

Exhibit B
San Juan County's Petition for Declaratory Ruling

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BEFORE THE WESTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD OF THE STATE OF WASHINGTON

In the matter of the Petition of SAN JUAN) NO.
COUNTY for a Declaratory Ruling)
)
) PETITION FOR DECLARATORY RULING
)
)

COMES NOW the Petitioner, San Juan County, by and through its attorney, Alan A. Marriner of the San Juan County Prosecuting Attorney, pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW and WAC 242-02-910 and petitions the Western Washington Growth Management Hearings Board for a declaratory ruling about its Order on Recision of Invalidity and Compliance/Invalidity dated November 30, 2000 in the case of *Town of Friday Harbor et al. v. San Juan County*, WWGMHB # 99-2-0010c.

I. NAME AND ADDRESS OF PETITIONER AND PETITIONER'S ATTORNEY

1.1 Petitioner San Juan County is a municipal corporation of the State of Washington.

The address for San Juan County is:

San Juan County
c/o San Juan County Board of County Commissioners
350 Court Street, #1
Friday Harbor, WA 98250

1.2 The name and address of the attorney for Petitioner San Juan County is:

Alan A. Marriner
Deputy Prosecuting Attorney
San Juan County Prosecuting Attorney
350 Court Street, 2nd Floor
P.O. Box 760
Friday Harbor, WA 98250

1 **II. RELEVANT DECISIONS, STATUTES, AND REGULATIONS**

2 2.1 WAC 242-02-910(1) provides that a party may petition a Growth Board for a
3 declaratory ruling about the applicability to specific circumstances of an order within the Board's
4 jurisdiction.

5 2.2 San Juan County seeks clarification of the Western Washington Growth Management
6 Hearings Board's Order on Recission of Invalidation and Compliance/Invalidity dated November 30,
7 2000 in the case of *Town of Friday Harbor et al. v. San Juan County*, WWGMHB # 99-2-0010c. A
8 copy of this Order is attached as Exhibit A.

9 2.3 Specifically, San Juan County seeks clarification of the Growth Board's Conclusion
10 of Law #2 found at Appendix I, page 15 of the Order:

11 The allowance of new guesthouse construction in rural and resource lands is
12 determined to be invalid.

13 2.4 San Juan County has interpreted the Growth Board's Conclusion of Law #2 as
14 prohibiting it from issuing building permits for the construction of new guest houses in the County's
15 rural and resource lands.

16 2.5 San Juan County requests a declaratory ruling from the Growth Board as to whether
17 Conclusion of Law #2 also prohibits the issuance of a building permit for the construction of a
18 principal residence if the property owners have previously constructed a guest house on the property.

19 2.6 The Growth Board based its Conclusion of Law #2 on its Findings of Fact that the
20 allowance of new guest house construction in rural and resource areas substantially interfered with
21 Goals 1, 2, 8, 10, 12, and 14 of the Growth Management Act, RCW 36.70A.020.

22 **III. FACTS AND REASONS WHY THE GROWTH BOARD SHOULD ISSUE A
23 DECLARATORY RULING**

24 3.1 The San Juan County Permit Center has received a building permit application for the
25 construction of a single family dwelling on a 15.09 acre parcel of land which has a density
26 designation of one unit per ten acres. A copy of the application is attached as Exhibit B.

27 3.2 The parcel of land is currently occupied by a guest house which was built pursuant to
28 a building permit issued on April 20, 1999. The building permit clearly indicates that it is for the
29 construction of a guest house. The guest house is less than 1,000 square feet as required by SJCC

1 §18. 40.240. Construction of the guest house was completed by April 21, 2000. A copy of the
2 building permit for the guest house is attached as Exhibit C. A copy of a letter from the property
3 owner describing his situation is attached as Exhibit D.

4 3.3 The San Juan County Permit Center has requested clarification as to whether the
5 Growth Board's Conclusion of Law #2 prohibits the issuance of a building permit to construct a
6 main house when the property owners have previously constructed a guest house on the property. A
7 copy of this request is attached as Exhibit E.

8 3.4 The uncertainty as to the scope of the Growth Board's Order adversely affects the
9 County. Without clarification the County must choose between two unacceptable alternatives. It can
10 issue building permits to property owners who built their guest house first and now want to build
11 their principal residence and run the risk of violating the Growth Board Order. Or it can deny the
12 applications for building permits from the property owners and face the threat of litigation from these
13 property owners based on the denials.

14 3.5 The adverse effect of the uncertainty faced by the County and affected property
15 owners outweighs any adverse effect on others or on the general public that may likely arise from the
16 Growth Board clarifying its Order. In fact, the County is unaware of any adverse effect that could
17 arise from the requested clarification.

18 3.6 A declaratory ruling from the Growth Board would not be an advisory opinion as an
19 actual controversy exists because of the uncertainty. Also, the situation described above is not an
20 isolated instance as property owners in San Juan County frequently build a guest house prior to
21 building their principal residence. Attached as Exhibits F and G are letters describing the situations
22 of other property owners who built their guest houses first and now are ready to begin construction
23 of their principal residences.

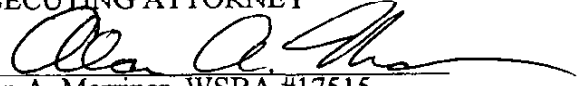
24 IV. REQUEST FOR RELIEF

25 4.1 Petitioner San Juan County requests the Growth Board to issue a declaratory ruling
26 clarifying whether or not its Conclusion of Law #2 prohibits the issuance of a building permit to
27 construct a main house when the property owners have previously constructed a guest house on the
28 property.

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Petitioner's attorney has read this Petition and believes the contents to be true. Dated this
11 day of January, 2001.

RANDALL K. GAYLORD
PROSECUTING ATTORNEY

By: 
Alan A. Marriner, WSBA #17515
Deputy Prosecuting Attorney
Attorney for San Juan County