

Builder News Facts



BLAW News Highlights

September 14, 2007

SUPREME COURT HANDS VICTORY TO PROPERTY OWNERS

In a stunning 8-1 decision, the Washington Supreme Court this week ruled in *Swinomish Tribal Community and Washington Environmental Council v. Western Washington Growth Management Hearings Board, et al.* the GMA does **not** require mandatory buffers along streams and rivers. In addition, after years of wrangling over the issue of what “best available science” means and how it should be applied, the Supreme Court clearly stated in its ruling that local governments are **not** required to follow the so-called “best available science.”

The case involved a challenge by the Swinomish Indian Tribe and Washington Environmental Council (WEC) against Skagit County over its buffer sizes. The tribe and WEC argued the “best available science” (BAS) requires mandatory buffers along streams and rivers. The tribe claimed farmers were required to plant 200-foot buffers on their property along streams, which had been cleared over a century ago to make way for farming. The County and farmers argued the GMA does not force local governments to follow the so-called BAS. Instead, the County and farmers argued the GMA only requires they “include” the science in their decision making process when enacting its critical areas ordinances.

The Supreme Court agreed with the farmers and Skagit County, ruling, “The GMA does not require the county to follow BAS; rather, it is required to “include” BAS in its record. Thus, the county may depart from BAS if it provides a reasoned justification for such a departure.”

For years the issue of what BAS means and how it should be applied has been a contentious one for builders. BIAW has consistently argued in court and in the Legislature that the GMA doesn’t require local governments to follow the BAS. BIAW has argued this because over the years the BAS requirement has been hijacked by environmental extremists claiming to be scientists. Many of these so-called scientists created junk science mandating 200 to 300-foot buffers.

The Supreme Court also ruled the GMA only requires that local jurisdictions “protect” critical areas, not “enhance” critical areas. For years the enviros have attempted to argue that landowners not only have a duty to “protect” critical areas on their property, but are required to enhance critical areas through huge buffers and taking other onerous actions. In addition, the Court amazingly ruled the GMA does not require local governments to impose mandatory riparian buffers.

The lone dissent came from Justice Susan Owens, who, prior to being elected to the Supreme Court, just so happened to be a tribal judge.

The Supreme Court’s decision is an absolute victory for property owners and an astounding blow to the environmental extremists. The court’s ruling will severely restrict the three Growth Boards’ ability to force local governments to impose large buffers and enforce other onerous regulations on property owners. As a result of this decision, BIAW attorneys will diligently monitor future cases to ensure that the Growth Boards are properly following the Court’s precedent.

SAFETY INCENTIVES

Do you have a bonus program or safety incentive system for your workers to help maintain the safest workplace possible? The Washington State Department of Labor & Industries (L&I) will be evaluating worker safety incentives to make sure employers aren't unfairly using them to suppress workers' compensation claims, as a result of legislation passed last session (SB 5443). BIAW will be watching this issue closely and providing input to L&I to ensure legitimate safety incentive programs aren't suddenly defined as "illegal claims suppression." If you have a safety policy which provides worker incentives for keeping workplaces safe (such as bonuses for no accidents or injuries), please contact Amy Brackenbury for more details at 800-228-4229.

BIAW SEPTEMBER EDUCATION SCHEDULE

September 18-20	Certified New Home Sales Professionals (CSP)	Tacoma	8:00am- 5:00pm	24 RE Clk Hrs CSP
September 19	Reading Understanding Construction Drawing	Olympia	8:00am- 5:00pm	7.5 RE Clk Hrs
September 20	Forklift Safety Training & Certification	Bremerton	1:00pm- 5:00pm	Forklift Cert.
September 21	Business Management for Building Professionals (NAHB)	Bellevue	8:00am- 5:00pm	
September 24	Business Management for Building Professionals	Olympia	8:00am-100pm	7.5 RE Clk Hrs CGB, CGA, CAPS,CGR
September 25	Estimating for Builders and Remodelors	Vancouver	8:00am- 5:00pm	7.5 RE Clk Hrs CGB, CGA,CGR
September 25	Lien Law	Kennewick	8:00am- noon	4 RE Clk Hrs CGB, CGA, CGR
September 25	Construction Contracts	Kennewick	1:00pm- 4:30pm	3.5 RE Clk Hrs CGB, CGA, CGR
September 26	Lien Law	Spokane	8:00am- noon	4 RE Clk Hrs CGB, CGA, CGR
September 26	Construction Contracts	Spokane	1:00pm- 4:30pm	3.5 RE Clk Hrs CGB, CGA, CGR 16 RE Clk Hrs
September 27-28	Green Building for Building Professionals	Tacoma	8:00am- 5:00pm	16 Appraiser CGB, CGA, CGR
September 28	Avoiding Risks in Employment Law	Wenatchee	10:00am- noon	3.5 RE Clk Hrs CGB

For more information on education classes, or to reserve a spot, call Amanda Fields at 800-228-4229. Or register online at www.BIAW.com.