

No. 62179-0

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

PHOENIX DEVELOPMENT, INC. et ano.,

Appellants

vs.

CITY OF WOODINVILLE, et ano.

Respondents

Motion to Publish Opinion

Atty: Robert D. Johns, WSBA #7086
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COPY

MOTION TO PUBLISH

The undersigned, Robert D. Johns, moves to publish the Court's decision in *Phoenix Development, et ano., v. City of Woodinville, et ano.*, Docket No. 62167-0. This motion is based on the annexed declaration of Robert D. Johns.

DECLARATION

I, Robert D. Johns, declare under the penalty of perjury under the laws of the State of Washington, as follows:

1. I am a member in good standing of the Washington State Bar. I have been to practice in the State of Washington since 1976.
2. My principal area of practice and the principal area of practice of the other three partners in my law firm, Johns Monroe Mitsunaga & Koloušková, is land use law.
3. During my thirty-three years in practice, I have worked on literally hundreds of projects involving the rezone and subdivision of land and the application of the Washington State Subdivision statute, RCW ch. 58.17, the State Environmental Policy Act, RCW ch. 43.21C, and the application of Comprehensive Plan policies adopted pursuant to the Growth Management Act, RCW ch. 36.70.

4. My partner, Duana Koloušková, and I are the authors of the chapter on subdivision law in the Washington Lawyers Practice Manual. Ms. Koloušková and I are also currently updating the chapter on subdivision law in the Washington Real Property Deskbook (due to be published in mid-2010).

5. I have reviewed the decision of the Court in this case and believe the decision should be published. It addresses several issues which have arisen repeatedly in land use law:

a. Whether a site-specific rezone is a quasi-judicial or legislative decision;


b. Whether, in the context of a site-specific rezone, the local government is constrained to comply with its adopted comprehensive plan policies or is only subject to the less restrictive standard of whether it has abused some broad standard of discretion.

c. Whether a local government may deny approval of a rezone based on generalized conclusions that the rezone is not necessary to meet growth management housing targets or that public services are not available, without the benefit of detailed analysis demonstrating that such conditions exist.

6. There is no clear existing published case law in Washington on these points and it would be beneficial to the land use bar to publish the

decision in this case in order to provide guidance to lawyers and courts
who are confronted by this issue.

Executed this 11th day of November, 2009 in Bellevue,
Washington.



ROBERT D. JOHNS
WSBA # 7086