressed |
| <input type="checkbox"/> | By Legal Messenger or Hand Delivery |
| <input type="checkbox"/> | By Facsimile |
| <input type="checkbox"/> | By Federal Express or Overnight Mail prepaid |
| <input checked="" type="checkbox"/> | By Email or through the court's efilng system: lisapl@atg.wa.gov |

Dated this 13th day of June 2018.

Tim Trohimovich, WSBA No. 22367

FUTUREWISE

June 13, 2018 - 3:17 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 51458-3
Appellate Court Case Title: Futurewise, et al., Appellant v. Snohomish County, et al., Respondents
Superior Court Case Number: 17-2-01367-3

The following documents have been uploaded:

- 514583_Briefs_20180613151113D2705374_5335.pdf

This File Contains:

Briefs - Appellants Reply

The Original File Name was REPLY BRIEF OF PETITIONERS FW PILCHUCK NO 51458 3 II FINAL JUNE 13 2018.pdf

A copy of the uploaded files will be sent to:

- Laura.Kisielius@snoco.org
- ahart@snoco.org
- alethea.hart@co.snohomish.wa.us
- dionnep@atg.wa.gov
- lalseaef@atg.wa.gov
- laura.kisielius@co.snohomish.wa.us
- lisap1@atg.wa.gov

Comments:

A certificate of service is also attached to the reply brief.

Sender Name: Tim Trohimovich - Email: tim@futurewise.org

Address:

816 2ND AVE STE 200

SEATTLE, WA, 98104-1535

Phone: 206-343-0681 - Extension 118

Note: The Filing Id is 20180613151113D2705374