

Some Critical Areas Ordinances Court and Board decisions

Court cases

To find Court cases, search the Municipal Research and Services Center (MRSC) at <http://www.mrsc.org/> >Legal Resources > Court Decisions

State Supreme Court

- 155 Wn.2d 824, *Ferry County v. Concerned Friends of Ferry County*. [No. 75493-4.] CAO/BAS case. Decided November 17, 2005.
- 142 Wn.2d 543, 561, 14 P.3d 133, 142 (2000). *King County v. Central Puget Sound Growth Management Hearing Board*. Not a CAO case, clarified that “local discretion is bounded . . . by the goals and requirements of the GMA.”

Appeals Court

- 130 Wn. App. 127, *Clallam County v. W. Wash. Growth Mgmt. Hearings Bd.* [No. 31283-2-II. Division Two. October 25, 2005.] Appeal at State Supreme Court pending.
- 122 Wn. App. 156, *Whidbey Env'tl. Action Network v. Island County*, [No. 50736-2-I. Division One. June 7, 2004.] CAO/BAS case, aka WEAN. State Supreme Court denied review.
- 96 Wn. App. 522, *HEAL v. Hearings Board*. [No. 40939-5-1. Division One. June 21, 1999.] CAO/BAS case.
- *Biggers v. City of Bainbridge Island*, 124 Wash. App. 858 (Div. Two, 2004). Found SMA policies and regulations “trump” GMA, city was found to impermissibly use GMA moratorium authority in shoreline jurisdiction. Contrast with *Preserve Our Islands*, below.
- *Preserve Our Islands v. Shorelines Hearings Board*, 137 P.3d 31 (Div. I 2006) Found that GMA requires that regulations implementing the GMA and the SMA be harmonized in the process of overall land use planning and regulation - the County’s SMP goals and policies are part of the GMA comprehensive plan.

Superior Court

- *Futurewise, CTED/Ecology v. WWGMHB, Anacortes, and WA Ports Association*, Thurston Superior Court Cause No. 06-2-00166-1, Final Judgement and Order (Nov. 17, 2006). Overturns Western Board RE: SMA issues.

Growth Management Hearings Board

To find Hearings Board decisions: <http://www.gmhb.wa.gov/> > select a Board (E, W, or Central) > search by number. There are often multiple decisions for a given case so look for the date.

- WWGMHB **98-2-0023c**: *Whidbey Environmental Action Network v. Island County*, [2006 Order Finding Compliance on Critical Areas Protections in Rural Lands](#), (August 30, 2006). Resolution of CAO/BAS case
- CPSGMHB **05-3-0034**, *DOE/CTED, et al v. City of Kent*, [Final Decision and Order](#) (FDO) (April 19, 2006). CAO/BAS case, wetlands.
- CPSGMHB **06-3-0012c**, *Hood Canal Environmental Council, et al v. Kitsap County*, [FDO](#) (August 28, 2006). CAO/BAS case, marine shorelines, small wetlands exemption.
- CPSGMHB **05-3-0004c**, *Tahoma Audubon Society, People for Puget Sound, and Citizens for a Healthy Bay v. Pierce County, Park Junction Partners and Snohomish County*, [FDO](#) (July 12, 2005). CAO/BAS case, marine shorelines.
- WWGMHB **05-2-0016**: *Evergreen Islands, Futurewise, and Skagit Audubon Society v. City of Anacortes; Final Decision and Order* (December 27, 2005) CAO case: note partial reversal by Thurston Superior Court on timing of “transfer” of critical area jurisdiction to SMP.
- CPSGMHB **04-3-0013**: *Samson v. City of Bainbridge Island*, FDO (Jan. 19, 2005) SMP case, limits on docks in Blakely Harbor based on cumulative impact analysis.
- WWGMHB **96-2-0017**: *Clark Co. Natural Resources Council v. Clark Co.*, FDO (Dec. 6, 1996)
- CPSGMHB **96-3-0029**: *Tulalip Tribes v. Snohomish County*, FDO (Jan. 8, 1997)
- CPSGMHB **95-3-0047**: *Pilchuck Audubon Society v. Snohomish Co.*, FDO (Dec. 6, 1995)

Laws/rules

GMA: <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>

CTED Critical Areas rule: <http://apps.leg.wa.gov/WAC/default.aspx?cite=365-190-080>

CTED BAS rule: <http://apps.leg.wa.gov/WAC/default.aspx?cite=365-195-900>

CTED BAS site: <http://www.cted.wa.gov/site/418/default.aspx>

Ecology Shoreline Master Program information:

http://www.ecy.wa.gov/programs/sea/sma/st_guide/SMP/index.html

SMP Guidelines: <http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html>