

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

RONALD REYNIER,	)	
	)	CRGC No. COA-S-06-03
Appellant,	)	
	)	<b>FINAL OPINION AND</b>
v.	)	<b>ORDER</b>
	)	
SKAMANIA COUNTY,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
FRIENDS OF THE COLUMBIA	)	
GORGE, INC., CHARLES HOPKINS,	)	
and CAROL HOPKINS,	)	
	)	
Intervenor-Respondents.	)	
_____	)	

This case involves an appeal by Ronald Reynier of a Skamania County decision denying a land use application for a single-family dwelling. The Columbia River Gorge Commission met on June 12, 2007 to hear oral argument and deliberate to a decision.

We affirm Skamania County's decision.

**I. PARTIES**

The parties in the appeal are:

- Ronald Reynier, *pro se*

- Skamania County (Skamania County did not file a brief in this matter and did not participate in the hearing)
- Friends of the Columbia Gorge, Inc., Charles Hopkins, and Carol Hopkins, represented by Gary K. Kahn, Reeves, Kahn & Hennessy, Portland, Oregon

## **II. PRELIMINARY ISSUES**

### **Conflicts of Interest**

No Commissioners reported any conflicts of interest.

### **Ex Parte Communications**

The Chair stated that the Commission is an intervenor in Mr. Reynier's appeal to the Skamania County Superior Court of a 1999 Commission decision involving similar claims on adjacent lots, and that the Commission's Counsel has spoken to the Commission about the substance of that appeal in the past during executive sessions, but not since Mr. Reynier filed the current application with Skamania County

Commissioners Condit and Reinig stated that they had asked questions of the Commission's Counsel.

Commissioner Loehrke said he was previously Chairman of the Skamania County Planning Commission and was on the Board of Adjustment at earlier hearings for the property, but not for the current application.

Commissioner Crow said he has no ex-parte contacts but heard a similar issue on the Huett property while serving as a Gorge Commissioner.

Commissioner McNew said he is aware of previous appeals and is professionally involved in real estate transactions in Washington.

Prior to starting the hearing, the Chair provided an opportunity for the parties to raise concerns or objections based on these communications. No party raised any concerns or objections.

### **Scope of the Appeal**

The subject matter of this appeal is substantially similar to two prior appeals by Mr. Reynier, COA-S-98-01 and 02. Our review focuses only the merits of the decision before us. Any effect on the prior appeal decisions would be only incidental.

### **Hearing Exhibits and Handouts.**

Both parties brought large exhibits boards and Respondent-Intervenors distributed handouts to the Commission at the hearing. No party objected to these exhibits. The Commission has copies of the handouts, but the parties retained their large exhibits and are responsible for transmitting them to other tribunals as appropriate.

### **Rulings on Other Objections and Motions**

All rulings made on objections and motions during the hearing are hereby affirmed. Any objections or motions not ruled upon during the hearing are hereby overruled.

### **Hearing Procedure**

The Chair reviewed the procedures for the hearing, which are contained in Commission Rule 350-60 and were written into the Notice of Hearing. The Commission adhered to the hearing procedures.

## **III. STANDARD OF REVIEW**

The issues presented 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, whether the decision is clearly erroneous, and whether the decision improperly construes the applicable law based on the record before us. Commission Rule 350-60-220(1)(c), (d) or (h).

#### IV. FACTS

Mr. Reynier owns contiguous lots 3, 4, 5, 6, 9, and 10 within the Hamilton's Addition Subdivision, which was platted in 1912. In 1997, Mr. and Mrs. Reynier applied to construct a dwelling on lots 5 and 6 and a dwelling on lots 9 and 10. Skamania County approved construction of a dwelling on lots 5 and 6, with the condition that the Reyniers consolidate all six lots into one single large lot. Skamania denied the application to construct the dwelling on lots 9 and 10. The Reyniers appealed both decisions to the Gorge Commission, which upheld Skamania County's decisions in a single consolidated decision. *Reynier v. Skamania County*, COA-S-99-01 and 02 (1999). The Reyniers appealed the Commission's decision to the Skamania County Superior Court. That case has been pending since 2000 without action<sup>1</sup>.

In 2006, Mr. Reynier applied to Skamania County to construct a single family dwelling on lots 3 and 4. He filed the application prior to the Commission's new rule requiring consolidation of lots in specified circumstances. Skamania County denied the application for substantially the same reasons as in 1997. Mr. Reynier appealed that denial to the Gorge Commission.

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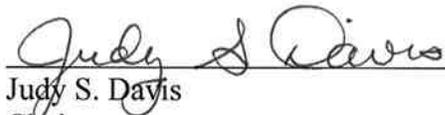
<sup>1</sup> The Commission is an intervenor in the Superior Court case on the side of the respondent. The Commission is concerned about the appearance of fairness of hearing this matter while being a party in a related case involving the same parties. The Commission, however, has an independent responsibility under 16 U.S.C. § 544m to hear this appeal. To ameliorate concerns about the Commission hearing this matter, the Commission's staff report (which was sent to the parties) contained disclosure about its intervention in the related matter, and at the hearing, the Chair of the Commission stated such and provided parties an opportunity to raise concerns and objections. No party raised any concerns or objections.

**V. CONCLUSIONS OF LAW AND ORDER**

This appeal raises issues that are similar to those in Mr. Reynier's 1999 appeals, and the parties' arguments were similar. Finding no reason to change its earlier decision, the Commission voted to affirm Skamania County's decision. The Commission adopts its reasoning in its 1999 decision: *Reynier v. Skamania County*, COA-S-99-01 and 02.

The decision of Skamania County is **AFFIRMED**.

IT IS SO ORDERED THIS 29<sup>th</sup> day of June 2007.

  
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Judy S. Davis  
Chair  
Columbia River Gorge Commission

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

## CERTIFICATE OF SERVICE

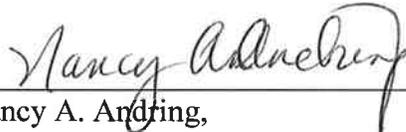
I hereby certify that on June 29<sup>th</sup>, 2007, I served a true and correct copy of this FINAL OPINION AND ORDER by United States Postal Service, first class mail, postage prepaid on the following persons:

Ronald Reynier  
Ronald H. Reynier, P.C.  
P.O. Box 758  
Hood River, OR 97031

Peter Banks  
Skamania County Prosecuting Attorney  
P.O. Box 790  
Stevenson, WA 98648

Gary K. Kahn  
Reeves, Kahn & Hennessy  
P.O. Box 86100  
Portland, OR 97286-0100

DATED this 29<sup>th</sup> day of June, 2007.

  
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Nancy A. Andring,  
Executive Secretary