



American Planning Association
Washington Chapter

Making Great Communities Happen

January 27, 2008

The Honorable Eric Oemig
Vice-Chair, Senate Government Operations and Elections Committee
416 Legislative Building
PO Box 40445
Olympia, WA 98504-0445

RE: SB 6784 related to development vesting

Dear Senator Oemig:

I am representing the Washington Chapter of the American Planning Association (Washington APA), and am one of your constituents in the 45th Legislative District. Washington APA supports sensible refinements to the Growth Management Act (GMA) that increase the fairness and effectiveness of GMA implementation. While we supported legislation last session (SB 5507) related to vesting of development rights, we did express concerns about several sections of that bill. We believe that SB 6784 is a significant improvement over SB 5507.

We offer the following comments:

1. **We support the concept of having development permit vesting occur at the time of project application.** We recognize that substantial amounts of time and money are invested by permit applicants in preparing complete permit applications for local review. One of the goals of the GMA is to create timeliness and predictability in the permit process. RCW 36.70A.020(7). Washington APA believes that everyone's interests are best served when there is a clear bright line in the law about when rights vest.
2. **SB 6784 is needed to protect the public's interest against inappropriate vesting by delaying vesting during the pendency of a challenge to the GMA compliance of the underlying policies or regulations.** Under state law, development permits must be consistent with development regulations, which in turn must be consistent with local comprehensive plans, and both regulations and plans must be consistent with the goals and requirements of the GMA. However, all amendments to a comprehensive plan or development regulation are subject to legal challenge to a growth management hearings board. The most frequent allegation, and finding of noncompliance concerns failures to comply with the Act's public participation requirements when considering such amendments. In instances where the hearings boards determine that a challenged regulation is noncompliant and invalid, it makes no sense that permits should be allowed to rely upon and vest rights under the illegal regulation. SB 6784 would close this loophole.
3. **We support the delay in vesting while a city or county is in the process of amending its Comprehensive Plan or development regulations.** This process takes a relatively long time in public review to be completed. Our concern is that, currently, development

applications are often submitted once the public is aware of a draft plan or regulation, in order to “sneak under the wire” and not be covered by the proposed plan or development standard. SB 6784 proposes to stop vesting at the “submission or filing” of a proposed amendment. Submission or filing of proposed amendments can occur at any time, without any public notice. How is an applicant supposed to know that someone has submitted an amendment request? **We believe the proposed concept is sound, but should be linked to the required public notice of the proposed amendment. Washington APA is interested in helping to draft appropriate language to be added to SB 6784.**

- 4. We support the concept of limiting vesting for plats.** Section 4, subsection 7 of the proposed bill needs clarification. Is the proposed five year time limit measured from final plat approval, or from the beginning of substantial construction? What happens when a large project is phased over more than five years? How is “substantial construction” defined? We believe that local government should have the option of granting an extension to the five year period, based on the local situation. **Washington APA is interested in helping to define the issues raised above and draft appropriate language to be added to SB 6784.**

We also offer the following technical points for consideration. **Washington APA is interested in helping to draft appropriate language to be added to SB 6784.**

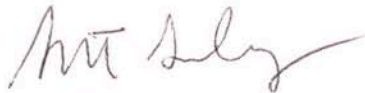
Section 3, Subsection (2)(d): How is “land use application” defined? Is it intentionally different from “land division, building permit or other project approval” used several times elsewhere in the bill?

Section 4, Subsection (3)(c) and elsewhere: The language addressing large residential developments needs clarification. Does this subsection apply just to large residential developments outside the urban growth area (UGA), or also within the UGA?

Overall, Washington APA believes that SB 6784 presents a balanced approach to the issue of vesting of development rights in our state. The proposed bill recognizes the substantial investments by permit applicants and their need to minimize risk. It also recognizes the reasonable expectations of our citizens that the land use policies and regulations adopted to protect their communities’ future will not be undermined by legal loopholes.

The Washington Chapter of the American Planning Association (APA) supports SB 6784.

Sincerely,



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