

From: [Kathy Cook](#)
To: [Theresa Rice](#)
Subject: FW: THREAT OF LITIGATION RE SMP UPDATE
Date: Monday, April 15, 2013 9:19:15 AM
Attachments: [CITIZENS FOR RATIONAL SHORELINE \) PLANNING](#).

Kathy Cook
Director, Planning and Community Development
City of Bainbridge Island
280 Madison Avenue No.
Bainbridge Island, WA. 98110
206-842-2552

-----Original Message-----

From: Doug Schulze
Sent: Friday, April 12, 2013 9:01 AM
To: Jim Haney; Kathy Cook
Subject: FW: THREAT OF LITIGATION RE SMP UPDATE

FYI.

Doug Schulze|City Manager|206.780.8626

-----Original Message-----

From: JOHN H WRIGHT [<mailto:jhw43@msn.com>]
Sent: Thursday, April 11, 2013 3:48 PM
To: Sarah Blossom
Cc: Anne Blair; Steve Bonkowski; Kirsten Hytopoulos; Debbi Lester; Bob Scales; David Ward; CityAdmin
Subject: THREAT OF LITIGATION RE SMP UPDATE

At last night's gathering I expressed the opinion that any lawsuit filed against the City in connection with the SMP update would be subject to summary dismissal. This opinion is based primarily on the en banc decision issued by the Washington Supreme Court in Citizens for Rational Shoreline Planning, et al. v. Whatcom County, et al., No. 84675-8 (August 18, 2011), copy attached.

Please note that the Court framed the issue as being whether shoreline master programs constitute local government regulations, and concluded as follows:

"... While local jurisdictions play a role in tailoring SMPs to local conditions, the Shoreline Management Act dictates that the Department of Ecology retains control over the final contents and approval of SMPs. Therefore, SMP regulations are the product of state action" See attached opinion at page 17.

The portion of the opinion entitled "FACTS" should be of particular interest. According to the decision, Whatcom County initiated the process of updating its SMP in 2004. "Over the next three years, the County gathered input from technical advisory groups, held open public meetings and workshops, and released proposed drafts of the SMP for public review and comment." See attached opinion at page 3. Sound familiar? Note also that both Whatcom County and its County Council were named as respondents in that proceeding, and that the Superior Court dismissed the complaint for failure to state a claim upon which relief could be granted.

Hope this helps ease any unwarranted angst caused you or any other Councilmember(s) by what appear to be threats by fear mongering bullies who cannot bear the thought of not getting their way.

Respectfully submitted,

John H. Wright
(206) 842-4112