



February 16, 2010

The Honorable Geoff Simpson
Chair, House Local Government and Housing Committee
426 John L. O'Brien Building
Olympia, WA 98504-0600

RE: SB 5621 relating to Hearing Examiner fees

Dear Representative Simpson:

The Washington Chapter of the American Planning Association (APA Washington) opposes SB 5621 and respectfully requests that the House Local Government and Housing Committee reject this legislation. This bill as it recently passed the Senate would limit Hearing Examiner fees to review and rule on a subdivision to the same fee charged for a judicial appeal—approximately \$200. I understand that the intent of the bill was to limit the fee charged for a subdivision appeal heard by a Hearing Examiner to the same fee charged for a judicial appeal. Thank you for clarifying that for me with Senator Kline.

Even with that clarification, APA Washington opposes this bill for the following reasons:

1. **Is There a Problem?** I understand the problem may be related to the appeal fee required to appeal a plat application to Seattle's Hearing Examiner. We believe it is reasonable to allow cities and counties to recover costs of an appeal should they choose to do so. Cost recovery is an important tool for local governments to have, especially in these challenging economic times. Deciding whether local taxpayers should subsidize the cost of an appeal and also have easier access to appeal by keeping appeal fees low should be a local government decision—not one imposed by the Legislature. For example, Burien's appeal fee (for all appeals) is \$287.50. Our Hearing Examiner charges us \$175 per hour. When they established fees, the Burien City Council chose not to pursue full cost recovery on appeals. Other cities and counties have taken the opposite approach; but in each case, these were local decisions.



2. **Unintended Consequences:** Use of professionally-trained Hearing Examiners to provide a fair and equitable quasi-judicial process has reduced the influence of politics and created certainty and predictability in our land use decision system. If cities and counties cannot cover the costs of using a trained Hearing Examiner to provide a local subdivision appeal, they might be forced to discontinue this procedure. We think that is a step backward. Instead, we might see a return to politically-motivated appeals before a City Council, or even worse, elimination of a local appeal altogether—forcing neighbors into court against each other at a much greater cost.

3. **Conflict with RCW 82.02.030(3):** This section of the RCW allows municipal corporations to charge applicants the actual cost of processing applications: "Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other government approval to cover the cost to the city, town, county, or other municipal corporations of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW." The proposed bill—even if amended to affect only subdivision appeals—would limit local government ability to comply with the section of the RCW.

If the Committee decides to support this bill, we ask that it be amended to clarify that it only applies to appeals of subdivisions to a Hearing Examiner. Thank you for the opportunity to comment. If I can answer any questions, please do not hesitate to contact me.

Respectfully,

Scott Greenberg, AICP
Washington Chapter of the American Planning Association
President

Cc: Members of the House Local Government and Housing Committee