



BEFORE THE COLUMBIA RIVER GORGE COMMISSION

KRISTI REYNIER and RONALD REYNIER, )  
 )  
 Petitioners, )  
 )  
 vs. )  
 )  
 SKAMANIA COUNTY, )  
 )  
 Respondent, )  
 )  
 and )  
 )  
 FRIENDS OF THE COLUMBIA GORGE, )  
 )  
 Intervenor-Respondent. )  
 \_\_\_\_\_ )

CRGC No. COA-S-98-01  
CRGC No. COA-S-98-02

**FINAL OPINION AND ORDER**

This case involves an appeal by Kristi and Ronald Reynier from a decision of Skamania County approving one application for development and denying another. We affirm.

The property, located in Underwood, WA, consists of an old subdivision, Hamilton's Addition, platted in 1912, where the Reyniers own six lots. They submitted applications to construct a dwelling on lots 5 and 6 (Skamania County No. NSA-97-13) and a dwelling on lots 9 and 10 (Skamania County No. NSA-97-14).

The County Planning Director approved the application to construct a dwelling on lots 5 and 6, which was conditioned on the denial of the application to construct a dwelling on lots 9 and 10 and that all contiguous lots owned by the Reyniers be merged into one large lot. The application to construct a dwelling on lots 9 and 10 was denied. The Reyniers appealed both decisions to the

Skamania County Board of Adjustment. The Board of Adjustment modified<sup>1</sup> and upheld the Planning Director's decisions. The Reyniers then filed this appeal with the Columbia River Gorge Commission.

The Columbia River Gorge Commission met on September 14, 1999 to hear oral argument and deliberate to a decision. The County did not participate in this appeal. Instead, the only party appearing in support of the decision was the intervenor-respondent, Friends of the Columbia Gorge.

Since the issues presented here are primarily legal in nature, our review focuses on whether the decision violates a provision of applicable law and is prohibited as a matter of law, or whether the decision improperly construes the applicable law based on the record before us.<sup>2</sup>

In the first assignment of error, the Reyniers assert Skamania County erred by refusing to acknowledge a pre-1937 subdivision and its separate individual lots when part of the subdivision has been developed with other

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<sup>1</sup> The Board of Adjustment's modification related to construction of fencing and did not relate to the issue before us in this appeal.

<sup>2</sup> Commission Rule 350-60-220(1) provides:

"(1) The Commission shall reverse or remand a land use decision for further review when:

- (a) The governing body exceeded its jurisdiction;
- (b) The decision is unconstitutional;
- (c) The decision violates a provision of applicable law and is prohibited as a matter of law; or
- (d) The decision was clearly erroneous or arbitrary and capricious.
- (e) The findings are insufficient to support the decision;
- (f) The decision is not supported by substantial evidence in the whole record;
- (g) The decision is flawed by procedural errors that prejudice the substantial rights of the petitioner(s);
- (h) The decision improperly construes the applicable law; or
- (i) A remand is required pursuant to 360-60-090(2)(d).

homes, streets, and infrastructure. The Reyniers contend the individual lots in the 1912 subdivision are each legally created and independently developable, and that the lots cannot be required to be merged as a condition to build one single family residence. In the second assignment of error, the Reyniers contend that if the individual lots within the 1912 subdivision are legally created parcels, then Skamania County Code permits one dwelling per lot, or multiple homes in this case. These two assignments of error are closely related. The issue in this case is the validity of the subdivision.

The Friends of the Columbia Gorge contend the 1912 subdivision is no longer valid for three reasons:

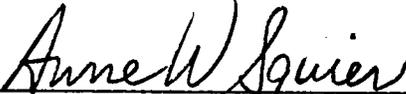
1. The 1912 subdivision did not vest prior to 1987 when the Washington Legislature adopted RCW 58.17.033;
2. The 1912 subdivision was invalidated by 1937 and 1969 subdivision statutes as addressed in Attorney General Legal Opinion, 1974, No. 7 and Attorney General Opinion, 1996, No. 005; and
3. Even if the subdivision is a "final plat," it expired in 1986.

We hold the County's decision did not violate applicable law and is not prohibited as a matter of law; further we hold the County's decision properly construed the applicable law based on the record before us. We affirm the County's decision. We adopt the findings of fact, conclusions of law, and decision of Skamania County in this matter (Skamania County Planning Director's Decision Nos. NSA-97-13 and NSA-97-14 as modified by the Skamania County Board of Adjustment) and the reasoning in Attorney General

Legal Opinion, 1974, No. 7 and Attorney General Opinion, 1996, No. 005, and find that a developer of a pre-1937 subdivision must comply with the current subdivision standards and regulations. Additionally, we conclude that the facts of this case, including the expired 1991 Gorge Commission approval, do not give the Reyniers a vested right to build on the individual lots in the 1912 subdivision.

The decision of the Skamania County Board of Adjustment is **AFFIRMED**.

DATED this 10<sup>th</sup> day of December, 1999

  
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Anne W. Squier, Chair  
Columbia River Gorge Commission

NOTICE: You are entitled to judicial review of this Final Order within 60 days from the date of this order, pursuant to section 15(b) (4) of the Scenic Area Act, P.L. 99-663.