

# SYMPOSIUM: REVISITING THE GROWTH MANAGEMENT ACT

## Introduction: The GMA Comes of - Age in Washington

*Diana Kirchheim*

In 1993, our Law Review, under its previous name, *University of Puget Sound Law Review*, published a symposium entitled, "Guidance for Growth: A Symposium on Washington State's Growth Management Act."<sup>1</sup> The issue focused on analyzing and predicting the impact of Washington's milestone Growth Management Act (GMA), which had recently been enacted, but not yet fully implemented. Consequently, the participants in the original symposium could only conceptually describe the GMA's substantive requirements and speculate about their potential effects. This was accomplished by relying primarily on the plain language of the statute itself and the legislative history. Now six years later, a track record has developed based on yearly amendments to the GMA, Growth Management Hearings Board decisions, and the recent emergence of case law.

The Law Review thought it was time to conduct a progress report on the GMA, especially in light of the revolutionary changes it has created for land use law in Washington, including the development of a much more comprehensive approach to land use and resource management. At the time of our 1993 Symposium, the authors grappled with an ambiguously written legislation that left many gaps to be filled in at a later date. Since that time, the growth boards and courts have worked to clarify the vague requirements of the GMA. This symposium focuses on the challenges that implementation of the GMA has created and how the courts and growth

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1. See Symposium, *Guidance for Growth: A Symposium on Washington State's Growth Management Act*, 16 U. PUGET SOUND L. REV. 863 (1993).

boards have responded. Before introducing the articles written especially for this symposium, we thought it might be helpful to provide a short history explaining what led to the adoption of the GMA in order to better understand its significance for land use in Washington.

Environmental statutes affecting Washington have not always been concerned with being comprehensive. For the past few decades, Washington land use was governed by the comprehensive plan, zoning, subdivision regulation, the Shoreline Management Act (SMA), and the State Environmental Policy Act (SEPA). The enactment of SMA and SEPA had been part of the environmental revolution that had swept through in the early 1970s. Prior to implementation of the GMA, traditional zoning was concerned narrowly with whether given uses and improvements of sites would be compatible with their immediate surroundings, and ignored public facility adequacy, environmental quality, and regional fairness. In addition, local land use planning was optional and had barely any substantive requirements. The inadequacy of Washington's patchwork of legislation governing local land use regulation and environmental quality led to the adoption of GMA's centralized approach to land use. The optional planning and zoning of the past now became mandatory under the GMA for all counties within the jurisdiction of the GMA.

Comprehensive reform of Washington's land use regulatory legislation took nearly twenty years to adopt. The push for growth management came from the states' citizens, who recognized that natural resources were being jeopardized by growth and development, housing prices were soaring out of control, traffic congestion was becoming some of the worst in the country, and the quality of life in Washington was severely deteriorating.

The Washington Legislature responded by enacting the GMA to reduce urban sprawl and control development throughout the state. The result was the adoption of one of the most potent laws in Washington's history.

This symposium begins with an article written by Professor Richard Settle. The article acts as an update to the article he wrote for the 1993 symposium.<sup>2</sup> As previously mentioned, case law on the Growth Management Act is a relatively new resource for land use attorneys, because it took years for local governments to adopt their GMA plans and, subsequently, for those plans to be appealed. The Growth Management Hearings Boards have worked to fill gaps and clarify ambiguities left in the controversial GMA. Professor Settle's

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2. See Richard L. Settle & Charles G. Gavigan, *The Growth Management Revolution in Washington: Past, Present, and Future*, 16 U. PUGET SOUND L. REV. 867 (1993).

article describes both the procedural and substantive mandates that have emerged as the Growth Boards and courts have responded to the vague language of the GMA.

Next, Samuel Plauché and Amy Kosterlitz provide an overview of the procedures by which planning disputes are resolved under the GMA. The GMA includes an administrative dispute resolution system involving three independent regional Growth Management Hearings Boards empowered to hear petitions and to determine whether a county or city is complying with the GMA. The article focuses on examining the process of appealing GMA plans to the boards and the scope of review the boards exercise.

Dr. Alan Copey's article suggests an approach for identifying scientific information and assessing which of that information should be considered the best available science for designating critical areas under the GMA. The GMA requires every county and city in Washington to adopt regulations that designate and protect critical areas based upon the best available science and to give special consideration to the conservation of anadromous fisheries. There has been much debate over what is considered the "best available science." Interestingly enough, this language also appears in the Endangered Species Act, which requires that decisions to list a species must be based on the "best available science." Consensus on the meaning of this phrase could have far reaching impact on a nationwide level, because it is the first organized attempt to define "best available science."

The *Seattle University Law Review* would like to thank all the individuals who participated as authors and made this symposium possible. We hope that the articles in this issue will provide educational information to practitioners, local governments, and courts.