

Tug-of-war over CAO headed to court

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If you think that the critical areas ordinances took too long — seven or 10 years, depending on whose calendar you look at— more opportunity for outrage loom in the future.

On Oct. 1, the Common Sense Alliance filed a petition for review in San Juan County Superior Court, contesting the ruling by the Growth Management Hearings Board in the CAO update case. Over the next few days, Friends of the San Juans, P.J. Taggares Co. and William H. Wright took the opportunity to file appeals of their own.

Only the San Juan Builder's Association has not appealed; the association has until Oct. 7 to do so.

Kyle Loring, attorney for Friends, believes this latest iteration of disdain for the results of the ordinances passed in 2012 by the County Council will take at least six months, "possibly a year," before Judge Don Eaton reaches a decision.

The CSA also asked for a court order postponing the effective date of the ordinances until the courts have ruled on the appeals, and asked that the case be sent back to the Hearings Board for further proceedings "consistent with this Court's order(s) an appeal."

If any of the parties, including the county, are dissatisfied with the results, appeals to the state Court of Appeals and state Supreme Court are still possible.

The county is presently reviewing the [Sept. 6 GMHB decision](#).

Under that decision, the council, with the advice and recommendations of the county Planning Commission, must address eight specific matters, all raised by Friends, which the GMHB ruled did not comply with the state Growth Management Act. That decision ruled against the challenges made by CSA, Taggares Co., Wright and the builder's association on all counts.

Before the appeals were filed, San Juan County Prosecutor Randy Gaylord issued a letter to the county council and the planning commission upholding the right of [CSA board members](#) to participate on the planning commission as they reviewed and made recommendations in response to the ruling of the GMHB.

Although an earlier opinion in April suggested that CSA board member participation on the planning commission might violate conflict of interest rules under certain circumstances, Gaylord, who also represents the county on the CAO appeals, argued that CSA board members would not violate common law conflict of interest rules in the current instance.

The gist of Gaylord's opinion said, "The matters on appeal that were upheld by the Growth Board were raised by the Friends of the San Juans, not the Common Sense Alliance. Certainly CSA Board members may have formulated an opinion on the subject, but that does not make the Friends cause something that belongs to CSA; nor does it disqualify a member of the CSA."

Loring and David Dehlendorf both question Gaylord's reasoning, saying that many of the same issues that Friends prevailed on before the GMBH were argued, from the opposite viewpoint, by the CSA and are now the subject of the appeals to the Superior Court that were filed last week.

At a planning commission workshop held Oct. 2, acting chairwoman Barbara Thomas said she was satisfied with Gaylord's advice regarding CSA members' participation on CAO matters, but said she looked forward to Gaylord's views on the matter following the filing of the latest appeal by CSA.

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